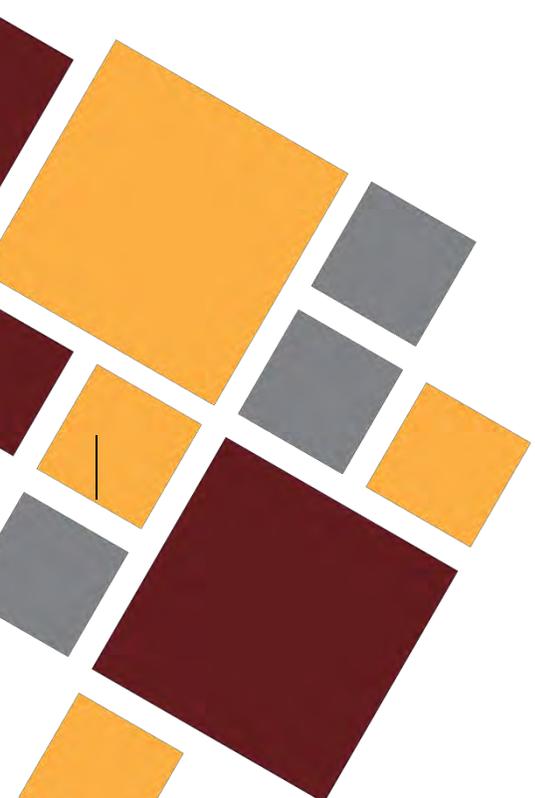


UNIFIED DEVELOPMENT ORDINANCE



 C O D I F Y
OLAYTON



Adopted: 11.20.23
Effective: 1.2.24
Amended: ~~7.21.25~~ 11.17.25

Town Council

Jody McLeod, Mayor
Michael Sims, Mayor Pro Tem
Ruth Anderson, Councilmember
Andria Archer, Councilmember
Porter Casey, Councilmember
Gretchen Williams, Councilmember

Planning Board

Jodie Dupree, Chair
Derrick Applewhite, Vice-Chair
Anita Bland
Daniel Gleason
Mike Surasky
Ronald Williams
Jason Carter
Deborah Hooker
Mark Hall
Tom McKearney

Town Administration

Rich Cappola, Town Manager
Lee Barbee, Deputy Town Manager
Dolores Gill, Deputy Town Manager
Courtney Tanner, Deputy Town Manager
David Ranes, Fire Chief
Greg Tart, Chief of Police

Town Staff

Vacant, Electric Director
Jonathan Ham, Engineering Director
[Kinsey Holton, Assistant Engineering Director](#)
Michael Tatum, Fire Marshal
Barry Alston, Inspections Director
Conrad Olmedo, Planning Director
[Haley Downey, Assistant Planning Director](#)
Joshua Baird, Water Resources Director

Consultant

Chad Meadows, CodeWright Planners, LLC



CodeWright
P L A N N E R S



1.8.4 PLANNING BOARD (PB)

The Planning Board is hereby established in accordance with NCGS§160D-301, Chapter 32 of the Town Code of Ordinances, and the following.

A. COMPOSITION

1. The Planning Board shall consist of nine members.
2. The Planning Board shall be comprised of residents from both the corporate limits and the extraterritorial jurisdiction (ETJ) at a ratio proportional to the population found in either area, but in no instance shall there be less than at least one member of the Planning Board who resides within the ETJ.
3. The Town Council shall appoint the members from within the Clayton corporate limits from a list of qualified applicants who have submitted a Planning Board application.
4. The Johnston County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
5. Each member from the ETJ shall have equal rights, privileges, and duties as the members from within the corporate limits.

B. POWERS AND DUTIES

1. UNIFIED DEVELOPMENT ORDINANCE

The Planning Board shall have the power to review and provide a recommendation on applications in accordance with [Section 2.2, Application Summary Tables](#).

2. OTHER POWERS AND DUTIES

The Planning Board shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance.

- a. At the direction of Town Council, perform studies and surveys of the present conditions and probable future development of the Town and its environs, including but not limited to, studies and surveys of land uses, population, economic conditions, housing, traffic, parking, annexation, urban renewal, and expansions of the extraterritorial jurisdiction.
- b. To formulate and recommend to the Town Council the adoption and amendment of the Town of Clayton Comprehensive Plan and other plans as necessary.
- c. To determine whether specific proposed developments conform to the principles and requirements of the adopted comprehensive plan for growth and improvement of the Town.
- d. To execute other related duties as assigned by the Town Council, in accordance with State law.

C. RULES OF PROCEDURE

The Planning Board shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Planning Board's operating procedures, terms, leadership provisions, and other relevant information not already included in this Ordinance.

D. QUORUM AND RECOMMENDATIONS

1. A quorum of five members shall be necessary to transact official business of the Planning Board, [including making recommendations \(#01\)](#).

2. A simple majority of the members present and voting shall be required to adopt a recommendation on an application reviewed under this Ordinance.
3. The Planning Board shall not make a recommendation to the Town Council unless the applicant, or a designated agent, is present at the meeting and answers the Board's and Town staff's questions about the application. This requirement may be waived by a unanimous vote of the Planning Board members present and voting.

1.8.5 BOARD OF ADJUSTMENT (BOA)

The Board of Adjustment is hereby established in accordance with NCGS§160D-302, Chapter 32 of the Town Code of Ordinances, and the following:

A. COMPOSITION

1. The Board of Adjustment shall consist of five regular members and two alternate members.
2. Four members shall reside within the corporate limits of Clayton and three members shall reside in the extraterritorial planning jurisdiction (ETJ).
3. The Town Council shall appoint the members from within the Clayton corporate limits from a list of qualified applicants who have submitted a Board of Adjustment application.
4. The Johnston County Board of Commissioners shall appoint the members from within the ETJ following receipt of a recommendation from the Town Council.
5. Each member from the ETJ shall have equal rights, privileges, and duties as the members from within the corporate limits.

B. POWERS AND DUTIES

The Board of Adjustment shall have the power to review and decide applications in accordance with [Section 2.2, Application Summary Tables](#).

C. RULES OF PROCEDURE

The Board of Adjustment shall adopt rules of procedure, which shall be available for inspection by members of the general public on the Town's website and in the offices of the Planning Department. The rules of procedure shall describe the Board of Adjustment's operating procedures, terms, leadership provisions, and other relevant information not already included in this Ordinance.

D. QUORUM AND VOTING

1. A quorum of three members shall be necessary to transact official business [and decide cases before the Board of Adjustment \(#01\)](#).
2. The concurring vote of four-fifths of the members voting on a case shall be necessary to grant a variance.
3. A simple majority of the members present and voting on a case shall be required to decide an appeal of a Town staff decision or determination.
4. A simple majority of the members present and voting on a case shall be required to decide on the issuance of a special use permit.
5. Vacant positions on the Board and members who are disqualified from voting due to a conflict of interest shall be filled by qualified alternate members. Vacant positions on the Board and members who are disqualified from voting due to a conflict of interest and who are not replaced by a qualified alternate member shall not be considered members of the Board for calculation of the required majority.
6. In accordance with NCGS§160D-406(i), simple majority calculations shall be based on the total number of board member positions, regardless of whether a member is absent. Positions may only be excluded from the simple majority calculation when the position is



2.3.5 BUILDING PERMIT

A. APPLICABILITY

Unless exempted in accordance with the North Carolina General Statutes or the State Building Code(s), no construction, reconstruction, addition, alteration, repair, movement to another site, removal, demolition of any building or structure, or changes in use of an existing development triggering the need for application of a different set of building code requirements shall occur until a Building Permit is approved in accordance with the procedures and standards of this section and Chapter 150 of the Clayton Town Code of Ordinances.

B. EXEMPTIONS

The following forms of development are exempted from the requirement to obtain a Building Permit, but shall be subject to the standards in Section 2.3.33, Zoning Compliance Permit:

1. Storage and secondary buildings that serve a residential principal use, of 12 linear feet or less in length on any dimension, and do not include electrical service or running water;
2. Patios and at-grade walkways;
3. ~~Playground equipment and play structures provided as secondary uses to an individual residential dwelling; (#02)~~
- 4.3. Ornamental or other pools with depths of less than 24 inches (any pools with water depths exceeding 24 inches are required to obtain a Building Permit);
4. Fences ~~or and~~ privacy walls of six feet in height or less;
5. ~~Retaining walls that are less than five feet, including buried portion, except that all retaining walls shall require a Building Permit;~~ or
6. Other development exempted from building permit requirements by the Town or by State law.

C. PROCESS TYPE

1. Type I (see Section 2.2.3, Process Diagrams).
2. In cases where an applicant is filing for an "at risk" Building Permit, a pre-application conference shall be mandatory. **AMENDED 7.21.25 (UDOTA 1-25)**

D. REVIEW CRITERIA

An application for a Building Permit shall be decided by the Inspections Director (or a designee) in accordance with Figure 2.3.5, Section 2.4.7, Staff Review and Action, and all of the following: **AMENDED 9.16.24 (UDOTA 2-24)**

1. The applicable sections of the State Building Code(s);
2. The standards in NCGS§160D-1110;
3. Any applicable requirements of the Johnston County Health Department;
4. The Site Plan, if applicable;
5. The Zoning Compliance Permit;
6. All other standards or conditions of any prior, applicable permits, and development approvals; and

FIGURE 2.3.5 BUILDING PERMIT PROCEDURE

STEP	ACTION
1	Pre-Application Conference - (Optional) - Mandatory if filing for "at-risk" Building Permit
2	File Application Submitted to Inspections Director
3	Completeness Determination
4	Inspections Director Review and Decision
5	Notification of Decision
6	Obtain Other Approvals and Schedule Required Inspections

1. LOCATION

Conservation Subdivisions shall be configured to minimize the visibility of new dwellings from adjacent developed lands and roadways located outside the proposed Conservation Subdivision. Techniques to achieve this location criteria include placement of lots, retention of existing vegetation, or installation of berms or new landscaping material.

2. MINIMUM PROJECT SIZE

Conservation Subdivisions shall be at least five acres in land area.

3. REQUIRED CONSERVATION AREA

The required conservation area shall occupy at least 50 percent of the total acreage of the Conservation Subdivision site, but nothing shall limit it from occupying more than 50 percent of a Conservation Subdivision site.

4. MAXIMUM RESIDENTIAL DENSITY

A Conservation Subdivision may establish a maximum residential density that exceeds the maximum residential density for lots in the zoning district where located by up to 50 percent, but in no instance shall the density of a Conservation Subdivision exceed the maximum allowable if located within a Watershed Protection Overlay District.

5. DIMENSIONAL REQUIREMENTS

Lots in a Conservation Subdivision may deviate from the minimum dimensional requirements for lots in the zoning district where located, provided:

- a. No lot frontage is less than 20 feet wide;
- b. Building separation between structures on different lots meets or exceeds the minimum applicable Fire Code provisions; and
- c. All structures shall comply with required setbacks from streets, wetlands/surface waters, or other protected natural areas.

6. LAND USED FOR AGRICULTURE OR FORESTRY

Nothing shall limit the ability of an owners' association to lease conservation area for the purposes of agriculture or forestry.

F. OWNERSHIP OF CONSERVATION AREAS

A conservation area shall be owned jointly by a recognized homeowners' or property owners' association, which shall be established in accordance with [Section 6.8, Owners' Associations](#).

G. SEQUENCE

A Conservation Subdivision shall be approved prior to the associated Major Subdivision Preliminary Plat.

H. AMENDMENT

Amendment of a Conservation Subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

I. EXPIRATION

1. An approved Conservation Subdivision shall be valid for two years from the date of approval.
2. Once a [Preliminary Plat](#) [Major Subdivision](#) application has been filed, the associated Conservation Subdivision approval shall be subject to the expiration provisions associated with the Preliminary Plat. [\(#03\)](#)



2.3.33 ZONING COMPLIANCE PERMIT

A. PURPOSE AND INTENT

The purpose of a Zoning Compliance Permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Ordinance and all other applicable requirements.

B. APPLICABILITY

1. A Zoning Compliance Permit is required for the following:

AMENDED 12.16.25 (UDOTA 3-24); AMENDED 7.21.25 (UDOTA 1-25)

 - a. Art Installations Section 4.5.5D, Art Installation;
 - b. Driveway Permits (~~private street only~~) (#04) Section 2.3.13, Driveway Permit;
 - c. Family Care Homes Section 4.3.45, Family Care Home;
 - d. Fences ~~or~~ and walls less than or equal to ~~6~~ six feet in height Section 6.3.2A, Generally; (#05)
 - e. Flagpoles that are freestanding and detached from the wall or roof of a building, Section 4.5.5N, Flagpole (#06)
 - e.f. Retaining walls less than 5 ~~five~~ feet in height, including the buried portion Section 6.3.2A, Generally;
 - f.g. Mobile Restaurant or Push Cart Section 4.5.5T, Mobile Restaurant or Push Cart;
 - g.h. Ornamental or other pools with depths of less than 24 inches Section 2.3.5B, Exemptions;
 - h.i. Outdoor Dining (up to 20 people) Section 4.5.5U, Outdoor Dining or Seating;
 - i.j. Outdoor Display (< 50 sf) Section 4.5.5V, Outdoor Display/Sales;
 - j.k. Patios and At-Grade Walkways Section 2.3.5B, Exemptions;
 - ~~k. Playground equipment with a Residential Dwelling~~ Section 2.3.5B, Exemptions; (#02)
 - l. Secondary Structure (when no building permit required) Section 2.3.5B, Exemptions;
 - m. Any change in principal use within an existing non-residential, multi-family, or mixed-use structure Section 4.2.3, Change of a Principal Use;
 - n. A home occupation Section 4.5.5Q, Home Occupation, Level 1;
 - o. Establishment of a secondary use Section 4.5.1B, Establishment of a Secondary Use;
 - o.p. Establishment of a principal use Section 4.2.2, Establishment of a Principal Use; or (#07)
 - p.q. Change of tenant Section 4.2.3, Change of a Principal Use.
2. In cases where a Building Permit is required, review for zoning compliance shall take place as a part of the review for the Building Permit application, and as a result, no Zoning Compliance Permit shall be required for developments subject to a Building Permit.

FIGURE 2.3.33 ZONING COMPLIANCE PERMIT PROCEDURE

STEP	ACTION
1	Pre-Application Conference (Optional)
2	File Application - Submitted to Planning Director - Must include a plan or generalized sketch of the development
3	Completeness Determination
4	Planning Director Review and Decision
5	Notification of Decision

C. EXEMPTIONS

1. The following forms of uses or structures are exempt from the requirement to obtain a Zoning Compliance Permit:
 - a. Play Equipment and Play Structure identified as a secondary use to a residential dwelling. (#02)



2.4.8 PUBLIC NOTICE

A. PUBLIC MEETINGS DISTINGUISHED FROM PUBLIC HEARINGS

Applications subject to public hearings by the North Carolina General Statutes are required to provide public notice about the pending application to adjacent landowners in accordance with this section, [the North Carolina General Statutes, and the UDO Procedures Manual \(#08\)](#). Public meetings are not public hearings, and do not require the provision of individual public notice to adjacent landowners about a pending application in accordance with this section but must provide general notification about the meeting in accordance with NCGS§143-318.12 (the “open meetings” law).

B. PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Planning Director, or a designee, shall ensure that the public hearing is scheduled for a regular meeting, or a meeting specially called for that purpose by the review authority.

C. PUBLIC NOTIFICATION REQUIREMENTS

1. All development applications subject to public notification shall comply with the appropriate standards in NCGS§§160A-31, 160A-58, 160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes. **AMENDED 9.16.24 (UDOTA 2-24)**
2. Table 2.4.8, Public Notification Requirements, summarizes the requirements for public notice, but in the event of a conflict with State law, State law shall prevail.
3. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

TABLE 2.4.8: PUBLIC NOTIFICATION REQUIREMENTS

TYPE OF DEVELOPMENT APPLICATION	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED [1]	MAILED [2]	POSTED [3]
Annexation <small>AMENDED 9.16.24 (UDOTA 2-24)</small>	R [4]	[5]	.
Appeal	.	R [6]	R
Development Agreement	R	R	R
Rezoning	R [7]	R	R
Special Use Permit	.	R	R
Street Renaming / Closure	R [8]	R [9]	R [10]
Text Amendment	R	.	.
Variance	.	R	R

NOTES:

[1] Notice shall be published once a week for two successive calendar weeks with the first notice published no more than 25 day nor less than 10 days before the public hearing.

[2] Notice shall be mailed to the applicant, affected property owners, and property owners of abutting land between 10 and 25 days before the public hearing.



TABLE 2.4.8: PUBLIC NOTIFICATION REQUIREMENTS

TYPE OF DEVELOPMENT APPLICATION	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED [1]	MAILED [2]	POSTED [3]
[3] Notice shall be posted between 10 and 25 days before the public hearing.			
[4] For annexations, notice shall only be required to be published once with the notice being published at least 10 days prior to the public hearing. AMENDED 9.16.24 (UDOTA 2-24)			
[5] In cases where the area being annexed is contiguous to the corporate limits but not served by a newspaper of general circulation, the Town shall provide posted notice in at least 3 locations within the area being annexed and 3 additional areas within the Town (a total of 6 locations). AMENDED 9.16.24 (UDOTA 2-24)			
[6] Mailed notice shall only be required in cases where the appeal pertains to a particular property.			
[7] In the case of large-scale rezonings of 50 or more different landowners, mailed notice only provided to landowners residing outside the area of published notice circulation in accordance with NCGS§160D-602(b).			
[8] Published notice for street abandonment shall be provided once per week for 4 weeks before the hearing.			
[9] Mailed notice shall be provided between 10 and 25 days before the first public meeting to all landowners with land abutting the street and the NCDOT.			
[10] Posted notice shall be provided in at least two locations along the street no less than 10 days before the hearing.			

D. PUBLISHED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be published, the Town staff member responsible shall publish a notice in a newspaper that is regularly published [in accordance with North Carolina General Statutes and the UDO Procedures Manual. \(#08\)](#) ~~at least one time per week for two successive weeks in a newspaper that has general circulation in the Town.~~

E. MAILED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be mailed, mailed notice shall be provided in accordance [with the North Carolina General Statutes and the UDO Procedures Manual. \(#08\)](#) ~~with the following:~~

- ~~1. — The Town shall prepare the required mailed notice.~~
- ~~2. — Mailed notice shall be provided to the last known address (as listed in County tax records) for each of the following:~~
 - ~~a. — The landowner;~~
 - ~~b. — The applicant, if different from the landowner;~~
 - ~~c. — Landowners of properties adjacent to the land that is the subject of the application, but also located across a street, railroad, or other transportation corridor; and~~
 - ~~d. — Any others who are entitled to receive mailed notice in accordance with NCGS§160D-602.~~
- ~~3. — Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section 2.4.8G, Notice Content.~~



~~4. —The Town may, on a case-by-case basis, and in the sole discretion of the Town, provide additional mailed notice above and beyond the minimum statutory requirements. The Town is under no obligation to provide any additional notice beyond that specified by the General Statutes, and failure of the Town to provide mailed notice beyond that required by State law shall not impair the notice provided or invalidate the proceedings.~~

~~5. —A copy of the mailed notice, the list of landowners receiving notice, and a certification of mailing by the Town staff member responsible shall be maintained in the offices of the Planning Department for public inspection during normal business hours.~~

~~6. —Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the Town publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to [Section 2.4.8E, Mailed Notice Requirements](#).~~

F. POSTED NOTICE REQUIREMENTS

When the North Carolina General Statutes require that public notice be posted, the Planning Director or a designee shall provide the required posted public notice in accordance with the [North Carolina General Statutes and the UDO Procedures Manual \(#08\)](#), following:

~~1. —A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s).~~

~~2. Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.~~

G. NOTICE CONTENT

Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail, posting, or publication shall [be in accordance with the UDO Procedures Manual. \(#08\)](#)

~~1. —Identify the date, time, and place of the public hearing;~~

~~2. —Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);~~

~~3. —Describe the nature and scope of the proposed development or action; and~~

~~4. —Identify the means to contact a Town official for further information.~~

H. CONSTRUCTIVE NOTICE

1. Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:

a. Errors such as landowner name, title, or address existing in the County tax listing; or

b. Typographical or grammatical errors that do not impede communication of the notice to affected parties.

2. Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.



A review authority member shall not vote on an application if there is a conflict of interest in accordance with [Section 1.8.2B, Conflict of Interest](#).

6. APPLICATION REVISION

- a. An applicant may revise an application during an evidentiary public hearing in response to recommendations or suggestions of the review authority, Town staff, or the public.
- b. The review authority may approve an application modified during an evidentiary public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
- c. In cases where an application has been modified during an evidentiary public hearing, the applicant shall submit any necessary plans or other documents depicting the modification to the appropriate Town staff before notice of decision is provided.

7. DELAY OF DECISION

The review authority may delay a decision on the application if additional information is requested of the applicant.

8. RECORD

- a. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with Town policy.
- b. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

D. PUBLIC MEETINGS

Review of applications by the Technical Review Committee, Planning Board, and Town Council where public notice is not required shall be considered during public meetings not public hearings. Public meetings shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

1. PROCEDURE

- a. Public meetings shall require public notification of the meeting in accordance with NCGS§143-318.12 [and the UDO Procedures Manual \(#08\)](#). ~~but shall not require public notice of individual applications to adjacent landowners:~~
- ~~b. The Town may choose, on a case-by-case basis, and in the sole discretion of the Town, to provide public notice of a public meeting to adjacent landowners in accordance with Town policy. The Town shall be under no legal requirement to provide public notice of a public meeting to adjacent landowners, and failure to do so shall not invalidate the proceedings:~~
- ~~c.~~ b. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.
- ~~d.~~ c. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

2. VOTING

- a. A decision of a review authority during a public meeting shall be decided by a simple majority of the members present and voting.
- b. A review authority member shall recuse themselves from voting on an application when there is a conflict of interest in accordance with [Section 1.8.2B, Conflict of Interest](#).



TABLE 3.1.3: ZONING DISTRICTS ESTABLISHED

FORMER ZONING DISTRICTS (FROM THE PRIOR UDC)		ZONING DISTRICTS IN THIS ORDINANCE	
B-2	Neighborhood Business	NCM	Neighborhood Commercial
B-3	Highway Business	CRM	Corridor Commercial
I-1	Industrial Light	LID	Light Industrial
I-2	Industrial Heavy	HID	Heavy Industrial
Conventional Special Zoning Districts			
	N/A	CON	Conservation
PF	Public Facilities	PUB	Public Facilities
	N/A	MXD	Mixed-Use [1]
Conditional Zoning Districts [2]			
CZR	Residential Conditional	CZR	Conditional Residential
	N/A	CZM	Conditional Mixed-Use
	N/A	CZC	Conditional Commercial
	N/A	CZD	Conditional Downtown
CZI	Industrial Conditional	CZI	Conditional Industrial
Overlay Zoning Districts			
TOD	Thoroughfare Overlay District		N/A
WPO	Watershed Protection Overlay	WPOD	Watershed Protection Overlay
DOD	Downtown Overlay District		N/A
	N/A	FPOD	Flood Protection Overlay
	N/A	GTOD	Gateway Overlay
	N/A	LHOD	Local Historic Overlay (placeholder)

NOTES:

[1] The following parcels designated as B-1 prior to the effective date of this Ordinance shall be translated to the MXD district instead of the DTNC district: 16I02056D, 16I02009D, 16I02009D, 16I02009J, 16I02008P, 16I02008N, 16I02009E, 16I02049E, 16I02049Z, 16I02049Y, 16I02049X, 16I02049W, 16I02049V, 16I02049U, 16I02049T, 16I02049S, 16I02049R, 16I02049Q, 16I02049P, 16I02049O, 16I02049N, 16I02049M, 16I02049L, 16I02049K, 16I02049J, 16I02049I, 16I02049H, 16I02049G, 16I02049F, 16I02009H, 16I02009F, 16I02009G, 16I02009I.

[2] Conditional zoning districts may be limited use (___CZ_-LU), limited standards (___CZ_-LS), or unlimited (___CZ_-UN): (#09)



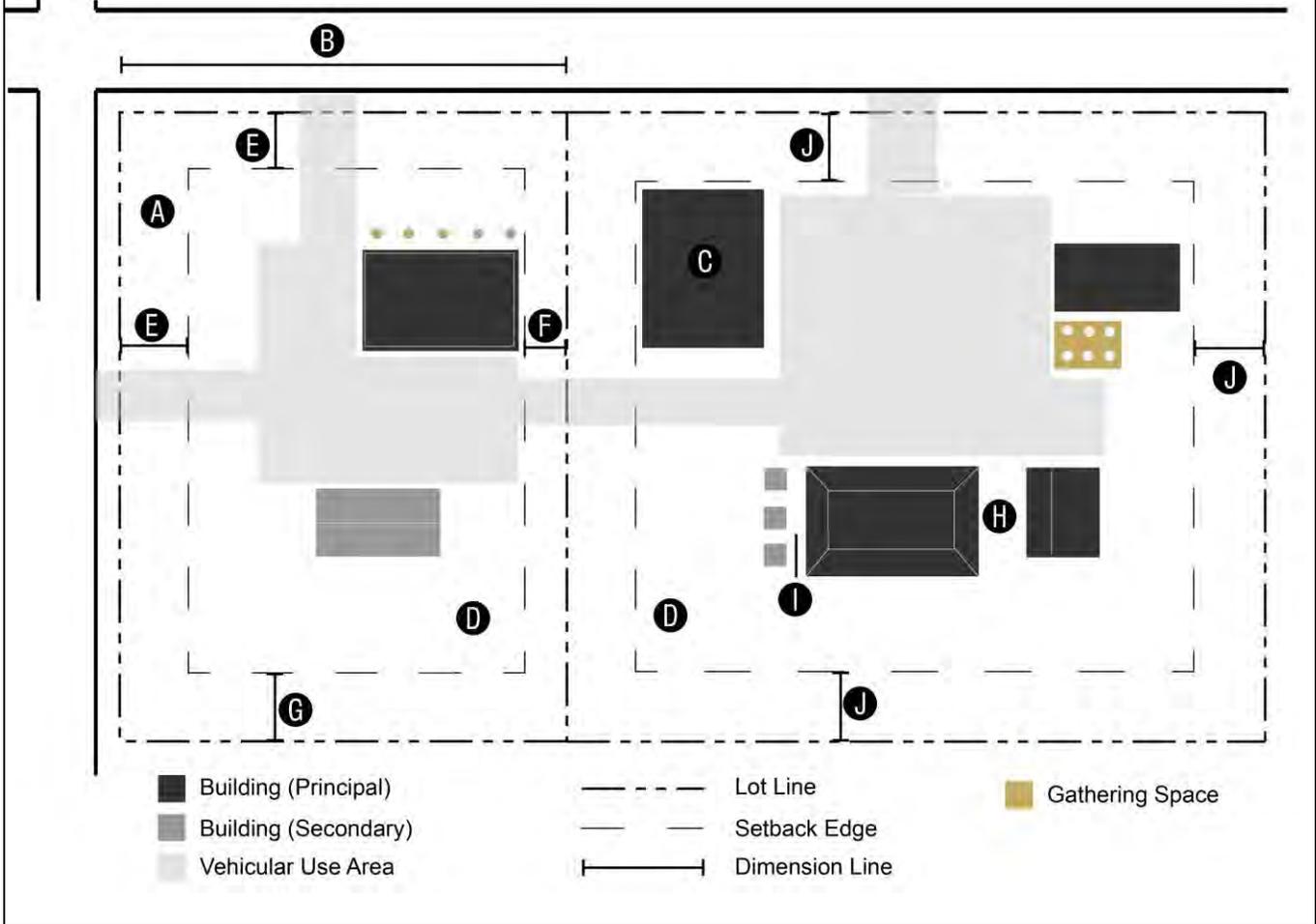
C. NEIGHBORHOOD COMMERCIAL (NCM) DISTRICT DIMENSIONAL STANDARDS

AMENDED 12.16.24 (UDOTA 3-24); AMENDED 7.21.25 (UDOTA 1-25)

	Max. Residential Density (du/ac)	7.2	F	Side Setback (ft) [8] [9] [10]	10
A	Min. Lot Area (sf) [1]	6,000	G	Rear Setback (ft) [8] [9] [10]	20
B	Min. Lot Width (ft) [2] [3]	50		Min. Spacing Between Buildings (ft) [8]	
	Max. Lot Coverage (% of lot area)	75	H	Between Principal Buildings	10
C	Max. Building Size (sf) [4]	510,000 (#10)	I	Between Secondary and any other Building	5
D	Min. Open Space Set-Aside (% of lot area) [5]	5	J	Min. Perimeter Setback for Multi-Building and Unified Developments (ft) [11]	30
E	Min. Street Setback (ft) [6] [7]	20		Max. Building Height (ft)	35

NOTES:

- [1] Plus an additional 500 sf per residential unit for developments in excess of two units.
- [2] Applied to the entire development site when buildings on individual lots have shared or party walls.
- [3] Measured at the interior building setback line (not the "pole" portion of a flag lot).
- [4] Vertically-integrated buildings and buildings on lots over five acres in area are exempt.
- [5] See Section 6.7, Open Space Set-Aside and Parkland, for the type of open space required.
- [6] Applied from the edge of public street rights-of-way (excluding alleys). Setbacks from private streets shall be at least five feet from the edge of the pavement or the edge of the sidewalk if one is provided.
- [7] Reduced by 50% for bungalow court and pocket neighborhood uses.
- [8] Applicable Fire Code or Building Code requirements shall control with respect to minimum distance.
- [9] Not applied to lots lines adjacent to shared or party building walls.
- [10] Not applied to unified developments.
- [11] Unified developments meeting the definitions in this Ordinance are exempted from side and rear setbacks along internal lot lines. Perimeter setbacks shall apply along all public street rights-of-way.



While not required, enhanced landscaping is one technique that can be used by a development to exceed the development quality that would otherwise result from a strict application of the Ordinance requirements. Increasing the caliper size at time of planting of newly planted material by an amount 50 percent or greater beyond that required by Section 6.6.8, Plant Material Specifications, in combination with any of the following additional alternatives may be proposed as a means of demonstrating increased development quality:

- i. Use of planted berms (trees and shrubs) as a means of establishing increased visual and acoustic separation between uses;
- ii. Establishment of a minimum number of new trees and shrubs that exceeds what would have been required for a typical development;
- iii. Exceed a minimum percentage requirement of evergreen planted materials or inclusion of evergreen plants where none are required;
- iv. Inclusion of a greater amount of species diversity than required in Section 6.6.8E, Species Diversity;
- v. Utilization of plants that create year-round visual interest, including winter flowering plants, plants that bloom more than once per year, or plants with unique leaf shapes, colors, or forms; or
- vi. Other alternative configuration for consideration by the Technical Review Committee.
AMENDED 9.16.24 (UDOTA 2-24)

b. ENHANCED OFF-STREET PARKING

While not required, enhanced off-street parking that includes one or more level 2 or level 3 EV charging stations is one technique that can be used by a development to exceed the development quality that would otherwise result from a strict application of the Ordinance requirements. **AMENDED 9.16.24 (UDOTA 2-24)**

c. ENHANCED TRAFFIC CONTROL DEVICES

While not required, use of metal mast arm-style traffic control signal supports, in a flat black or other neutral finish, supplemented with the ability to accommodate street lights or traffic cameras, is one technique that can be used by a development to exceed the development quality that would otherwise result from a strict application of the Ordinance requirements. **AMENDED 9.16.24 (UDOTA 2-24)**

6. PRINCIPAL AND SECONDARY USES

- a. The Concept Plan shall include a list of proposed permitted or prohibited principal and secondary uses. (#11)
- b. It is insufficient to reference the table of common principal or secondary uses; Concept Plans shall list all ~~potential allowable~~ permitted or prohibited uses. (#11)
- c. Uses that are not listed in a Concept Plan and proposed after its approval shall be considered unlisted uses subject to the process identified in Section 2.3.11, Determination.

7. PHASING

If development in conditional zoning district is proposed to be phased, the Concept Plan shall include phasing details or a phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and non-residential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the Town's capital improvements program.

8. CONSISTENCY

All Subdivisions, Site Plans, and Zoning Compliance Permit applications shall be substantially consistent with the approved Concept Plan. A Concept Plan may only be modified in accordance with Section 2.3.7P, Amendment.



2. Alleys shall be the minimum length necessary to serve the lot or lots in question, and will be required to extend to a logical termination point necessary to ensure safe vehicular movement, in the sole discretion of the Town’s Engineering Director.

G. SIDE LOT LINES

Side lines of lots should be at or near right angles or radial to street lines.

3.4.4 REQUIRED YARDS

- A. The land area between a lot line and the inner boundary of a required setback is considered as a required yard.
- B. The location of street, side, or rear yards on irregularly-shaped lots shall be determined by the Planning Director in accordance with Section 3.6, Measurements and Exceptions. Wherever possible, the Planning Director shall interpret these boundaries in ways that minimize nonconformities.
- C. Except where otherwise provided in Section 3.6.9, Setback Encroachments, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.

3.4.5 SPECIAL PURPOSE LOTS

Zoning district requirements related to street frontage, lot width, minimum lot area, and minimum lot dimensions shall not apply to special purpose lots, which shall be configured in accordance with the following:

A. LOTS DISTINGUISHED

Lots established for the sole purpose of family or church cemeteries, cluster mailbox units, guard houses, wastewater lift stations, wastewater treatment facilities, and similar utility uses shall be considered special purpose lots in accordance with these standards.

B. MINIMUM SIZE

A special purpose lot shall be permitted only after the Planning Director, or TRC, as appropriate, has determined if the proposed lot has sufficient dimensions to accommodate the intended use and any additional required elements.

C. ACCESS REQUIRED

If the special purpose lot does not have direct access to a public road, an easement for ingress and egress with a minimum width of ten feet shall be platted.

D. IDENTIFICATION

The boundaries and purpose for all special purpose lots shall be included on Preliminary and Final Plats.

3.4.6 SPLIT ZONING

Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.

3.4.7 UNIFIED DEVELOPMENT

AMENDED 7.21.25 (UDOTA 1-25)

- A. A unified development is a residential, non-residential, or mixed-use development like a shopping or a lifestyle center consisting of at least two ~~buildings~~ principal structures located on one or more lots that are planned, permitted, and developed as a single unit. (#12)
- B. Structures and land uses located on different lots within a unified development are subject to perimeter setbacks rather than traditional side and rear setbacks applied to individual lots.



TABLE 4.2.5: LISTING OF COMMON PRINCIPAL USES

AMENDED 4.15.24 (UDOTA 1-24); AMENDED 9.16.24 (UDOTA 2-24); AMENDED 7.21.25 (UDOTA 1-25)

P = Permitted, subject to a Zoning Permit & applicable use standards
 S = Permitted, subject to a Special Use Permit & applicable use standards
 C = Permitted within a conditional zoning district, subject to applicable use standards
 "•" = Prohibited
 [#] = Table note (see end of table)

USE TYPE	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS						SPECIAL DISTRICTS			CONDITIONAL DISTRICTS					USE STANDARDS		
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNT	DTNN	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC		CZD	CZI
Upper-Story Dwelling	•	•	•	•	•	P	P	P	P	P	P	P	•	•	•	P	•	C	C	C	C	•	4.3.132

NOTES:

[1] Not permitted on lots within the [dDowntown Bboundary Map](#) as designated in the [2045 Comprehensive Growth Plan Future Land Use Clayton Downtown Plan Map](#) unless permitted by and located within the CZD zoning district. (#13)



TABLE 4.5.4: LISTING OF COMMON SECONDARY USES

AMENDED 9.16.24 (UDOTA 2-24); AMENDED 12.16.24 (UDOTA 3-24); AMENDED 7.21.25 (UDOTA 1-25)

"C" = Permitted, subject to [Section 2.3.7, Conditional Rezoning](#), applicable secondary use-specific standards, and conditions of approval

"P" = Permitted, subject to applicable secondary use-specific standards

"S" = Permitted subject to [Section 2.3.23, Special Use Permit](#), and applicable secondary use-specific standards

"•" (blank cell) = Not allowed or no additional secondary use-specific standards

[#] Table Note

Most secondary uses are subject to use standards in [Section 4.5.5, Standards for Specific Secondary Uses](#)

SECONDARY USE TYPE [1]	CONVENTIONAL RESIDENTIAL DISTRICTS						CONVENTIONAL NON-RESIDENTIAL DISTRICTS						SPECIAL DISTRICTS			CONDITIONAL DISTRICTS						
	RUR	RLL	RLD	RMD	RHD	RMF	OFI	DTNC	DTNN	DTNT	NCM	CRM	LID	HID	CON	MXD	PUB	CZR	CZM	CZC	CZD	CZI
Flagpole [32] (#06)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	C
Garage or Carport, Detached	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Guard House, Shelter, or Gatehouse	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Helistop	•	•	•	•	•	•	S	•	•	•	•	•	•	S	•	•	S	•	C	C	C	C
Home Occupation, Level 1	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	•	•	•
Home Occupation, Level 2	P	•	•	•	•	•	•	P	P	P	P	P	•	•	•	•	•	C	C	C	•	•
Membrane Structure	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	P	•	•	•	•	•
Mobile Restaurant or Push Cart	•	•	•	•	•	•	•	P	P	P	•	P	P	P	•	•	•	•	C	C	C	C
Outdoor Dining and Seating	•	•	•	•	•	P	P	P	P	P	P	P	P	P	•	P	•	C	C	C	C	C
Outdoor Display/Sales	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	S	P	•	C	C	C	•
Outdoor Storage	•	•	•	•	•	•	•	P	P	P	P	P	P	P	•	•	P	•	•	C	C	C
Parking of Heavy Trucks or Trailers	P	•	•	•	•	•	•	•	•	•	•	P	P	P	•	•	P	•	•	C	•	C
Parking of Recreational Vehicles	P	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Play Equipment/Structure [2] (#02)	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	P	P	C	C	C	C	•
Private Stables	P	P	P	•	•	•	•	•	•	•	•	•	•	•	•	•	•	C	•	•	•	•
Produce Stand	P	P	P	P	P	•	P	P	P	P	P	P	•	•	•	•	•	C	•	C	C	•
Refuse or Recycling Container)	•	•	•	•	•	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Solar Energy Conversion, Level 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Swimming Pool/Hot Tub	P	P	P	P	P	P	P	P	P	P	P	P	•	•	•	P	•	C	C	C	C	•
Tool/Storage Shed	P	P	P	P	P	P	P	P	P	P	P	P	P	P	•	P	P	C	C	C	C	C
Underground Storage Tank	•	•	•	•	•	•	•	•	•	•	P	P	P	P	•	•	P	•	•	C	•	C
Urban Archery	P	P	P	•	•	•	•	•	•	•	•	•	•	•	P	•	P	C	•	•	•	•
Vehicle Repair (non-commercial)	P	P	P	P	•	•	P	•	•	•	P	P	P	•	•	•	•	C	•	C	•	•
Vehicle Towing or Storage	•	•	•	•	•	•	•	•	•	•	•	•	P	P	•	•	•	•	•	C	•	C

NOTES:

[1] Unlisted secondary uses may be permitted in accordance [Section 4.7, Unlisted Uses](#).

[2] Exempted from the requirement to obtain Zoning Compliance Permit [as a secondary use to a residential dwelling \(#02\)](#).

[3] [Flagpoles that are freestanding and detached from the wall or roof of a building shall require a Zoning Compliance Permit, Section 2.3.33B, Applicability \(#06\)](#).



descendant, sibling, uncle, aunt, nephew, or niece, including half, step, and in-law relationships.

3. PERMIT CONDITIONS

- a. Once the applicant provides sufficient proof that the family health care structure meets all standards, then the structure shall be permitted for a period of 12 months.
- b. The applicant may renew the prior approval for a 12-month period and continue to renew it provided the applicant provides evidence of continued need and compliance with these standards.
- c. The Town may make periodic inspections of the family health care structure at reasonable times convenient to the applicant.
- d. No signage shall be permitted on the exterior of the structure or on the lot that identifies or promotes the existence of the structure.
- e. The structure shall not be subdivided or otherwise separated in ownership from the single-family detached dwelling.
- f. The structure shall be removed within 60 days if the impaired occupant is no longer receiving or in need of assistance.
- g. The approval may be revoked, or other enforcement actions taken if these standards are violated.

N. FLAGPOLE

1. No more than two flagpoles shall be allowed on a residential lot in a residential zoning district.
2. Flagpoles on all other lots shall comply with the following standards:
 - a. No more than three flagpoles shall be allowed;
 - b. Flagpoles shall be located on the same lot as the principal building;
 - c. Flagpoles may be located on the wall of the principal building on the lot or within 75 feet of the building's main entrance;
 - d. Flagpoles shall not be located within a public right-of-way; and
 - e. Flagpoles shall not exceed a height of 40 feet. **AMENDED 7.21.25 (UDOTA 1-25)**
3. [Flags shall comply with the appropriate standards in Section 6.13.9, Flags. \(#06\)](#)
4. [Flagpoles that are freestanding and detached from the wall or roof of a building shall obtain a Zoning Compliance Permit, Section 2.3.33B, Applicability \(#06\).](#)

O. GUARD HOUSE, SHELTER, OR GATEHOUSE

Nothing shall limit the placement of a guard house, guard shelter, or gatehouse within a required yard or setback, provided it shall:

1. Maintain a maximum size or floor area of 100 square feet or less;
2. A height of 15 feet or less;
3. Be located outside any required sight distance triangles; and
4. Maintain a minimum distance of five feet from a public street right-of-way.

P. HELISTOP

Auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment are not permitted.



2. URBAN ARCHERY PERMIT REQUIREMENTS

An Urban Archery permit shall require all the following:

- a. Presentation of a valid photo I.D.;
- b. A copy of the prospective hunter's valid and current North Carolina hunting license;
- c. Property information if the hunter intends to hunt on private property;
- d. Owner permission if the prospective hunter doesn't own the private property; and
- e. Payment of a fee set by the Town fee schedule.

3. URBAN ARCHERY STANDARDS

Permitted hunters shall adhere to all of the following standards.

- a. Urban Archery shall be allowed only on a tract or parcel of land (or an aggregation of contiguous tracts or parcels) that is at least two acres in size.
- b. Urban Archery shall take place during Urban Archery Season as defined by the North Carolina Wildlife Resources Commission and only when the Town has indicated its participation in Urban Archery Season for that particular year.
- c. Hunting hours shall be in accordance with established North Carolina Wildlife Commission regulations.
- d. Hunters shall have in their possession a valid North Carolina hunting license (issued by the North Carolina Wildlife Resources Commission) and an Urban Archery permit from the Town.
- e. Arrows shall be fired from at least eight feet above ground level.
- f. Arrows shall not be fired from, nor be propelled to within, 50 yards (150 feet) of any dwelling or road right-of-way except that the 50-yard (150 feet) provision shall not apply to:
 - i. ~~The~~ hunter's own dwelling unit;
 - ii. [A dwelling unit located on a property of which a property owner has provided their written permission to hunt on; or](#)
 - iii. [A dwelling unit on a property that is part of an aggregation of contiguous tracts or parcels of which a property owner has provided their written permission to hunt on. \(#14\)](#)
- g. Arrows shall not be fired from, nor be propelled to within 100 yards (300 feet) of any Child Day Care, Elementary, Middle, or High School, Religious Institution, or Town Park.
- h. Signage indicating that Urban Archery is taking place shall be required if the property on which Urban Archery is occurring is accessible to members of the public via a walkway, access easement, or other method open to the public.

4. SECURING THE HARVEST

Hunters shall make every reasonable effort to track wounded deer for the purpose of completing the harvest and recovering the carcass. In the event that a wounded deer cannot be recovered or leaves the permitted hunting tract, the hunter shall notify the North Carolina Wildlife Resources Commission and seek the assistance of a Wildlife Officer. If an officer of the Wildlife Resources Commission is not timely available assistance may be sought through the Clayton Police Department or Johnston County Sheriffs.

5. HUNTING ON PRIVATE PROPERTY

- a. Landowners may hunt on their own property subject to the limitations and criteria of this section.
- b. Persons may hunt on another's property only when possessing written permission from the property owner dated within the calendar year.



6.3 FENCES AND WALLS

6.3.1 PURPOSE AND INTENT

These standards provide development standards for permanent fences and walls on individual lots or development sites. These standards are proposed to protect the health and safety of the public while balancing the practical uses for fencing and walls like security and privacy with the need for aesthetic quality and a high-quality built environment. More specifically, these standards are intended to:

- A. Provide for privacy and security on individual lots;
- B. Ensure proper construction techniques are followed and that fences and walls are maintained in good repair;
- C. Assist with the transition between public and private spaces;
- D. Minimize the appearance of fence or wall “canyons” along streets; and
- E. Ensure fencing and walls are consistent with the Town’s desired architectural character.

6.3.2 APPLICABILITY

A. GENERALLY

1. The provisions of this section shall apply to all new fence or wall construction or replacement of all fences, screening walls, or retaining walls.
2. ~~A~~Fences or and walls, and retaining walls less than five (5) feet in height, including the buried portion, may only be erected in accordance with the standards in this section and Section 2.3.33, Zoning Compliance Permit. **(#05)**
3. Except for retaining walls, fences or privacy walls over six feet in height shall comply with the structural requirements necessary to meet applicable wind loading standards and shall be subject to issuance of a building permit in accordance with Section 2.3.52.3.5.
4. Retaining walls with a total height of five feet or more, including the buried portion, require sealed plans prepared by a professional engineer as part of the application for a Building Permit.

B. EXEMPTIONS

The following are exempted from the standards in this section:

1. Fences and walls associated with bona fide farms and agricultural use types in districts where these uses are permitted;
2. Battery-charged security fences on lots located in non-residential and special zoning districts, provided they are completely surrounded by a non-electric security fence of at least five feet in height and configured in accordance with NCGS§160A-194.1; and **AMENDED 7.21.25 (UDOTA 1-25)**
3. Temporary fences for construction sites, including but not limited to: fencing necessary for soil erosion and sedimentation control and tree protection.

C. PRE-EXISTING DEVELOPMENT

Lawfully established fences and walls established prior to January 2, 2024, that do not comply with these standards shall be subject to the applicable standards in Section 5.4, Nonconforming Site Features.

6.3.3 LOCATIONAL STANDARDS

A. GENERAL

No fence or wall shall:



1. Be located within the public right-of-way (except for public fences or walls, or as needed for retention of soil, subject to an approved encroachment agreement with the Town);
2. Be located within a designated public utility or drainage easement;
3. Obstruct visibility at intersections as required in accordance with Section 6.1.7, Sight Distance Triangles;
4. Impede visibility of the required property address number; or
5. Block pedestrian access from doors or windows.

B. EASEMENTS

1. Retaining walls five (5) feet or more in height, including the buried portion, shall provide maintenance easements that include the following: centered on the wall and provided along the wall's full course when the retaining wall crosses lot lines. (#15) AMENDED 7.21.25 (UDOTA 1-25)
 - a. Be centered on the wall;
 - b. Be provided along the wall's full course when the retaining wall crosses lot lines;
 - c. Include the wall and all associated underground components, such as tiebacks or anchors;
 - d. Extend at least five (5) feet beyond the outermost structural element to allow for inspection, maintenance, and repair;
 - e. Be kept clear of permanent obstructions; and
 - f. Be recorded on a plat. (#15)
2. In cases where a fence or wall is permitted within an easement, the fence or wall shall be allowed to cross the easement perpendicularly or run parallel to and within the easement as close as is practicable to the edge of the easement. Crossings may be required to install a gate wide enough for maintenance equipment to transverse.
3. It is the landowner's responsibility to verify fence or wall locations within a private easement with the easement owner. The Town's permitting of fences or walls does not supersede or negate any private easement agreements or allowances.
4. The landowner shall remain solely liable for any repair or replacement if any portion of the fence or wall located within a required easement is damaged during maintenance or construction activities within the easement by the easement owner or their agent.

C. BLOCK DRAINAGE

Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch.

D. REQUIRED SETBACKS

Fences or walls may be located within required setbacks but shall not encroach onto a separate lot.

E. REQUIRED LANDSCAPING AREAS

Fences or walls may be located within required landscaping areas, subject to the standards in Section 6.6.10H, Permitted Encroachments. In no instance shall chain link or other semi-opaque fencing be credited towards applicable screening requirements.

6.3.4 MATERIALS

A. LIFESPAN

1. Fences be designed, constructed, and maintained to ensure a minimum useful life of at least ten years.



6.6.12 OFF-STREET PARKING LOT LANDSCAPING

All off-street parking lots with five or more spaces serving multi-family, single-family attached residential, mixed-use, and non-residential developments shall comply with the following parking lot landscaping standards:

A. INTERIOR PLANTINGS

1. AREA TO BE LANDSCAPED

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot (see Figure 6.6.12.A, Parking Lot Interior Plantings).

2. LANDSCAPING ISLANDS AND STRIPS

A parking aisle with 12 or more vehicle spaces in a single row shall provide and maintain landscaping islands at each end of the row as well as a landscaping island located every 12 spaces, in accordance with the following standards:

- a. Islands shall have no minimum dimension less than nine feet and a minimum area of 180 square feet, including the curb (if curbing is provided);
- b. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;
- c. Off-street parking lots of 100 or more spaces shall include at least one landscaping strip for every six rows of parking spaces; and
- d. Landscaping strips, when required, shall maintain a minimum width of nine feet and run the full length of a row of parking spaces. Landscape strips shall include shrubs and a pedestrian walkway of at least four feet in width and configured to comply with applicable ADA requirements, and may include trees and parking lot lighting, provided tree trunks are at least five feet from the pedestrian accessway. **AMENDED 9.16.24 (UDOTA 2-24)**

3. PROTECTION OF LANDSCAPE ISLANDS

- a. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.
- b. The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

4. PROTECTION FROM PEDESTRIAN WALKWAYS

In cases where a pedestrian walkway must be located within five feet of a tree trunk, wooden walkways, pervious pavers, or other methods shall be used to ensure the required tree is not damaged by the walkway.

5. STORMWATER MANAGEMENT

A landscape island may be designed to function as a stormwater control measure, provided its landscaping performance function is maintained.

6. ~~STRUCTURAL~~ SUPPORTIVE SOIL REQUIRED

Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared ~~structural~~ soil that has been amended and cultivated to support healthy vegetation and appropriate drainage. **(#16)**



- B. Unless exempted by this ordinance, development not providing street trees shall provide a streetscape buffer in accordance with Section 6.6.17, Streetscape Buffers.

C. WHERE REQUIRED

Street trees shall be located within tree pits or planting strips within ~~the a~~ street right-of-way (see Figure 6.6.16: Street Tree Configuration). (#17)

D. LOCATION

1. WITHIN TREE PITS

In cases where sidewalks, boardwalks, or paving is located in the right-of-way, street trees shall be located within tree pits, configured in accordance with the following standards:

- a. Tree pits shall have a minimum planting area of at least 36 square feet per tree pit;
- b. Tree pits shall be covered or configured with ground covering at the same general height as the pedestrian walkway to avoid being a tripping hazard; and
- ~~c. Tree pits shall include structural soils or screened backfill to ensure appropriate drainage and backfill.~~ (#16)

2. WITHIN PLANTING STRIPS

In cases where sidewalks are not present or where a portion of the right-of-way is not paved, street trees may be placed within planting strips, configured in accordance with the following standards:

- a. Tree planting strips shall be configured parallel to the street;
- b. Tree planting strips shall maintain a minimum width of six feet; and
- c. Tree planting strips shall be raised above the grade or include edging that prevents pedestrians from walking in the planting strip.

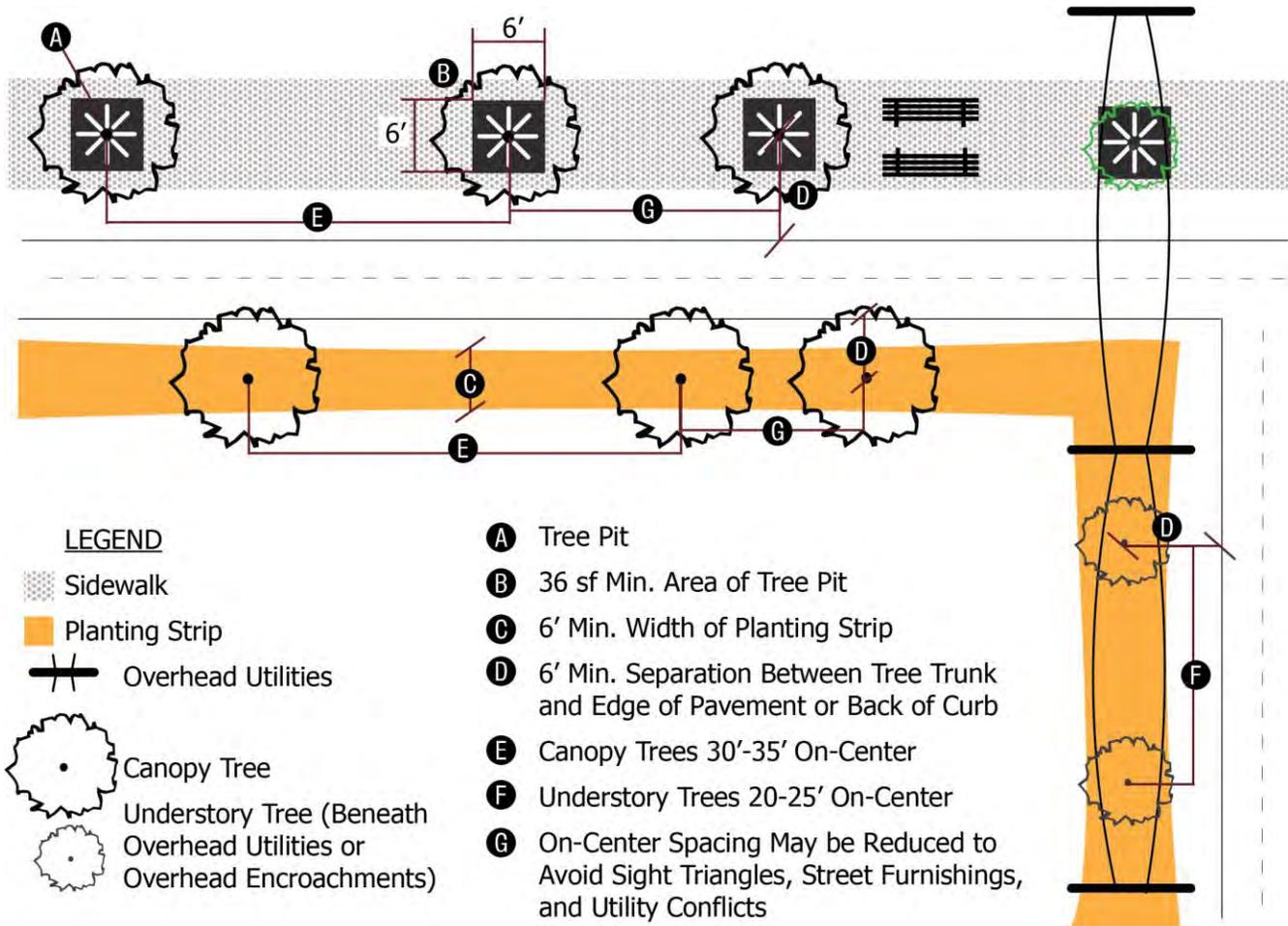
3. SUPPORTIVE SOIL REQUIRED

- a. Tree pits and planting strips shall be comprised of properly-prepared soil that has been amended and cultivated to support healthy vegetation and appropriate drainage. (#16)

3.4. TREE PLACEMENT

- a. Street trees, when located within tree pits or planting strips, shall be located so that the trunk is at least two-and-one-half feet from the back of the curb or the edge of the pavement.
- b. Street trees shall not be located within sight distance triangles (see Section 6.1.7, Sight Distance Triangles).

FIGURE 6.6.16: STREET TREE CONFIGURATION



4.5. REQUIRED PLANT MATERIAL

AMENDED 7.21.25 (UDOTA 1-25)

- a. Street trees shall be configured in one of the following ~~three~~ ways:
 - i. Three canopy trees for every 100 linear feet of lot frontage; or
 - ii. ~~Two canopy trees and two understory trees for every 100 linear feet of lot frontage; or~~
 - iii. ~~Five~~ **Four** understory trees for every 100 linear feet, where overhead utilities are present. (#17)
- b. Uniform spacing may be modified as necessary to accommodate driveways, sight distance triangles, utilities, or street trees on adjacent lot frontages. In cases where deviation from uniform on-center spacing is necessary, minimum spacing shall be in accordance with best practices for streetscape planting and maintenance in the sole discretion of the Town.

5.6. TYPES OF TREES

- a. Except in areas underneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be canopy trees that meet the standards in Figure 6.6.8.A, Plant Material Specifications.



- b. In areas beneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be understory trees that meet the standards in Figure 6.6.8.A, Plant Material Specifications.

6. SPECIES

- ~~a. Only those species identified in Table 6.6.16.B: Preferred Street Tree Species, shall be utilized to meet these standards: (#18)~~

TABLE 6.6.16.B.5: PREFERRED STREET TREE SPECIES	
CANOPY TREES (BY COMMON NAME)	UNDERSTORY TREES (BY COMMON NAME)
Bald Cypress	Carolina Silverbell
European Hornbeam	Chinese Pistache
Hedge Maple	Common Witchhazel
Japanese Zelkova	Crape Myrtle
Lacebark Elm	Dogwood
London Planetree	Eastern Redbud
Hardy Rubber Tree	Fringetree
Thornless Honey Locust	Green Hawthorne
Kentucky Coffee Tree	Serviceberry

- ~~b. Applicants may propose a different species, subject to approval by the Engineering Director.~~

7. ON-CENTER SPACING

- a. Canopy trees shall be planted 30 to 35 feet on-center.
- b. Understory trees shall be planted 20 to 25 feet on-center.
- c. Grouping or clustering of street trees shall be prohibited, but on-center spacing may be reduced as necessary to avoid sight distance triangles, street furnishings, or other utility conflicts.

8. COMPLIANCE WITH NCDOT STANDARDS

In cases where street trees are located within street rights-of-way maintained by the NCDOT, street tree configuration shall be in accordance with NCDOT standards in addition to the standards in this section. In the event the standards in this section conflict with applicable NCDOT standards, the NCDOT standards shall control.

E. SPECIES

Species of street trees are provided in the Suggested Plant Materials List found in the UDO Procedure Manual. (#18)

6.6.17 STREETScape BUFFERS

A. PURPOSE AND INTENT

Streetscape buffers are proposed to soften the view of development from ~~the Town's a~~ street rights-of-way, and are intended to: (#17)



1. Enhance pedestrian orientation and encourage pedestrian travel;
2. Address urban heat islands by providing shade for streets and sidewalks;
3. Provide shade on sidewalks;
4. Promote the Town's "sense of place";
5. Support property values by enhancing the aesthetic character of the Town's streets; and
6. Provide habitat for flora and fauna.

B. APPLICABILITY

Streetscape buffers shall be provided on lots in the CRM, CZC, CZI, CZM, CZR, HID, LID, [MXD](#), NCM, OFI, [RUR](#), [RLL](#), [RLD](#), [RMD](#), [RHD](#), [RMF](#), PUB districts in accordance with the following [\(#17\)](#): **AMENDED 7.21.25 (UDOTA 1-25)**

1. The standards in this section shall apply to all lot lines bounded by ~~the following features~~[streets](#), whether existing or identified in the Town's adopted policy guidance. [\(#17\)](#)
 - ~~a. Local streets;~~
 - ~~b. Collector streets;~~
 - ~~c. Arterial streets; and~~
 - ~~d. As specified in Section 3.7.3, GTOD Gateway Overlay District.~~
2. In cases where a future street is planned but its approximate location is not indicated on an adopted or approved Town map or plan, streetscape buffering shall not be required on lots abutting the future street alignment.
3. In cases where the rear yard of a lot abuts a ~~Town~~ street [right-of-way](#), the rear yard shall include a streetscape buffer configured in accordance with these standards. [\(#17\)](#)

C. EXEMPTION

1. Streetscape buffers are not required in the following locations:
 - a. Land in the CON district;
 - b. Adjacent to portions of lot lines crossed by driveways, private drives, or alleys;
 - c. Lot lines abutting platted streets [rights-of-way](#) that are or have remained unopened for at least 15 years; or [\(#17\)](#)
 - d. Lot frontages where the entirety of the lot frontage is within a required sight distance triangle.
2. Development subject to the standards in [Section 6.6.16, Street Trees](#), is not required to provide streetscape buffers.

D. REQUIRED PLANT MATERIAL

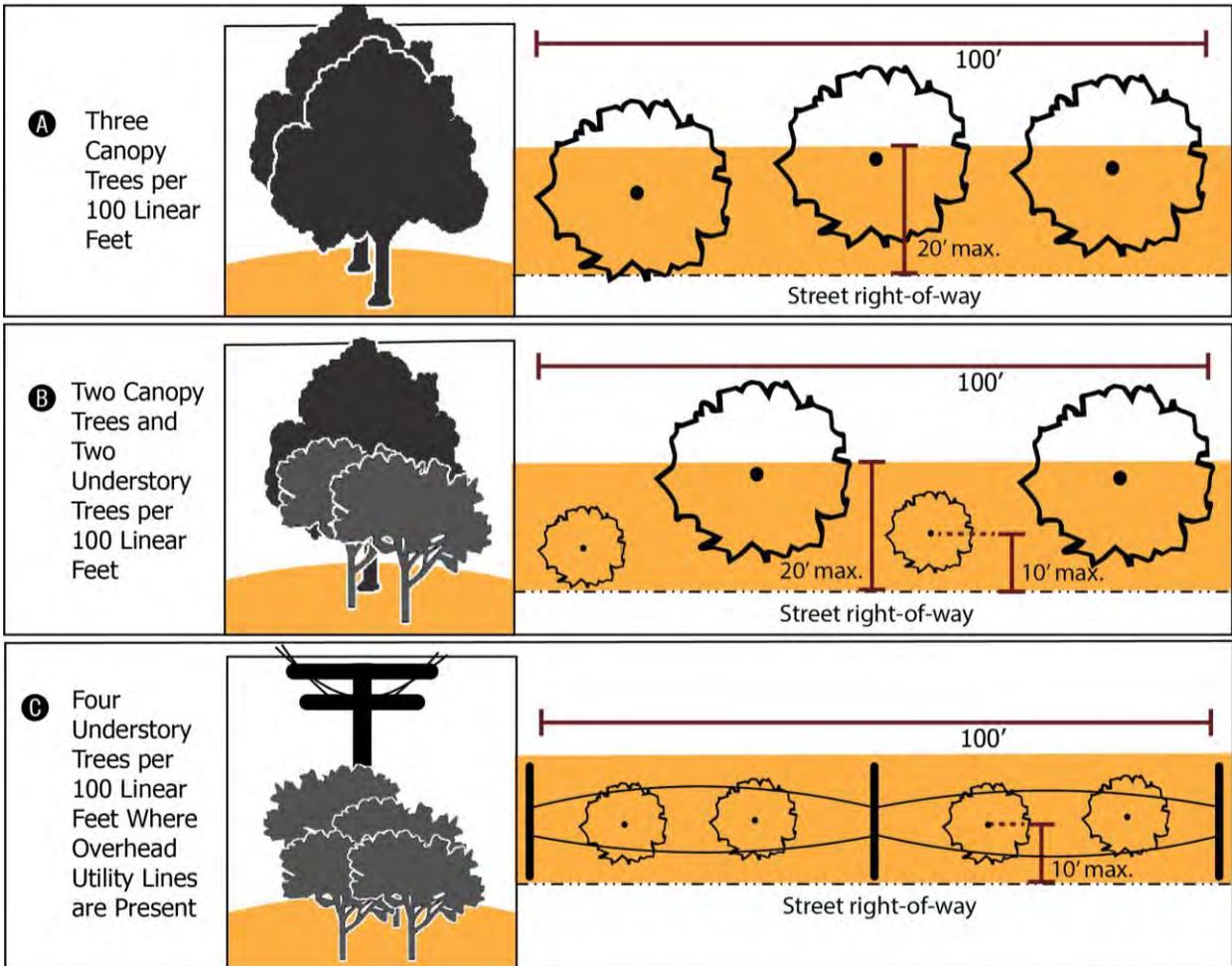
1. GENERALLY

Streetscape buffers shall be configured in one of the following three ways (see Figure 6.6.17.D: Streetscape Buffer Configuration):

- a. Three canopy trees for every 100 linear feet of lot frontage; or
- b. Two canopy trees and two understory trees for every 100 linear feet of lot frontage; or
- c. Four understory trees for every 100 linear feet, where overhead utilities are present.



FIGURE 6.6.17.D: STREETScape BUFFER CONFIGURATION



2. REAR YARD STREETScape BUFFERS

In cases when a lot's rear yard abuts a **Town** street right-of-way, the rear yard shall be configured with a streetscape buffer meeting the requirements for a type C perimeter buffer (see Section 6.6.13, Perimeter Buffers). In cases where a streetscape buffer is configured in accordance with a type C perimeter buffer, trees shall maintain a uniform on-center spacing across the width of the buffer and the distance from the right of way shall be in accordance with the perimeter buffering standards instead of the placement standards in this section. (#17)

E. PLACEMENT

1. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.
2. Canopy trees shall be located within 20 feet of the right-of-way edge.
3. Understory trees shall be located within 10 feet of the right-of-way edge.
4. An alternative location may be approved by the Planning Director in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.



F. PROHIBITED FEATURES

Off-street parking, off-street loading, merchandise display, outdoor storage, or use of gravel, decorative gravel, or cinders as a ground cover shall not take place within a required streetscape buffer.

G. SPECIES

[Species of street trees are provided in the Suggested Plant Materials List found in the UDO Procedure Manual. \(#18\)](#)

6.6.18 VIOLATION AND REPLACEMENT

A. DAMAGE OR REMOVAL OF VEGETATION IS A VIOLATION

The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance subject to the remedies described in Chapter 7, Violations.

B. REPLACEMENT REQUIRED

1. Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.
2. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.
3. Replacement trees shall be planted within 90 days of removal of required vegetation.

C. REVEGETATION PLAN REQUIRED

In cases where required landscaping or existing vegetation required to be preserved is damaged, disturbed, or removed, a revegetation plan shall be submitted for review and approval by the Planning Director, in accordance with the following standards:

1. Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least three inches and a cumulative caliper equal to or greater than the original tree.
2. Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.
3. Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

D. LOCATION OF REPLACEMENT TREES AND VEGETATION

1. Replanting shall be located within the vicinity of the vegetation to be replaced.
2. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Planning Director.

E. EXCESSIVE PRUNING OR TRIMMING

Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming shall be a violation of this Ordinance, and shall require replacement of damaged vegetation in accordance with [Section 6.6.18B, Replacement Required](#).

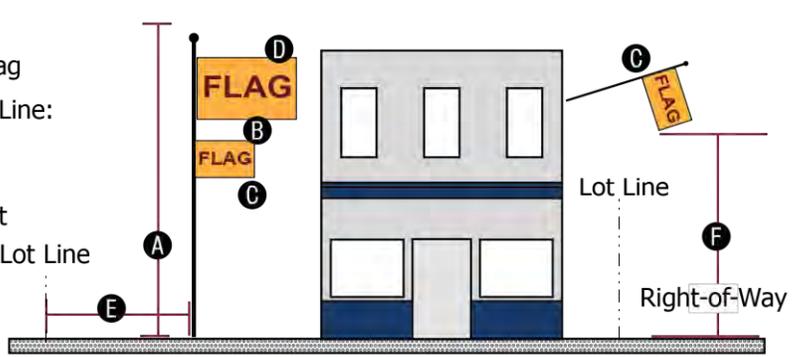
F. FAILURE TO MAINTAIN

Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with Chapter 7, Violations.



B. FLAGS

AMENDED 7.21.25 (UDOTA 1-25)

<h3>1. DEFINITION</h3>	<p>A piece of cloth or similar material, typically rectangular or square in shape, that is attached to a pole or rope along one side (typically the shorter side) of the material. Flags are intended to move in the breeze and do not include frames or supporting structures that cause them to retain their shape regardless of the wind. Flags that include supporting frames, that are attached to light or utility poles or that are affixed to two or more poles at the same time are "banners." Feather flags and bow signs are prohibited.</p>					
<h3>2. DISTRICTS WHERE PERMITTED</h3>	CON, PUB	RESIDENTIAL, CZR	OFI, NCM	DTNC, CZD, MXD, CZM	CRM, CZC	LID, HID, CZI
	Yes	Yes	Yes	Yes	Yes	Yes
<h3>3. DIMENSIONAL STANDARDS</h3>	MAXIMUM NUMBER OF FLAGS PER LOT			3		
	MAXIMUM FLAGPOLE HEIGHT			40 feet above grade or 40 feet above the highest point of a building if building-mounted [1]		
	MAXIMUM NUMBER OF FLAGS PER FLAGPOLE			2		
	MAXIMUM SIZE PER FLAG			60 square feet		
	MINIMUM SETBACK FROM ANY LOT LINE FOR A FLAGPOLE OR OTHER MOUNTING DEVICE			The height of the flagpole or mounting device if building-mounted		
NOTES:	<p>[1] In cases where a flag projects out into a street right-of-way, the flag shall maintain a minimum vertical clearance of 18 feet above the street pavement and 8 feet above a sidewalk. [2] Flagpoles that are freestanding and detached from the wall or roof of a building shall obtain a Zoning Compliance Permit, Section 2.3.33B, Applicability (#06).</p>					
<h3>4. ADDITIONAL REQUIREMENTS</h3>	<p>a. Flags and flagpoles shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians. b. Except on lots in residential districts, flags on poles shall be located no more than 10 feet from the front building line.</p>					
<h3>5. SAMPLE CALCULATION</h3>	<p>LEGEND</p> <ul style="list-style-type: none"> A Max. Height: 40' or 40' Above Highest Point of Building if Mounted B Max. Flags per Pole: 2 C Max Flags Per Lot: 3 D Max. Size: 60 sf per Flag E Min. Setback from Lot Line: Height of Flagpole or Mounting Device F If Projecting into Street Right-of-Way, Min. Vertical Clearance: 18' Above Street; 8' Above Sidewalk 					



6.15 STORMWATER

6.15.1 AUTHORITY (#19)

The Town is authorized to adopt these stormwater standards pursuant to North Carolina law, including but not limited to:

- A. Article 14, Section 5 of the Constitution of North Carolina;
- B. [NCGS§ 113A, Article 4 \(Sedimentation Pollution Control Act of 1973\)](#);
- C. [NCGS§ 143-214.5 \(Water supply watershed protection\)](#);
- D. [NCGS§ 143, Article 21, Part 6 \(Floodway Regulation\)](#);
- ~~A.-~~
- B.E. [NCGS§ 143-214.7](#) and rules promulgated by the Environmental Management Commission thereunder;
- F. [NCGS§§ ~~143-215.6A, 153A-454, 160A-174, 160A-185, and 160A-459~~ 160A-174, 185 and 459](#);
- ~~E.G.~~ [NCGS§ 160D](#);
- D.H. ~~[Session Law 2009-216 and Session Law 2009-484](#)~~ [General Session Law: 2006-246 \(Phase II Stormwater\) and 2012-200 \(Buffer Rules\)](#);
- E.I. Section NCAC 02B .0711 of the North Carolina Administrative Code;
- F.J. The Charter of the Town of Clayton; and
- K. Any special legislation enacted by the North Carolina General Assembly for the Town of Clayton.
- ~~G.-~~

6.15.2 FINDINGS

- A. It is hereby determined that:
 1. Development ~~and redevelopment~~ alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge ([#19](#));
 2. These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and
 3. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.
- B. It is further determined that the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this section.
- C. Additionally, the North Carolina Environmental Management Commission has identified and has promulgated rules that have been amended and affirmed by the North Carolina General Assembly (Neuse River Nutrient Management Strategy) to reduce the average annual loads of nitrogen delivered to the Neuse River Basin from all point and nonpoint sources of these nutrients located within its watershed, including stormwater from new development in Clayton's planning jurisdiction.
- D. Therefore, the Town establishes this set of water quality and quantity regulations to meet the requirements of State and federal law regarding control of stormwater runoff and discharge from development ~~and redevelopment~~ ([#19](#)).

6.15.3 PURPOSE

- A.** The purpose of this section is to protect, maintain and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff, including nitrogen, phosphorus, and total suspended solids in stormwater runoff, as well as to control the adverse effects of nonpoint and point source pollution associated with new development ~~and redevelopment~~ in the Middle Neuse River Basin (#19). It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.
- B.** This section seeks to meet its general purpose through the following specific objectives and means:
1. Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
 2. Requiring that new development ~~and redevelopment~~ maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats; (#19)
 3. Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
 4. Establishing design and review criteria for the construction, function, and use of structural stormwater best management practices ("BMPs") and stormwater control measures ("SCMs") that may be used to meet the minimum post-development stormwater management standards;
 5. Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;
 6. Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs and SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
 7. Establishing administrative procedures for the submission, review, approval, and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;
 8. Controlling illicit discharges into municipal separate stormwater system;
 9. Coordinating site design plans that include open space, natural areas with Section 6.7, Open Space Set-Aside and Parkland, Section 6.11, Resource Conservation Areas, and Section 6.12, Riparian Buffers; and (#19)
 10. Assigning responsibility and processes for approving the creation and maintenance of adequate drainage.
 11. Providing education and outreach to the public regarding methods to prevent and minimize pollutant contributions to the municipal separate stormwater system and waters of the State. (#19)
 12. Requiring that new development not exceed export targets for nitrogen in stormwater runoff for the watershed through site layout, engineered stormwater controls, or permanent nutrient offset credits; and (#19)
 13. Controlling erosion and sedimentation from construction activities. (#19)

6.15.4 APPLICABILITY AND JURISDICTION

A. GENERAL

~~Beginning with and subsequent to its effective date, this section shall be applicable to all development and redevelopment, including, but not limited to, Site Plan applications, Subdivision applications, and Land Disturbance Permit applications.~~ Beginning with and subsequent to its effective date, this ordinance shall be applicable to all development and expansion of development throughout the corporate limits and extraterritorial jurisdiction of the Town of Clayton within the Middle Neuse River Basin Watershed, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempted in accordance with Section 6.15.4C, Exemptions. (#19)

B. ESTABLISHMENT OF VESTED RIGHTS

Vested rights are established in accordance with Section 1.11, Vested Rights, and Section 2.3.32, Vested Rights Certificate.

C. EXEMPTIONS

The following forms of development and actions shall be exempted from the requirements in this section:

1. Single-family detached dwellings, duplex dwellings, and manufactured home dwellings and recreational development ~~and redevelopment~~ that cumulatively disturbs less than one acre and are not part of a larger common plan of development or sale are exempt from the provisions of this section, unless deemed otherwise by the Stormwater Administrator. (#19)
2. Commercial, industrial, institutional, single-family attached, and multi-family residential, or local government development ~~and redevelopment~~ that cumulatively disturbs less than one-half acre and are not part of a larger common plan of development or sale are exempt from the provisions of this section. (#19)
3. Development ~~and redevelopment~~ that disturbs less than a stated area threshold are not exempt if such activities are part of a larger common plan of development or sale that exceeds the relevant threshold, even though multiple, separate, or distinct activities take place at different times on different schedules. (#19)
4. Activities subject to requirements of the Neuse River Basin Watershed Agriculture Rule, 15A NCAC 02B .0712 is exempt from the provisions of this ordinance. ~~Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from these provisions.~~ (#19)
5. In accordance with the requirements of 15A NCAC 02B .0711 and the Town's Phase II Permit NCS000559, new development undertaken by the Town solely as a public road project shall be deemed compliant with the purposed of this section if it meets the riparian buffer protection requirements of the Neuse River buffer rules. For these public road projects, the following shall be done to the maximum extent practicable:
 - a. Minimize BUA;
 - b. Divert runoff away from surface waters; and
 - c. Implement BMPs and SCMs.
6. Existing development or redevelopment is exempt from the provisions of this ordinance. ~~impervious surfaces established prior to November 1, 2008, as determined through aerial photography, permits, plans, etc. however, if the impervious area limits are reduced after November 1, 2008, and the previously impervious area is reestablished as pervious for a period of one year or more, the impervious area is no longer exempt.~~ (#19)

7. Commercial, industrial, institutional, multifamily residential or local government development that disturbs less than one half acre and expands existing structures on a parcel but does not result in a cumulative built-upon area for the parcel exceeding twenty-four (24) percent is exempt from the provisions of this ordinance. (#19)
8. Development of an individual single-family or duplex residential lot that is not part of a larger common plan of development or sale and does not result in greater than five (5) percent built-upon area on the lot is exempt from the provisions of this ordinance. (#19)
9. Development or expansion of development with a vested right per the standards of NCGS§ 160D-108 is exempt from the provisions of this ordinance. (#19)
- ~~6.10.~~ Development or expansion of development for which the permit application was submitted prior to adoption of this ordinance is optionally exempt from the provisions of this ordinance per the requirements of NCGS§ 143-755. (#19)

D. NO DEVELOPMENT ~~OR REDEVELOPMENT~~ OR EXPANSION UNTIL COMPLIANCE AND PERMIT (#19)

No development or expansion of development shall occur except in compliance with the provisions of this ordinance or unless exempted. No development or expansion of development for which a permit is required pursuant to this ordinance shall occur except in compliance with the provisions, conditions, and limitations of the permit. (#19)

- ~~1.—No development or redevelopment shall occur except in compliance with the provisions of this section or unless exempted:~~
- ~~2.—No development for which a permit is required pursuant to this section shall occur except in compliance with the provisions, conditions, and limitations of the permit:~~

E. MAP

1. The provisions of this chapter shall apply within the areas designated on the map titled "Stormwater Map of Town of Clayton, North Carolina" (the Stormwater Map), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Chapter.
2. The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to consider changes in the land area covered by this section and the geographic location of all engineered stormwater controls permitted under this section. In the event of a dispute, the applicability of this section to a particular area of land or SCM or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and this Ordinance.

6.15.5 DESIGN MANUAL

A. REFERENCE TO DESIGN MANUAL

1. The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater SCMs.
2. The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of Phase II and other applicable stormwater laws.



B. RELATIONSHIP OF DESIGN MANUAL TO OTHER LAWS AND REGULATIONS

If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

C. CHANGES TO STANDARDS AND SPECIFICATIONS

If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this Section with regard to the application.

D. AMENDMENTS TO DESIGN MANUAL

The Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, changes to State Minimum Design Criteria, improved knowledge of local conditions, or local monitoring or maintenance experience. Prior to amending or updating the Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided. (#19)

6.15.6 RELATIONSHIP TO OTHER LAWS, REGULATIONS, AND PRIVATE AGREEMENTS

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

A. PRIVATE AGREEMENTS

This ordinance is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this ordinance shall govern. Nothing in this ordinance shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this ordinance. In no case shall the Town of Clayton be obligated to enforce the provisions of any easements, covenants, or agreements between private parties. (#19)

6.15.66.15.7 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

These standards shall take effect on December 2, 2025~~January 2, 2024~~.

A. FINAL APPROVALS, COMPLETE APPLICATIONS

1. All development and expansion of development projects for which complete and full applications were submitted to the Town of Clayton prior to the effective date of this ordinance may be exempted from complying with all provisions of this ordinance dealing with the control and/or management of stormwater by the choice of the developer.
2. A phased development plan shall be deemed complete prior to the effective date of this ordinance, and it shows:



- a. For the initial or first phase of development or expansion of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that have been approved.
- b. For any subsequent phase of development or expansion of development, sufficient detail so that implementation of the requirements of this ordinance to that phase of development would require a material change in that phase of the plan.

B. VIOLATIONS CONTINUE

1. Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance unless the use, development, construction, or other activity complies with the provisions of this ordinance. (#19)

6.15.76.15.8 REVIEW PROCEDURES

A. PERMITS

Stormwater Permits shall be reviewed and decided in accordance with Section 2.3.24, Stormwater Permit.

B. VARIANCE

Variance from the standards in this section shall be in accordance with Section 2.3.31, Variance.

C. APPEALS

Appeals of decisions of the Stormwater Administrator regarding these standards shall be in accordance with Section 2.3.4, Appeal.

6.15.86.15.9 STANDARDS

All development ~~and redevelopment~~ subject to these standards shall comply with the following: (#19)

A. RESTRICTION REQUIRED

Approval of the Stormwater Permit shall require enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development ~~and redevelopment~~ maintains the site consistent with the approved stormwater management plan. (#19)

B. . BUILT UPON STANDARDS

1. All lots or portions of lots in existence prior to date of ordinance adoption and established outside subdivisions after that date, additional built upon area (BUA) may be added to the property which would result in BUA coverage equal or less than allowed by the following table: (#19)



TABLE 6.15.9.B: BUILT UPON AREA STANDARDS

AREA	BUA (SQUARE FEET, DENSITY, OR DWELLING UNIT LIMITATION)	BUA OVERAGE REQUIREMENTS
<p><u>LOW DENSITY DEVELOPMENT IN WS-IV PA SINGLE-FAMILY DETACHED RESIDENTIAL</u></p>	<p><u>Single-family detached residential development may take place under the low-density development option using either of the following three alternatives:</u></p> <p><u>i. Up to one dwelling unit per one-half acre or one dwelling unit per 20,000 square foot lot excluding roadway right-of-way;</u></p> <p><u>ii. A maximum of 24 percent built-upon area;</u></p> <p><u>iii. Up to three dwelling units per acre or 36 percent built upon area when streets are configured without curb and gutter.</u></p>	<p><u>Stormwater control Type Y as described in Design Manual section E-1.</u></p>
<p><u>NON-RESIDENTIAL AND ALL OTHER FORMS OF RESIDENTIAL</u></p>	<p><u>Non-residential and all forms of residential development other than single-family detached may take place under the low-density development option using either of the following two alternatives:</u></p> <p><u>i. A maximum of 24 percent built-upon area;</u></p> <p><u>ii. Up to 36 percent built upon area provided streets are configured without curb and gutter.</u></p>	<p><u>Stormwater control Type Y as described in Design Manual section E-1.</u></p>
<p><u>HIGH DENSITY DEVELOPMENT IN WS-IV PA</u></p>	<p><u>All residential and non-residential development shall maintain a 24-to-70 percent built-upon area.</u></p>	<p><u>Stormwater control Type X as described in Design Manual (may include capturing first inch, total volume, nutrients, etc.) Acquire nutrient offset credits. (#19)</u></p>

2. Additional BUA and expansions of BUA beyond the above limitations must comply with the stormwater treatment and nutrient requirements of the above table. Only BUA on the lot, and that existing after, or proposed to be added after, the date of ordinance adoption is included in BUA calculations. (#19)



3. For all lots, portions of lots, planned rights-of-way, and common areas established within subdivisions after the date of ordinance adoption, new built-upon area may be added to the property which would result in BUA coverages equal to or less than allowed by Table 6.15.9.B: Built Upon Areas Standards. (#19)
4. New BUA, beyond the above limitations, must comply with the stormwater treatment and nutrient requirements of the above table. BUA calculations include all proposed lots, portions of lots, planned rights-of-way, and common areas. (#19)
5. Prior to the conveyance or transfer of any lot the BUA on that lot shall be referenced on the final plat and shall be recorded with the county Register of Deeds as the BUA Limitation. The BUA Limitation shall be binding on all subsequent owners of the site and portions of the site. (#19)

B.C. NEUSE RIVER ESTUARY NUTRIENT MANAGEMENT REQUIREMENTS

1. Nitrogen ~~and phosphorus~~ loads contributed by the proposed new development shall not exceed 3.6 pounds per acre per year unit-area mass loading rates for nitrogen.
- ~~2. Redevelopment subject to these standards that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option of either meeting the loading standards identified in this sub-section or meeting a loading rate that achieves a nutrient load corresponding to a 35 percent reduction for nitrogen as compared to the existing development. (#19)~~
2. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the latest NCDEQ-approved nutrient accounting tool.
3. The project area used for nutrient calculation and stormwater requirements includes the site area less any existing built-upon area. The project density used for determining stormwater requirements is the amount of built-upon area subject to this ordinance at project completion divided by the project area. (#19)
- ~~3. -~~

C.D. NITROGEN ~~AND PHOSPHORUS~~ STANDARD IS SUPPLEMENTAL; ~~TOTAL~~ SUSPENDED SOLIDS (TSS) REMOVAL

1. The nitrogen ~~and phosphorus~~ loading standards in this section ~~are~~ is supplemental to, not replacements for, stormwater standards otherwise required by federal, State, or local law, including without limitation any riparian buffer requirements applicable to the location of the development, including, without limitation, the riparian buffer protection requirements of 15A NCAC 2B.0714 and .0295. (#19)
- ~~2. All stormwater systems used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for TSS.~~

D.E. CONTROL AND TREATMENT OF RUNOFF VOLUME

- ~~1. Stormwater systems shall be designed to control and treat runoff volume generated from all surfaces by one inch of rainfall; the treatment volume:~~
- ~~2. The treatment volume shall not exceed the maximum ponding depth and be drawn down pursuant to standards specific to each practice as provided in the Design Manual.~~
- ~~3. To minimize flooding and to ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by evasive flows, stormwater flows from development or redevelopment shall not contribute to degradation of waters of the State. (#19)~~
1. All projects shall meet the stormwater system design requirements set forth in 15A NCAC 02H .1003. Projects shall use a project density threshold of greater than twenty-four (>24%) percent built-upon area, whereupon high-density stormwater design is required.

- All engineered stormwater controls will meet the standards set in the Design Manual and the State's Minimum Design Criteria, 15A NCAC 02H .1050 through .1062. (#19)
2. Where high-density stormwater design is required, stormwater systems shall meet the standards set forth in 15A NCAC 02H .1003(3) and be designed to control and treat the volume of runoff generated from all built-upon area by one inch of rainfall or equivalent runoff volume in one or more Primary SCMs. These projects may utilize offsite Primary SCMs dedicated to treating an area encompassing the project. (#19)
 3. Where high-density stormwater design is not required, stormwater systems shall meet the low-density stormwater design standards set forth in 15A NCAC 02H .1003(2). (#19)
 4. At a minimum, the development and redevelopment shall not result in a net increase in peak flow leaving the site from pre-development conditions for the 1-year, 24-hour storm; 2-year, 24-hour storm; 10-year, 24-hour storm; and 25-year 24-hour storm events.

F. METHODS TO MEET NUTRIENT CONTROL REQUIREMENTS

Projects subject to this ordinance shall meet nitrogen loading targets through a combination of the following methods:

1. Projects may reduce export of nitrogen through any combination of engineered stormwater controls treating runoff on the site, in an approved offsite regional engineered stormwater control, or through the acquisition of permanent nutrient offset credits. The developer shall calculate the nitrogen reduction provided by these controls using the approved accounting tool.
2. Proposed development undertaken by a local government solely as a public road expansion or public sidewalk project, or proposed development subject to the jurisdiction of the Surface Transportation Board, may meet nitrogen reduction needs for the project entirely through the use of permanent nutrient offset credits pursuant to the Nutrient Offset Credit Trading Rule, 15A NCAC 02B .0703. (#19)

E.G. PARTIAL OFFSET OF NUTRIENT CONTROL REQUIREMENTS

1. Development subject to these standards shall attain a maximum nitrogen loading rate on-site of six pounds per acre per year for single-family detached and duplex residential development, and ten pounds per acre per year for other development, including multi-family residential, commercial, and industrial. Sufficient permanent nutrient offset credits to meet project nutrient reduction needs not provided by engineered stormwater controls serving the project shall be acquired prior to approval of the development plan. The Stormwater Administrator shall issue an approval letter for the development that documents the needed nitrogen credits and where the development is located relative to the Middle Neuse River Basin Watershed Rules' geographic requirements. All permanent nutrient offset credits permitted by this ordinance shall meet the requirements of 15A NCAC 02B .0703. ~~Development shall also meet any requirements for engineered stormwater controls otherwise imposed by these standards. A developer subject to these standards may achieve the additional reductions in nitrogen and phosphorus loading by use of the following options: (#19)~~
 - a. Purchasing offset credits from an approved private seller with a project located in the same eight-digit Hydrologic Unit Code (8-digit HUC) as the proposed development (refer to the North Carolina Department of Environmental Quality (NCDEQ) Division of Water Resources (DWR) for approved mitigation banks with applicable and eligible credits in Clayton).
 - b. Making offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that program.

- c. Making offset payments to the Town of Clayton for equivalent nutrient credits at 80 percent of the rate calculated by the NC Ecosystem Enhancement Program for the Neuse-Falls Lake watershed.
 - d. A developer may propose to offset measures to the Town, including providing their own off-site offset.
 - e. [Through payment into the Riparian Buffer Restoration Fund established in N.C.G.S. 143-214.21. \(#19\)](#)
2. All offsite measures shall meet the requirements of 15A NCAC 02B .0273 (2) through (4) and 15A NCAC 02B. 0240.
 3. Documentation and proof of purchase for offset credit options is required prior to construction plan approval.
 - 3.4. [Excess permanent nutrient offset credits acquired beyond what is required for the development may not be applied to any other development. \(#19\)](#)

F.H. STANDARDS FOR STORMWATER CONTROL MEASURES

1. EVALUATION ACCORDING TO CONTENTS OF DESIGN MANUAL

- a. All stormwater control measures, stormwater systems, and stormwater treatment practices (also referred to as Best Management Practices, or BMP/SCMs) required by these standards shall be evaluated by the Stormwater Administrator according to the policies, criteria for each stormwater practice, in the most updated version of the Design Manual.
- b. The Stormwater Administrator shall determine whether proposed BMP/SCMs will be adequate to meet the requirements of this section.

2. DETERMINATION OF ADEQUACY; PRESUMPTIONS AND ALTERNATIVES

- a. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual and the approved accounting tool will be presumed to meet the minimum water quality and quantity performance standards of these standards.
- b. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of these standards.
- c. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

3. SAFETY REQUIREMENTS

All SCM facilities subject to this Ordinance shall be designed with features to discourage access from unauthorized personnel to prevent injury and accidental loss of life.

4. ACCESS

All private stormwater control measures must be served by an access easement from an adjacent street or vehicular travelway for the purpose of maintenance. **AMENDED 12.16.24 (UDOTA 3-24)**

G.I. COMPLETION OF STORMWATER BMPS AND SCMS

1. The developer of any non-residential development will be expected to have installed, stabilized, and a received a passing inspection from the Town of the final stormwater BMP/SCMs supporting their development prior to issuance of a Certificate of Occupancy. **AMENDED 12.16.24 (UDOTA 3-24)**



2. For residential development, the final stormwater device can be installed at such point that 80 percent or more of the residential lots are completed.

H.J. DEDICATION OF BMP/SCMS, FACILITIES, AND IMPROVEMENTS

The Town may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this section and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

H.K. VARIATIONS FROM THIS SECTION

The town shall have the option to approve projects that do not comply with all the provisions of these standards on a case-by-case basis as follows:

1. If the variation pertains to a BMP/SCM design that does not meet all the minimum design criteria, then the applicant shall provide technical justification based on engineering calculations and the results of research studies showing that the proposed design provides equal or better stormwater control and equal or better protection of waters of the State than these requirements and that it shall function in perpetuity.
2. The town shall have the option to require compliance with the minimum design criteria in the event that the alternative BMP/SCM design fails.
3. If the variation pertains to other aspects of the project, then the applicant shall demonstrate that the project provides equal or better stormwater control and equal or better protection of waters of the State than these requirements.

6.15.96.15.10 MAINTENANCE

A. GENERAL STANDARDS FOR MAINTENANCE

1. FUNCTION OF BMPS OR SCMS AS INTENDED

The owner of each structural and engineered stormwater control installed pursuant to this chapter shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the engineered stormwater control was designed.

2. ANNUAL MAINTENANCE INSPECTION AND REPORT

- a. The person responsible for maintenance of any structural and engineered stormwater control installed pursuant to this section shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:
 - i. The name and address of the land owner;
 - ii. The recorded book and page number of the lot of each structural and engineered stormwater control;
 - iii. A statement that an inspection was made of all structural and engineered stormwater control;
 - iv. The date the inspection was made;
 - v. A statement that all inspected structural and engineered stormwater controls are performing properly and comply with the terms and conditions of the approved maintenance agreement required by this section; and
 - vi. The original signature and seal of the engineer, surveyor, or landscape architect.
- b. All inspection reports shall be on forms supplied by the Stormwater Administrator.



- c. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as built certification.

B. OPERATION AND MAINTENANCE PLAN

1. There shall be an Operation and Maintenance Plan (O&M Plan) for every engineered stormwater control. The O&M Plan shall specify all operation and maintenance work necessary for the function of all engineered stormwater control components, including the stormwater conveyance system, perimeter of the device, inlet(s), pretreatment measures, main treatment area, outlet, vegetation, and discharge point. (#19)
2. The O&M Plan shall require the owner to maintain, repair and, if necessary, reconstruct the engineered stormwater controls, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater controls. The O&M Plan shall specify methods to be used to maintain or restore the engineered stormwater controls to design specifications in the event of failure. (#19)
3. The O&M Plan shall be signed by the owner and notarized. The owner shall keep maintenance records, and these shall be available upon request by the Stormwater Administrator. (#19)

B.C. OPERATION AND MAINTENANCE AGREEMENT

1. IN GENERAL

- a. Prior to the conveyance or transfer of any lot or building site to be served by a engineered stormwater control pursuant to this section, and prior to issuance of any permit for development or redevelopment requiring a engineered stormwater control pursuant to this section, the applicant or owner of the site shall execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the engineered stormwater control in a form acceptable to the Stormwater Administrator.
- b. Until the transference of all property, sites, or lots served by the engineered stormwater control, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.
- c. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the engineered stormwater control, and shall state the terms, conditions, and schedule of maintenance for the engineered stormwater control. In addition, it shall grant to the Town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the engineered stormwater control; however, in no case shall the right of entry, of itself, confer an obligation of the Town to assume responsibility for the engineered stormwater control.
- d. The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the Final Plat and shall be recorded with the Johnston County Register of Deeds upon Final Plat approval.
- e. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.
- f. For all engineered stormwater controls required pursuant to this section that are to be or are owned and maintained by an owners' association, the required operation and maintenance agreement shall include all of the following provisions:
 - i. A statement that the agreement shall grant the Town of Clayton a right of entry to inspect, monitor, repair, and reconstruct structural BMP/SCMs.



- ii. A statement that the Town of Clayton is authorized to recover from the property owner and/or association and its members, any and all costs the Town of Clayton expends to maintain or repair the structural BMP/SCMs or to correct any operational deficiencies. Failure to pay the Town of Clayton all of its expended costs, after 45 days' written notice, shall constitute a breach of the agreement. The Town of Clayton shall thereafter be entitled to bring an action against the property owner and/or association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.
- iii. A statement that the agreement shall not obligate the Town of Clayton to maintain or repair any structural BMP/SCMs or encompassing easements, and the Town of Clayton shall not be liable to any person for the condition or operation of structural BMP/SCMs.
- iv. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
- v. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law.
- vi. A statement that the property owner and/or association and its members indemnifies and holds harmless the Town of Clayton for any costs and injuries arising from or related to the structural BMP/SCM, unless the Town of Clayton has agreed in writing to assume the maintenance responsibility for the BMP/SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

2. THIRD PARTY TRANSFER DOCUMENT FOR OWNERS' ASSOCIATIONS

A third-party document signed by the Town of Clayton, the developer, and the owners' association shall be required upon completion of the project and handoff of all structural BMP/SCM devices included in the recorded operations and maintenance agreement.

- a. A formal onsite inspection with all three parties present shall be required. If all devices are compliant and functioning as designed the agreement will be signed by all three parties and recorded.
- b. The attachment shall then be recorded as an addendum to the original recorded operations and management agreement.

3. SPECIAL REQUIREMENTS FOR HOMEOWNERS' AND OTHER ASSOCIATIONS (#19)

For all engineered stormwater controls required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required O&M Agreement shall include all of the following provisions:

- a. Acknowledgment that the association shall continuously operate and maintain the engineered stormwater controls according to the specifications laid out in the Operation and Maintenance Plan.
- b. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the engineered stormwater controls. If engineered stormwater controls are not performing adequately or as intended or are not properly maintained, the Town of Clayton, in its sole discretion, may remedy the situation, and in such instances the Town of Clayton shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the engineered stormwater controls, provided that the Town of Clayton shall first consent to the expenditure.
- c. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur,

the developer shall pay into the escrow account an amount equal to fifteen (15) percent of the initial construction cost of the engineered stormwater controls. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the engineered stormwater controls. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

- d. The percentage of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Clayton depending on the design and materials of the engineered stormwater controls.
- e. Granting to the Town of Clayton a right of entry to inspect, monitor, maintain, repair, and reconstruct engineered stormwater controls.
- f. Allowing the Town of Clayton to recover from the association and its members any and all costs the Town of Clayton expends to maintain or repair the engineered stormwater controls or to correct any operational deficiencies. Failure to pay the Town of Clayton all of its expended costs, after forty-five days' written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town of Clayton shall thereafter be entitled to bring an action against the association and its members to pay or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
- g. A statement that this agreement shall not obligate the Town of Clayton to maintain or repair any engineered stormwater controls, and the Town of Clayton shall not be liable to any person for the condition or operation of engineered stormwater controls.
- h. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town of Clayton to enforce any of its ordinances as authorized by law.
- i. A provision indemnifying and holding harmless the Town of Clayton for any costs and injuries arising from or related to the engineered stormwater controls, unless the Town of Clayton has agreed in writing to assume the maintenance responsibility for the engineered stormwater controls and has accepted dedication of any and all rights necessary to carry out that maintenance.

E.D. INSPECTION PROGRAM

1. Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to:
 - a. Routine inspections;
 - b. Random inspections;
 - c. Inspections based upon complaints or other notice of possible violations; and
 - d. Joint inspections with other agencies inspecting under environmental or safety laws.
2. Inspections may include, but are not limited to:
 - a. Reviewing maintenance and repair records;
 - b. Sampling discharges, surface water, groundwater, and material or water in BMPs and SCMs; and
 - c. Evaluating the condition of BMPs and SCMs.
3. If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to NCGS§ 15-27.2.

4. No person shall obstruct, hamper, or interfere with the Stormwater Administrator while carrying out their official duties.

D.E. PERFORMANCE GUARANTEE FOR INSTALLATION AND MAINTENANCE

1. REQUIRED

- a. The Town requires the submittal of a performance guarantee, the form of which may be selected by the applicant. The guarantee is required to be posted prior to issuance of a permit in order to ensure that the structural BMPs/SCMs are installed by the permit holder as required by the approved stormwater management plan.
- b. The guarantee is also required to ensure the BMPs/SCMs are maintained by the owner as required by the operation and maintenance agreement.

2. GUARANTEES DISTINGUISHED

Performance guarantees required by this section take one of the following two forms:

a. INSTALLATION PERFORMANCE GUARANTEE

- i. An installation performance guarantee shall be required by the Town prior to the commencement of construction of all required structural or engineered stormwater controls.
- ii. Installation performance guarantees shall be submitted, reviewed, retained, and released in accordance with [Section 2.3.20, Performance Guarantee](#). However, submittal of an installation performance guarantee identified in this section shall be mandatory, not optional.

b. MAINTENANCE PERFORMANCE GUARANTEE

A maintenance performance guarantee shall be required by the Town following construction and inspection of a required structural or engineered stormwater control.

3. MAINTENANCE GUARANTEE

AMENDED 7.21.25 (UDOTA 1-25)

a. AMOUNT

The amount of a maintenance guarantee shall be 10 percent of the total cost of construction of the BMP or SCM.

b. COSTS IN EXCESS OF PERFORMANCE SECURITY

If the Town acts upon such failure by the applicant or owner, the Town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the guarantee held, in addition to any other penalties or damages due.

c. FORM OF MAINTENANCE GUARANTEE

- i. The form of the maintenance guarantee shall be at the discretion of the applicant, but shall take one of the forms identified in [Section 2.3.20E, Form](#).
- ii. The owner or party responsible for the maintenance of the SCM may retain the maintenance guarantee, but shall provide evidence of the guarantee's amount and ability to be produced to the Town upon demand.

d. DEFAULT

- i. Upon default of the owner to maintain, repair and, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the maintenance guarantee to make necessary improvements based on an engineering estimate.
- ii. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement.

E.F. NOTICE TO OWNERS

1. DEED RECORDATION AND INDICATIONS ON PLAT

- a. The applicable operations and maintenance agreement and conservation easement, pertaining to every structural and engineered stormwater control shall be referenced on the Final Plat and shall be recorded with the Johnston County Register of Deeds upon Final Plat approval.
- b. If no Subdivision Plat is recorded for the site, then the operations and maintenance agreement, conservation easement, or dedication and acceptance into public maintenance, whichever is applicable, shall be recorded with the Johnston County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

2. SIGNAGE

- a. Where determined appropriate by the Stormwater Administrator to assure compliance with this section, engineered stormwater controls shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection.
- b. The sign shall be maintained so as to remain visible and legible.
- c. For the purposes of this Ordinance, these signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

F.G. RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES

The owner of each engineered stormwater control shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

G.H. NUISANCE

The owner of each stormwater SCM, whether structural or engineered, shall maintain it so as not to create or result in a nuisance condition.

H.I. ACCESS AND MAINTENANCE EASEMENT

1. Every engineered stormwater control installed pursuant to this section shall be made accessible for adequate maintenance and repair by a maintenance easement accessible to a public right-of-way. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.
2. Access and maintenance easements shall not have lateral or incline slopes that exceed 5:1 (horizontal to vertical).

6.15.106.15.11 ENFORCEMENT

Enforcement of the standards in this section shall be in accordance with Chapter 7, Violations, and Section 7.10, Violation of Stormwater Controls.



4. CORRECTION AS PUBLIC HEALTH NUISANCE, COSTS AS LIEN

If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by NCGS§ 160A-193, the Stormwater Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

5. STOP WORK ORDER

The Stormwater Administrator may issue a stop work order to the responsible party(ies) violating this Ordinance. The stop work order shall remain in effect until the party(ies) has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

B. CIVIL PENALTIES

1. Violation of the stormwater provisions in this Ordinance may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator.
2. [The Stormwater Administrator may assess a civil penalty against any person who violates any provision of this ordinance or of a permit or other requirement pursuant to this ordinance. Civil penalties may be assessed up to the full amount of penalty authorized by NCGS§ 143-215.6A. \(#19\)](#)

C. CRIMINAL VIOLATIONS OF STORMWATER STANDARD

1. Any willful violation of the stormwater standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of \$500 or a maximum of 30 days imprisonment.
2. Accidental violation of the stormwater standards shall be subject to the standards applicable to a civil penalty.

7.11 VIOLATION OF STREAM BUFFER CONTROLS

7.11.1 WILLFUL VIOLATION MAY RESULT IN CRIMINAL PENALTY

Any willful violation of the stream buffer standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of \$500 or a maximum of 30 days imprisonment.

7.11.2 ACCIDENTAL VIOLATION MAY RESULT IN CIVIL PENALTY

Accidental violation of the stream buffer standards in this Ordinance shall be subject to the standards in Section 7.6.1, Civil Penalties.

7.12 VIOLATION OF WATER SUPPLY WATERSHED CONTROLS

7.12.1 WILLFUL VIOLATION MAY RESULT IN CRIMINAL PENALTY

Any willful violation of the water supply watershed protection standards in this Ordinance may be enforced as a Class 3 misdemeanor as provided for by NCGS§ 14-4 and all other applicable law, subject to a maximum fine of \$500 or a maximum of 30 days imprisonment.



TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITIONS(S)
BONA FIDE FARM	<p>Any tract or tracts of land used for farm purposes as defined in NCGS§ 160D-903, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in NCGS§106-581.1. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under NCGS§106-743.2 is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:</p> <ol style="list-style-type: none"> 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS§105-277.3; 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and 4. A forest management plan.
BORROW	<p>For the purposes of Soil Erosion and Sedimentation, fill material that is required for on-site construction that is obtained from other locations.</p>
BOTTLE SHOP (ON-PREMISE CONSUMPTION)	<p>A commercial establishment engaged in the retail sale of beer, wine, or spirits in sealed containers offered for sale to an individual solely as a sealed container such as a bottle or can. Beverages may be sold for off-site or on-site consumption only in accordance with all applicable State laws and permits. Incidental sale of food or associated merchandise may also take place. Bottle shops that do not permit on-site consumption are considered a Retail, General use. general retail, high intensity. (#20)</p>
BOW	<p>An exterior building wall that is curved.</p>
BOW SIGN	<p>See "Sign, Bow."</p>
BROADCASTING STUDIO	<p>Uses including buildings, studios, and transmission facilities for the production and distribution of radio and television signals.</p>
BUFFER	<p>An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use.</p> <p>For the purposes of riparian buffers or watershed protection, a buffer is a vegetated area bordering a body of water such as a stream, pond, or lake.</p>
BUFFER ZONE	<p>For the purposes of Soil Erosion and Sedimentation, the strip of land adjacent to a lake or natural watercourse.</p>



TABLE 8.3 TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERMS	DEFINITION(S)
FORESTRY	An activity related to planting, maintaining, or removing trees as part of a forestry management plan or bona fide farming activity.
FORESTRY MANAGEMENT PLAN	"See Plan, Forestry Management."
FORMAL DETERMINATION	See "Determination, Formal."
FRATERNAL CLUB OR LODGE	A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.
FREEBOARD	For the purposes of the Flood Protection Overlay District standards, the height added to the Base Flood Elevation to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the Regulatory Flood Protection Elevation.
FREIGHT TERMINAL	A use where trucks, trailers, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed. A commercial use engaged solely in short- or long-term storage is a warehouse use.
FRONT FAÇADE	See "Façade, Front."
FRONTAGE	The portion of a lot a strip or extent of land abutting and extending along a street.
FRONTAGE STREET	See "Street, Frontage."
FUEL OIL/BOTTLED GAS DISTRIBUTION	An establishment that stores and distributes fuel oil or bottled gases such as propane, oxygen, or liquid petroleum in bulk quantities for wholesale sale or distribution to retail outlets or end consumers at the point of use. A use engaged in sale of automobile fuel is a retail use.
FUNCTIONALLY DEPENDENT FACILITY	For the purposes of the Flood Protection Overlay District standards, a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.
<u>FUNCTIONAL FIRE PROTECTION (#21)</u>	<u>The condition of a property where full legal ingress/egress is provided (with a minimum width of 20-foot clearance) from existing public right-of-way to facilitate emergency vehicle access over a minimum first layer of asphalt to all locations of the property for which building structures with combustible materials are to be located, and provides water for fire suppression purposes in accordance with Town fire flow requirements from a water distribution system formally accepted by Town Council.</u>



TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
ITINERANT MERCHANT SALES	An individual or business offering goods or services for sale at retail to members of the general public either in their homes , their place of business; or from a vehicle on a lot with an established use or a vacant lot, but not within a street right-of-way. (#22)

8.3.10 J

TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
JUNKYARD	See "Salvage and Junkyard."
JURISDICTION	The official power to make legal decisions and judgments. The term can also be used to describe the geographic boundaries of a municipal corporation or the extent over which a particular agency has control.
JURISDICTIONAL STREAM	A stream or other waterbody that meets the definition of "waters of the United States" or "waters of the State," and is thus subject to the jurisdiction of the US Army Corps of Engineers or the NC Department of Environmental Quality.
JUST CAUSE	Legitimate cause; legal or lawful ground for action.

8.3.11 K

TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
KENNEL	A facility where dogs, cats, or other domestic animals over six months of age are kept, raised, boarded, bred, or shown. This use is also referred to as animal boarding. The facility may be indoors, outdoors, or both.

8.3.12 L

TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
LABORATORY	An institutional use type engaged in the analysis, testing, identification, or research of chemicals, compounds, tissue, animals, or equipment.
LAKE OR NATURAL WATERCOURSE	For the purposes of Soil Erosion and Sedimentation, any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake, or pond.
LAND TRUST	A legal agreement in which a property owner transfers the title to a property to a trustee. The property owner is typically the beneficiary and directs the trustee in all matters relating to the management of the property, as outlined in the trust agreement or deed.



TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
MOLDING	An ornamentally shaped outline as an architectural feature, especially in a cornice.
MONOPOLE TOWER	A communication tower consisting of a single pole, constructed without guy wires and ground anchors.
MONUMENT	A permanent marker, typically inserted into the ground, showing the location of a lot line, lot corner, or other demarcation associated with a lot or right-of-way.
MULTI-BUILDING DEVELOPMENT	See "Unified Development."
MULTI-FAMILY DWELLING	See "Dwelling, Multi-Family."
MULTI-PART APPLICATION	See "Application, Multi-Part."
MULTI-PHASE DEVELOPMENT	A development consisting of two or more different phases where each phase is reviewed and constructed at different times.
MULTI-PHASE DEVELOPMENT PLAN	See "Plan, Multi-Phase Development."
MULTI-TENANT DEVELOPMENT	A single building or a single development with two or more different non-residential uses located within it on one or more lots that is planned, developed, and operated as a single entity.
MULTI-USE PATH AMENDED 4.15.24 (UDOTA 1-24)	A form of infrastructure that supports multiple recreation and transportation opportunities, such as walking, bicycling, inline skating, and people in wheelchairs. Paths are typically surfaced with asphalt or concrete and are located within public street rights-of-way. A sidepath is a multi-use path.
MURAL	A painting or other work of art executed directly on a wall.
MUSEUM	An institution, building, or place devoted to the procurement, care, study, display, exhibition, and storing of objects of lasting historical, scientific, artistic, or cultural interest or value. (#23)

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TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
NATIONAL FLOOD INSURANCE PROGRAM	A program operated by the Federal Emergency Management Agency that provides flood insurance for development within areas within a community that are susceptible to flooding and establishes a set of standards for development as a condition of participation in the program.
NATIVE TREE	See "Tree, Native."
NATIVE VEGETATION	Plants that are endemic or naturally occurring within a specified area.



TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
SECONDARY BUILDING OR STRUCTURE	A use or structure that is clearly incidental to and customarily found in connection with a principal building or use, is located on the same parcel and serves a principal building or use, and is subordinate in area, extent and purpose to the principal building or principal use served. See "Secondary Structure." (#24)
<u>SECONDARY STRUCTURE</u>	<u>A structure in which is conducted a secondary use(s) that is clearly incidental to and customarily found in connection with a principal building or use, is located on the same parcel or lot and serves a principal building or use, and is subordinate in area, extent and purpose to the principal building or principal use served. (#24)</u>
<u>SECONDARY USE</u>	<u>An incidental or subordinate use of a lot or parcel. (#24)</u>
SECONDARY CONSERVATION AREA	The portion of a conservation subdivision containing resources to be retained as conservation land or open space after development that is not as imperative to retain as the primary conservation land.
SECONDARY ENTRANCE	An entrance into a building located on a side or rear building façade.
SECURITY LIGHTING	Exterior illumination of a building, parking area, or other site feature for the purposes of security.
SEDIMENT	For the purposes of Soil Erosion and Sedimentation, solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
SEDIMENTATION	For the purposes of Soil Erosion and Sedimentation, the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
SEMI-OPAQUE	A building, structure, building material, vegetation, or other site feature partially obscures visibility from one location to another.
SEMI-PERVIOUS	A material that allows some, but not all, stormwater to flow through it.
SEPTIC TANK	An on-site sewage treatment or storage device.
SETBACK	A required distance from a lot line or development boundary for a principal or secondary building and some required site features, as determined in accordance with Section 3.6.8, Setbacks.
SEVERE PRUNING	The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (e.g., 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than 1/3 of the overall circumference of a tree is exposed by pruning cuts.



TABLE 8.3: TERMS DEFINED

AMENDED 4.15.24 (UDOTA 1-24); 9.16.24 (UDOTA 2-24); 12.16.24 (UDOTA 3-24); 7.21.25 (UDOTA 1-25)

TERM	DEFINITION(S)
STRUCTURAL SUPPORTIVE SOIL	A planting medium soil that <u>is amended and cultivated to support healthy vegetation and ensure appropriate drainage in areas that</u> can be compacted to pavement design and installation requirements while permitting root growth . <u>Soil classified as "Structural Soil" shall qualify as a supportive soil.</u> (#16)
STRUCTURE	For the purposes of the Flood Protection Overlay District standards, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
SUBDIVIDER	A person, firm, or corporation having a proprietary interest in land and acting to subdivide that land under the applicable provisions of this Ordinance.
SUBDIVISION	<p>As used in this Ordinance means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets or the rearrangement of an existing lot or lots so as to front on another street or streets from that on which they originally fronted regardless of the number of lots so involved; but the following shall not be included within this definition provided, however, that any subdivision document or plat to be recorded pursuant to such exclusions shall have the notation of "No Approval Required" and the signature of the Subdivision Administrator before filing in the office of the Register of Deeds.</p> <p>A "Subdivision" shall not include the following:</p> <ol style="list-style-type: none"> 1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in this Ordinance; 2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved; 3. The public acquisition by purchase of strips of land for the widening or opening of streets; 4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way or easement dedication is involved and where the resultant lots equal or exceed the standards set forth in this Ordinance; 5. The trading or exchanging of portions of previously platted and recorded properties that are contiguous and that necessitate the creation of parcels not conforming to the requirements of this Ordinance provided that a statement is placed on the plat to be recorded to the effect that such parcels are not created as individual building lots and are not approved as such and that no building permit shall be issued for construction on such parcels; or 6. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.

