



Garner Forward
Unified Development Ordinance

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ARTICLE 1. ESTABLISHMENT AND ADMINISTRATION

1.1. SHORT TITLE

This ordinance shall be known as the “Garner Unified **Development** Ordinance,” “this Ordinance,” or “UDO.”

1.2. AUTHORITY AND PURPOSE

1.2.1. Authority

The Town Council, pursuant to the authority conferred by the State of North Carolina General **Assembly** in General Statute Chapter 160D (G.S. § 160D), does hereby ordain and enact into law the articles and sections of this UDO.

1.2.2. Purpose

It is the intent of the Town Council that this UDO promote the health, safety, and general welfare of existing and future residents, businesses, and visitors of the Town by:

- A. Providing for adequate light, air, and **open space**;
- B. Creating a convenient, attractive, and harmonious community;
- C. Protecting and preserving scenic, historic, or ecologically sensitive areas;
- D. Regulating population density and distribution;
- E. Regulating the **uses of buildings, structures**, and land;
- F. Facilitating economic growth and commerce;
- G. Ensuring adequacy and availability of public services including transportation, emergency response services, utilities, **parks**, and recreational amenities;
- H. Ensuring availability of well-engineered, well-built, and high-quality housing;
- I. Securing safety from fire, **flood**, and other dangers;
- J. Regulating the location and distribution of **uses** of land and **buildings**;
- K. Regulating the **subdivision** of land;
- L. Preventing the overcrowding of land, avoiding undue concentrations of population, and lessening **street** congestion; and
- M. Furthering the public interest by additional means determined by the Town Council.

1.3. JURISDICTION

This UDO shall apply to all land within the Town of Garner municipal limits and its municipal extraterritorial jurisdiction (**ETJ**) – the entirety of which is more particularly described in Appendix A. All **structures** and land **uses** constructed or commenced after July 5, 2022, and all enlargements of, additions to, changes in, and relocations of **existing structures** and **uses** occurring after July 5, 2022, shall be subject to this UDO.

1.4. EFFECTIVE DATE

This UDO, adopted and made effective on July 5, 2022, supersedes, repeals, and replaces the amended Town of Garner Unified **Development** Ordinance originally adopted on July 22, 2003 and made effective on October 1, 2003.

1.5. ADMINISTRATION

The **Planning Director** is appointed to serve as administrator of this UDO. Should this position at any time become vacant, the Town Manager shall designate another official to act as administrator until the office is filled. The **Planning Director** may designate any staff member to represent the **Planning Director** in any function assigned by this UDO but shall remain responsible for any final action.

1.6. INTERPRETATION

The **Planning Director** is responsible for the ultimate interpretation of this UDO. Any dispute regarding an interpretation or **administrative decision** may be **appealed** per the standards of this Ordinance.

1.7. CONFORMITY WITH ARTICLE PROVISIONS

1.7.1. Compliance Required

- A. The purpose of this Ordinance is to ensure compliance with the Town's zoning, **subdivision**, and other design and dimensional standards.
- B. No **structure** or land shall hereafter be used, occupied, or modified, and no **structure** or part thereof shall be erected, moved onto, or structurally altered, except in compliance with the regulations of this Ordinance, for the district in which it is located.
- C. No **building, sign, structure**, or land-disturbing activities, or any part thereof shall be erected, structurally altered, moved, or changed in **use** until a zoning permit has been issued by the **Planning Director**.
- D. In the absence of public water or public sewer, no **building** permit shall be issued until the **lot** meets all other applicable requirements of this UDO and the private water and sewer requirements of the Wake County Environmental Services Department or any successor agency.

1.7.2. Minimum Requirements

For purposes of interpretation and application, the provisions of this UDO shall be the minimum requirements for the protection and promotion of public health, safety, and general welfare.

1.8. RELATIONSHIP TO OTHER ORDINANCES AND STATUTES

1.8.1. Conflicting Provisions

Whenever the requirements of this UDO are inconsistent with the requirements of any other lawfully adopted governmental rules, regulations, or ordinances, the most restrictive requirement imposing the highest standards, as determined by the **Planning Director**, shall govern. However, the Town shall not be responsible for enforcing other agencies' regulations.

1.8.2. Minimization

Where multiple ways to implement, administer, or construe a provision exist, the provision shall be implemented, administered, or construed to eliminate and minimize conflict with other provisions of this UDO.

1.8.3. Town Ordinances

If substantially similar provisions existed in previous Town ordinances, the provisions of this UDO shall not be considered new enactments but as continuations of existing rule. Unlawful nonconformities do not achieve legal conforming status by virtue of the adoption of this Ordinance alone.

1.8.4. Amendments to State Statutes

Whenever a North Carolina General Statute (a.k.a. "G.S.") section cited or referenced by any of these ordinance provisions is later amended or superseded, the ordinance provision shall be deemed to refer to the amended section or the section that most closely corresponds to the superseded section.

1.8.5. Validity

If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid, such condition shall be null and void and of no effect.

Commentary: For instance, if this UDO references G.S. § 160D-702, which grants the regulation of zoning to local governments from the state, and the state should subsequently reorganize the statutes, then the reference in this Ordinance shall be understood to reference the most current statute. This shall be honored even if this Ordinance fails to modify references immediately at the time that the state statutes should be reorganized.

1.9. CONSISTENCY WITH ADOPTED PLANS

1.9.1. General

The Town Council intends that this UDO shall guide the administration of the Town's adopted planning policies within the Town's municipal limits and its **ETJ**.

1.9.2. Comprehensive Plan

The most current **Comprehensive Plan** is hereby incorporated by reference.

1.9.3. Zoning

The **zoning regulations** of this UDO are in accordance with the **Comprehensive Plan** and the Town of Garner Official Zoning Map (also known as "zoning map") which is hereby incorporated by reference.

1.9.4. Other Plans and Policies

All other Town-adopted plans, maps, policies, and documents and all other outside agency maps, plans, policies, and documents referenced herein or necessary to enforce the provisions of this UDO are hereby incorporated by reference.

1.9.5. Conformity

Subject to **Article 2. Nonconformities**, no person may **use**, occupy, or sell any land or **buildings**, or authorize or permit the **use** or occupancy of any land or **buildings** under their control, except in accordance with all applicable provisions of this UDO.

1.10. TRANSITIONAL PROVISIONS

1.10.1. Active Permits and Development Approvals

- A. Subject to **Section 4.2.7. Vested Rights and Expiration**, any **building** or **development** for which a permit or approval was issued before July 5, 2022, may be completed in conformance with the issued permit and other applicable permits and conditions, even if such **building** or **development** does not fully comply with provisions of this UDO.
- B. Nothing in this UDO shall require a change to a phasing plan approved prior to the adoption of this UDO, provided construction is consistent with the terms and conditions of the phasing plan and proceeds to completion in a timely manner – meaning that the **developer** shall continue construction activities, as evidenced by an active **building** permit or other **vested right (Section 4.2.7.)**, in order to continue the **project** under the previous phasing plan.
- C. If construction is not completed according to the applicable permit terms, the Town Council may, for good cause shown, grant an extension of up to one year for such construction.

1.10.2. Permit Choice

- A. Pursuant to G.S. § 160D-108, any complete application submitted before the effective date of an amendment to this UDO may be evaluated and decided, at the applicant's discretion, in conformance with applicable permits and regulations in effect at the time of submission of the application.
- B. If construction is not commenced or completed according to the applicable terms of the application, the Town Council may, for good cause shown, grant an extension of up to one year for such construction.

1.10.3. District Conversion

The zoning districts in effect prior to the effective date of this UDO are hereby converted, as shown on the following table:

Figure 1.10-A: District Conversions

PREVIOUS DISTRICT		NEW DISTRICT*	
RESIDENTIAL ZONING DISTRICTS			
R-40	Single-Family Residential 40	RA	Rural Agricultural
R-20	Single-Family Residential 20	R2	Residential 2
R-15	Single-Family Residential 15	R2	Residential 2
R-12	Single-Family Residential 12	R4	Residential 4
R-9	Single-Family Residential 9	R4	Residential 4
MF-1	Multifamily Residential 1	MF-A	Multifamily A
MF-2	Multifamily Residential 2	MF-B	Multifamily B
RMH	Manufactured Home Park/Subdivision	RMH	Manufactured Home Park/Subdivision
NONRESIDENTIAL AND MIXED USE ZONING DISTRICTS			
NO	Neighborhood Office*	NMX	Neighborhood Commercial
NC	Neighborhood Commercial (formerly Neighborhood Business)	NMX	Neighborhood Commercial
CBD	Central Business District	TBD	Traditional Business District
OI	Office and Institutional*	CMX	Commercial Mixed Use
SB	Service Business*	CMX	Commercial Mixed Use
CR	Community Retail (formerly Community Business)	CMX	Commercial Mixed Use
I-1	Light Industrial (formerly Industrial 1)	LI	Light Industrial
I-2	Heavy Industrial (formerly Industrial 2)	HI	Heavy Industrial
FLOATING OVERLAY ZONING DISTRICTS			
-MH	Manufactured Home Floating Zone (formerly Mobile Home Floating District)	-MH	Manufactured Home Floating Zone
OVERLAY ZONING DISTRICTS			
CBA	Conservation Buffer Area	CBA	Conservation Buffer Area
LBC	Lake Benson Conservation	LBC	Lake Benson Conservation
SCC	Swift Creek Conservation	SCC	Swift Creek Conservation
O-TD	Timber Drive Overlay	RTO	Residential Thoroughfare Overlay
-	Timber Drive East Overlay	RTO	Residential Thoroughfare Overlay
O-70	U.S. 70/401 Overlay	CHO	Commercial Highway Overlay

PREVIOUS DISTRICT		NEW DISTRICT*	
O-40	I-40 Overlay	LAHO	Limited Access Highway Overlay
GR-OD	Garner Road Overlay District	CHO	Commercial Highway Overlay
OBSOLETE DISTRICTS			
MR-1	Multi-Residential 1	MF-A or MF-B	Multifamily A or B
RCD	Residential Cluster District	R2 or R4	Residential 2 or Residential 4
R-12 PR	Planned Residential District	CZ	Conditional Zoning District
MXD-1	Mixed Use Development District	CZ	Conditional Zoning District
Notes:			
* Not all properties necessarily translated to a direct remapping conversion to the district(s) shown here as each location was considered on a case-by-case basis with regard to the existing use and the surrounding properties at the time of the remapping.			

1.10.4. Conditional Use District Conversion

Effective January 1, 2021, any existing and legal Conditional **Use** zoning districts (CUD) or Planned **Development** zoning districts (PD) that are valid and in effect shall be deemed a **Conditional zoning** district (CZ) subject to the same conditions of approval or conditions of operation of the existing entitlement.

1.11. SEVERABILITY

The sections, paragraphs, sentences, clauses, phrases, requirements, and criteria of this UDO are severable to the least extent necessary to carry out the purpose and intent of this Ordinance.

ARTICLE 2. NONCONFORMITIES

2.1. PURPOSE AND INTENT

There exist within the Town of Garner **uses** of land, **structures, lots**, site elements, and **signs** that were lawfully established prior to the date of adoption of this UDO but no longer conform to the standards of this UDO. It is the intent of this UDO to move nonconformities in the direction of conformity wherever possible, permit nonconformities to continue until they are removed where necessary, and not to encourage their survival except under the limited circumstances established in this Article. The **Planning Director** may require conformance with specific provisions of this UDO where deemed necessary to resolve immediate or pending **public safety** concerns.

2.2. DEFINITIONS

2.2.1. Specific Terms

For the purposes of this Article and discussing nonconformities, the following definitions shall apply:

- A. **Abandon.** To cease, either intentionally or unintentionally, from actively using land, **structures**, or any premises for the intended or previous **use**, but excluding temporary periods of inactivity due to remodeling, maintaining, or otherwise improving a **facility**. Abandonment is often referenced to a specified time period. This definition includes “abandon”, “abandonment”, and any other tense or version of the word “abandoned.”
- B. **Discontinued.** To quit or cease, either intentionally or unintentionally, operation or activity associated with a **use** of land, **structures**, or any premises from their intended or previous **use** or to replace the previous **use** with a new **use** of a different kind or class. A change of occupancy, owner, or tenant does not constitute a discontinuance or change of **use**. This definition includes “discontinue”, “discontinuance”, “ceased” (as it refers to a **use**), and any other tense or version of the word “discontinued.”

2.2.2. Other Clarifications

An “intent to resume” a **use**, operations, or activities may be demonstrated through continuous operation of a portion of the **facility**, by the maintenance of water, sewer, electric, and other utility service (as appropriate), or by other outside documentation such as proof of deliveries.

2.3. NONCONFORMING USES

2.3.1. Normal Maintenance and Repair of Structures with Nonconforming Uses

Normal maintenance or repair of **structures** where **nonconforming uses** are located may be performed in any consecutive 12-month period, to an extent not exceeding 33 percent of the current assessed value of the **structure**. Such maintenance and repair shall not be allowed to increase the cubic content of the **structure** occupied by the **nonconforming use**, except pursuant to this Section.

2.3.2. Extension

- A. A **nonconforming use** may be extended throughout any portion of a completed **structure** that, when the **use** was made nonconforming by this UDO, was manifestly designed or arranged to accommodate such **use**. However, a **nonconforming use** may not be extended to additional **structures** or to land outside the original **structure**.
- B. A **nonconforming use** of open land may not be extended to cover more land area than was occupied by that **use** when it became nonconforming, except that a **use** involving the removal of natural materials (e.g., a quarry) may be expanded to the boundaries of the **lot** where the **use** was established at the time it became nonconforming if ten percent or more of the earth products had already been removed prior to July 5, 2022.

2.3.3. Change of Use

A **nonconforming use** may be changed to any permitted **use(s)** in the subject district, so long as new nonconformities or an increase in the extent of existing nonconformities, such as parking requirements, are not created. The affected property may not then revert to a **nonconforming use**.

2.3.4. Continuation of Accessory Use

No **use** that is accessory to a principal **nonconforming use** shall continue after such principal **use** has **discontinued**, ceased, been **abandoned**, or terminated unless it conforms to all provisions of this UDO.

Commentary: For example, the failure to rent one apartment in a nonconforming apartment **building** for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment **building** as a whole is continuously maintained.

2.3.5. Discontinuance and Abandonment

- A. A **nonconforming use** shall be presumed to be **discontinued** and **abandoned**, shall lose its nonconforming status, and shall not be reestablished or resumed and thereafter be used only for conforming purposes, when any of the following has occurred:
 - 1. The owner has indicated intent to **abandon** the **use**, delivered in writing to the **Planning Director**.

2. When a **nonconforming use** is **abandoned** or **discontinued** for a consecutive 180-day period or for a total of 180 calendar days in a 12-month period.
 3. At the point when the electric meter is pulled off or water service or other public utility service is terminated on a **structure** or **lot** due to any reason, provided that it is not replaced or reactivated within the 180-day period immediately following.
- B. When a **use** or **use** of land made nonconforming by adoption of this UDO is vacant or **discontinued** as of July 5, 2022, the 180-day period begins to run at that date.
- C. All of the **uses** and **structures** maintained on a **lot** are generally to be considered as a whole in determining whether a right to continue a nonconforming situation is lost pursuant to this Section. However, if a **nonconforming use** is maintained in conjunction with a conforming **use**, discontinuance of a **nonconforming use** for the required period shall terminate the right to maintain it thereafter.

Commentary: For example, the failure to rent one apartment in a nonconforming apartment **building** for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment **building** as a whole is continuously maintained.

2.4. NONCONFORMING STRUCTURES

2.4.1. Normal Maintenance and Repair

Normal maintenance or repair of nonconforming **structures** may be performed in any consecutive twelve-month period, to an extent not exceeding 33 percent of the current assessed value of the **structure**. Such maintenance and repair shall not be allowed to increase the cubic content of the **structure**, except pursuant to this Section.

2.4.2. Alterations or Additions

Alterations or additions to a nonconforming **structure** may be permitted as long as the alterations or additions do not increase the nonconformity of the **structure** related to the **building** setback line, height limitations, yard, or other provisions regulating the size and placement of **structures** for the district in which the nonconforming **structure** is located. For full description of standards for alterations or additions, see *Figure 2.7-A: Required Site Element Upfits*.

2.4.3. Reconstruction

A. Nonresidential **Structures**

1. If a nonresidential **structure**, including any **accessory structure**, is damaged by reason of fire, **flood**, explosion, earthquake, or other extraordinary circumstance; it may be repaired, reconstructed, and used as before if the damage does not exceed 50 percent of its replacement value as determined by the **Building** Official, and if the repairs and reconstruction are done within 12 months from the time such damage occurred. Notwithstanding the foregoing, no illegal **use** shall be re-established.
2. If a nonresidential **building** or **structure**, including any **accessory structure**, is damaged, and if such damage is greater than 50 percent of its replacement value as determined by the **Building** Official, such **building** or **structure** may only be reconstructed to conform with the standards in the district in which it is located.

B. Residential **Structures**

If a residential **structure**, including any **accessory structure**, is damaged greater than 50 percent of its replacement value as determined by the **Building** Official, such **building** or **structure** may be repaired, reconstructed, and used as before if the repairs and reconstruction are done within 12 months from the time such damage occurred. Notwithstanding the foregoing, no illegal **use** shall be re-established.

2.4.4. Unsafe Structure

If a nonconforming **structure** or portion thereof is declared to be an unsafe **structure** per G.S. § 160D-1119, it shall thereafter be rebuilt only in conformance with the standards of this UDO and the adopted **building** code.

2.4.5. Discontinuance and Abandonment

- A. If a nonconforming **structure** on a property is **abandoned** or all associated **use** of the **structure** has been **discontinued** for a period of 180 consecutive days, any subsequent **use** of that property shall conform to current zoning district regulations. See **Section 2.2.1.** for full definition of **abandonment**.
- B. When a **structure** made nonconforming by this UDO is **abandoned** or all associated **use** of the **structure** has been **discontinued** as of July 5, 2022, the 180-day period begins to run at that date.
- C. All of the **uses** and **structures** maintained on a **lot** are generally to be considered as a whole in determining whether a right to continue a nonconforming situation is lost pursuant to this Section.

2.5. NONCONFORMING LOTS OF RECORD

2.5.1. Applicability

This section applies only to undeveloped **nonconforming lots** of record. A **lot** is undeveloped if it has no substantial **structures** upon it. A change in **use** of a developed **nonconforming lot** may be accomplished in accordance with **Section 2.3.3**.

2.5.2. Uses

When a **nonconforming lot** can be used in conformity with all of the regulations applicable to the intended **use**, except that the **lot** is smaller than the required minimum set forth, then the **lot** may be used just as if it were conforming. However, no **use** that requires a greater than minimum **lot** size for a particular zone is permissible on a **nonconforming lot**.

2.5.3. Setback Requirements

When the **use** proposed for a **nonconforming lot** is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the entity authorized to issue a permit for the proposed **use** may allow deviations from the setback requirements if it makes all of the following findings:

- A. That the property cannot reasonably be developed for the **use** proposed without such deviations.
- B. That these deviations are necessitated by the size or shape of the **nonconforming lot**.
- C. That the property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

2.5.4. Setback Hardship

For purposes of **Section 2.5.3**, compliance with applicable setback requirements is not reasonably possible if a **building** serving the minimal needs of the proposed **use** cannot practicably be constructed and located on the **lot** in conformity with setback requirements. Financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

2.5.5. Governmental Acquisition of Land

A **lot**, established under the provisions of this Ordinance or a previous town zoning ordinance, that is reduced in size by governmental action, such as acquisition for a right-of-way or other governmental **use**, shall not render the **lot** nonconforming.

2.5.6. Contiguous Nonconforming Lots

If, on July 5, 2022, an undeveloped **nonconforming lot** adjoins and has continuous frontage with one or more other undeveloped **lots** under the same ownership, then the provisions of this Section cannot be taken advantage of and the undeveloped **lots** shall be considered as one **lot**. This shall not apply if a majority of the developed **lots** on either side of the **street** and within 500 feet of the undeveloped **lot** are also similarly nonconforming.

Commentary: The intent of this subsection is to require **nonconforming lots** to be combined with other undeveloped **lots** to create conforming **lots** under the circumstances specified herein, but not to require such combination when that would be out of character with the way the existing neighborhood has been developed.

2.6. NONCONFORMING SIGNS

2.6.1. Normal Maintenance and Repair

- A. **Nonconforming signs** may be maintained or repaired as long as the cost of any work requiring a permit does not exceed, within a 12-month period, 33 percent of the value of such **sign**. Proof of value is required at the time of permit.
- B. The message of a **nonconforming sign (sign face)** may be changed, so long as a change in **use** has not occurred. If a change in **use** occurs, a change of **sign face** is not considered normal maintenance and repair; therefore, the **sign** and associated **sign structure(s)** must be brought into full conformity with this UDO.

2.6.2. Enlargement or Alteration

- A. No **nonconforming sign** shall be enlarged or altered in any manner that results in a greater degree of nonconformity.
- B. No alteration of the **structure** of any **nonconforming sign** shall be permitted, except to bring the **sign** into conformity.
- C. Illumination may not be added to a **nonconforming sign** that previously was unilluminated.

2.6.3. Discontinuation of Business

If a **nonconforming sign** other than a billboard advertises a **discontinued** business, service, commodity, accommodation, attraction or other enterprise, that **sign** shall be considered **abandoned** and shall be removed within 90 days after such **abandonment** by the **sign** owner, property owner, or other person having control of the property.

2.6.4. Billboards on Federal-Aid Highways

Billboards on federal-aid highways are protected by the State and Federal Highway Beautification Acts (Article 11 of G.S. § 136, and 23 U.S.C. § 131) and cannot be amortized and can only be removed upon payment of just compensation as defined by those Acts.

2.7. NONCONFORMING SITE ELEMENTS

A **nonconforming site element** is a site improvement that is required as part of an approval but does not exist, or was existing or lawfully established prior to this UDO being adopted or amended. Site elements include, but are not limited to access, parking, pedestrian amenities, landscaping, **signage**, and lighting.

2.7.1. Reduction of Nonconformity

No **nonconforming site element** shall be erected, replaced, or modified except to reduce or eliminate the nonconformity. Repair and maintenance of **nonconforming site elements** is permitted.

Commentary: Previous interpretations have ruled that upper floor additions to **structures** can be constructed within the current (nonconforming) **building footprint**, provided all other criteria are met.

2.7.2. Applicability Matrix

Notwithstanding other portions of this Article, the following table summarizes the minimum requirements that shall be met when there are changes of **use** or changes to existing nonconforming **development** and/or to nonconforming **structures** or **uses**. A “✓” indicates that compliance with all applicable standards of this UDO is required, unless noted otherwise.

Figure 2.7-A: Required Site Element Upfits

	DIMENSIONAL STANDARDS	BUILDING DESIGN STANDARDS	SIDEWALKS, STREET TREES, CURB & GUTTER	TREE PROTECTION & LANDSCAPING	BUFFERS & SCREENING	PARKING LOT LANDSCAPING	OUTDOOR LIGHTING
EXISTING DEVELOPMENT							
Change of use from residential to nonresidential or mixed use .		✓	✓	✓	✓	✓	✓
PARKING / VEHICULAR ACCOMMODATION AREA EXPANSION							
Other change of use or expansion requiring less than 12 additional spaces or resulting in the addition of less than 40 percent of existing paved area.			✓ ^(a)	✓ ^(a)	✓ ^(a)	✓ ^(a)	✓ ^(a)
Other change of use or expansion requiring 12 or more additional spaces or resulting in the addition of 40 percent or more of existing paved area.			✓	✓	✓	✓	✓
BUILDING EXPANSION AND/OR RECONSTRUCTION							
< 50 percent of Existing Floor Area	✓ ^(a,b)	✓ ^(c)					✓ ^(a)
≥ 50 percent of Existing Floor Area	✓ ^(a,b)	✓ ^(c)	✓	✓	✓	✓	✓
Notes:							
(a) For expanded/reconstructed portion only. For sidewalks, curb and gutter, this includes any areas of abutting right-of-way.							
(b) Exception: Maximum front setback should be met to the extent practical as determined by the Board of Adjustment (see 2.7.3.).							
(c) For expansions, reconstruction areas and all other walls facing public streets .							

2.7.3. Compliance

If all site elements cannot be brought into compliance with the current requirements of this Article for reasons which include, but are not limited to site layout, space limitations, tree preservation, or other natural features, the Board of Adjustment (BOA) may approve a **variance** to deviate from site element dimensional requirements so long as the BOA finds that modifications to the elements are moving in the direction of conformity with the provisions of this Ordinance.

ARTICLE 3. REVIEW BODIES

3.1. ADMINISTRATION

3.1.1. Procedure

A. Rules of Procedure

Boards and Commissions set out in this Article may adopt rules and regulations governing their procedures in consistency with the provisions of this UDO.

B. Minutes

Each Board or Commission shall maintain accurate minutes of each meeting set out in this Article, showing the vote of each member on each decision, or if absent or failing to vote, indicating such fact.

C. Meetings

All meetings of Boards and Commissions shall be open to the public, and an agenda shall be made public according to **administrative** procedures.

3.1.2. Maintenance of the Public Trust

A. Oath of Office

Pursuant to G.S. § 160D-309, all members appointed to Boards and Commissions shall take the oath of office as required.

B. Conflicts of Interest

Pursuant to G.S. § 160D-109, no elected or appointed board member or **administrative** staff shall make a final decision as required by this Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on themselves, or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

3.2. TOWN COUNCIL

3.2.1. Powers and Duties

The Town Council shall have the power to appoint members of the Planning Commission and the BOA as well as those responsibilities enumerated in **Article 4. Review Procedures**. The Council may also appoint temporary advisory commissions or committees from time to time.

3.3. PLANNING COMMISSION

3.3.1. Creation

Pursuant to G.S. § 160D-301, there shall be a permanent Planning Commission (occasionally referred to herein as “Planning Board”) established to advise the Town Council on planning, zoning, and land use matters. The **Planning Director** shall oversee and facilitate the operations of the Planning Commission.

3.3.2. Membership and Terms

A. Number

Per G.S. § 160D-301, Planning Commission shall consist of seven members. The number of Planning Commission members representing in-Town members and **ETJ** area members shall be distributed proportionally using the most recent decennial Census.

B. Appointment

In-Town members shall be appointed by the Town Council and shall reside within the Town of Garner’s corporate limits. The Wake County Board of Commissioners shall appoint the remainder of the Planning Commission, in accordance with the provisions of G.S. § 160D-307(b). If the Wake County Board of Commissioners fails to make these appointments within 90 days after receiving a written request from the Town Council, the Council may make the appointments.

C. Terms

Members shall be appointed for two-year staggered terms. Members shall continue to serve until their successors have been appointed.

D. Term Limits

Planning Board members may be appointed for up to three consecutive two-year terms.

E. Current Members

Members of the Planning Commission on July 5, 2022, shall continue to serve until their respective terms expire.

F. Vacancies

Vacancies shall be filled for the unexpired term. Filling of a portion of a full term shall not count against the term limits of **Section 3.3.2.D.**

G. Removal

Members may be removed by the Town Council for failure to attend three consecutive meetings without having been excused, for failure to attend 30 percent of the meetings within any 12-month period, or for other good cause related to performance of duties.

3.3.3. Officers, Meetings and Rules of Procedure

- A. Each year, at its first regular meeting during the month of July or as soon thereafter, time being of the essence, the Planning Board shall elect officers, including a Chair and a Vice Chair, and may set rules of procedure (consistent with G.S. § 160D-308), which are recorded in a separate document, maintained by the **Planning Director**. Officers may be reelected for successive terms without limitation.
 - 1. The Chair shall preside over Planning Commission meetings and transmit reports and recommendations of the Planning Commission to the Town Council.
 - 2. The Vice Chair shall assume the duties of the Chair in his/her/their absence.
 - 3. In the absence of both the Chair or Vice Chair, a Chair pro tem shall be elected from the attending members following roll call by the Secretary.
- B. A Secretary to the Planning Commission shall be designated by the **Planning Director**.
- C. Elected officers shall take part in all deliberations and vote on all issues, unless absent or excused.
- D. The Planning Commission shall establish at minimum a regular schedule of monthly meetings. The Planning Commission is encouraged to attend joint public hearings with the Town Council when zoning map and UDO **text amendments** are presented.

3.3.4. Powers and Duties

The Planning Commission shall have the powers and duties outlined below, in addition to those enumerated in **Article 4. Review Procedures**.

- A. Growth Recommendations
The Planning Commission shall make recommendations to the Town Council concerning plans, goals, and objectives relating to growth, **development**, and **redevelopment** within the **planning jurisdiction**.
- B. Comprehensive Growth Plan Administration
When directed by the Town Council, the Planning Commission shall be responsible for the preparation of a Comprehensive Growth Plan and for making recommendations to the Town Council on issues related to policies, ordinances, **administrative** procedures, and other means for carrying out the Comprehensive Growth Plan in a coordinated and efficient manner.
- C. Other Responsibilities
The Planning Commission shall have any other duties assigned by the Town Council.

3.4. BOARD OF ADJUSTMENT

3.4.1. Creation

Pursuant to North Carolina G.S. § 160D-302, the BOA is hereby established. The **Planning Director** shall oversee and facilitate the operations of the BOA.

3.4.2. Membership and Terms

A. Number

Per G.S. § 160D-302, the BOA shall consist of five regular members and three alternate members. The number of both regular and alternate BOA members representing in-Town members and **ETJ** area members shall be distributed proportionally using the most recent decennial Census.

B. Appointment

In-Town members shall be appointed by the Town Council and shall reside within the Town of Garner's corporate limits. The Wake County Board of Commissioners shall appoint the remainder of the BOA, in accordance with the provisions of G.S. § 160D-307(b). If the Wake County Board of Commissioners fails to make these appointments within 90 days after receiving a written request from the Town Council, the Council may make the appointments.

C. Terms

Members shall be appointed for three-year staggered terms. Members shall continue to serve until their successors have been appointed.

D. Current Members

Members of the BOA on July 5, 2022, shall continue to serve until their respective terms expire.

E. Vacancies

Vacancies shall be filled for the unexpired term.

F. Removal

1. Regular members may be removed by the Town Council at any time for two consecutive unexcused absences from a BOA meeting or for a 30 percent unexcused absence rate in a 12-month period. An unexcused absence is one without reasonably adequate notice to an appropriate alternate member, BOA Chair, or the **Planning Director**.
2. Alternate members may be removed by the Town Council for failure to respond on two consecutive occasions or on 30 percent or more of the occasions within any 12-month period when a timely request is made to such member to serve as an alternate.

3. Regular or alternate members may also be removed by the Town Council for other good cause related to performance of duties.

3.4.3. Officers, Meetings and Rules of Procedure

- A. Each year, at its first regular meeting during the month of July or as soon thereafter, time being of the essence, the BOA shall elect officers, including a Chair and a Vice Chair, and may set rules of procedure (consistent with G.S. § 160D-308), which are recorded in a separate document, maintained by the **Planning Director**. Officers may be reelected for successive terms without limitation.
 1. The Chair shall preside over BOA meetings and administer oaths to witnesses coming before the Board.
 2. The Vice Chair shall assume the duties of the Chairperson in his/her/their absence.
 3. In the absence of both the Chair or Vice Chair, a Chair pro tem shall be elected from the attending members following roll call by the Secretary.
- B. A Secretary to the BOA shall be designated by the **Planning Director**.
- C. Elected officers shall take part in all deliberations and vote on all issues, unless absent or excused.
- D. Meetings
 1. The BOA shall establish a regular meeting schedule and shall meet frequently so as to allow for expeditious processing of applications. The Board may provide in its by-laws for the calling of special meetings.
 2. Pursuant to G.S. § 160D-406(g), the BOA may issue subpoenas.

3.4.4. Quasi-judicial Decisions and Judicial Review

- A. The BOA shall make and report decisions pursuant to G.S. § 160D-406(j).
- B. Every **quasi-judicial decision** shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. § 160D-406(k) and § 160D-1402. A petition for review shall be filed with the superior court by the later of 30 days after the decision is effective or after a written copy thereof is delivered. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

3.4.5. Powers and Duties

The BOA shall have the powers and duties outlined below, in addition to those enumerated in **Article 4. Review Procedures**.

- A. **Watershed** Review Board

The BOA shall act as the **Watershed** Review Board.

B. Other Responsibilities

The BOA shall have any other power or duty assigned to it under any Town ordinance.

3.5. TECHNICAL REVIEW COMMITTEE (TRC)

3.5.1. Designation

The **Planning Director** shall designate a TRC consisting of the **Planning Director** (acting as Chair), the Town Engineer, the **Building** Official, and any other Town professional or outside agency representative the **Planning Director** deems necessary for the professional review of land **use** and **development** proposals.

3.5.2. Powers and Duties

The TRC shall have those powers and duties enumerated in **Article 4. Review Procedures.**

3.6. PLANNING DIRECTOR

3.6.1. Designation

The Town Manager shall designate the **Planning Director** for the Town of Garner.

3.6.2. Responsibility

Except as otherwise specifically provided, primary responsibility for administering and enforcing this UDO is the responsibility of the **Planning Director**. Where this UDO assigns a responsibility, power, or duty to the **Planning Director**, the **Planning Director** may delegate that responsibility, although the **Planning Director** shall be ultimately responsible for any decisions or actions made through that delegation of responsibility. The person or persons to whom these functions are assigned shall be referred to in this UDO as the “**Planning Director**”.

3.6.3. Powers and Duties

The **Planning Director** shall have the powers and duties outlined below, in addition to those enumerated in **Article 4. Review Procedures**.

A. Administration and Enforcement

The **Planning Director** shall administer and enforce the provisions of this UDO.

B. Interpretation

The **Planning Director** shall make **written interpretations** of this UDO setting forth the reasons and explanations therefore, and shall forward same to the Town Attorney.

C. Technical Review Committee

The **Planning Director** shall serve as the Chair for and be responsible for all final decisions of the Technical Review Committee (TRC).

D. Other Duties

The **Planning Director** shall perform other duties imposed under the provisions of this UDO, as amended from time to time.

3.7. OTHER OFFICIALS

3.7.1. Town Engineer

A. Designation

The Town Manager shall designate the Town Engineer for the Town of Garner.

B. Powers and Duties

In addition to those powers and duties enumerated in **Article 4. Review Procedures**, the Town Engineer shall monitor land **use** activities within the **watershed** areas to the extent reasonably practicable, identify situations that may pose a threat to water quality, and report all significant findings to the **Watershed** Review Board.

3.7.2. Building Official

A. Designation

The Town Manager shall designate the **Building** Official for the Town of Garner.

B. Powers and Duties

The **Building** Official shall have those powers and duties enumerated in **Article 4. Review Procedures**.

ARTICLE 4. REVIEW PROCEDURES

4.1. PURPOSE

This article establishes review procedures for land **use** and land **development** proposals within the Town's **planning jurisdiction** in order to enhance transparency, provide a standard and consistent **development** review and approval process, and ensure consistency with adopted Town plans, standards, and policies.

4.2. GENERAL

4.2.1. Interpretation

- A. When used throughout this Article, the words “request,” “application,” and “proposal” are equivalent.
- B. References to “permits” throughout this UDO do not necessarily include **building** permits. A **development** approval alone does not grant the holder rights to commence construction or **development**.

4.2.2. Effects on Successors

Permits and **development** approvals are transferable. So long as there is an active or completed permit, no person shall make **use** of the land or **structure** except in accordance with the terms and requirements of the permit.

4.2.3. Permit Choice

Pursuant to G.S. § 160D-108(b), if **development** regulations change between application submittal and the time of decision or **project** completion, the applicant may choose whether the Town will evaluate the application based on the previous or current version of the regulations.

4.2.4. Revocation

- A. A permit or **development** approval described in this Article may be revoked if the holder fails to maintain the property in accordance with the approved plans, the UDO, or other legal requirements.
- B. Revocation of a permit or **development** approval shall undergo the same process as was followed for the initial approval.

4.2.5. Development Moratoria

Pursuant to G.S. § 160D-107, the Town may adopt a moratorium on **development** approval(s).

4.2.6. Types of Decisions

Pursuant to G.S. § 160D-102, all applicable definitions and regulations from that chapter apply, particularly the definitions below.

- A. **Administrative.** Decisions made in the implementation, administration, or enforcement of **development** regulations that involve the **determination** of facts and the application of objective standards set forth in G.S. § 160D or local government **development** regulations. These are sometimes referred to as ministerial decisions or **administrative determinations**.
- B. **Legislative.** Decisions that include the adoption, amendment, or repeal of a regulation. A **legislative** hearing with public comment is required.

- C. **Quasi-judicial.** Decisions requiring **evidentiary hearings** and involving findings of fact regarding a specific application of a **development** regulation and competent, substantial, and material evidence, and are carried out according to G.S. § 160D-406 and all other specifications herein. **Quasi-judicial** cases are unique and as such require high-level scrutiny, subjective decision-making, and discretion.

4.2.7. Vested Rights and Expiration

Pursuant to G.S. § 160D-108, a **vested right**, once established, precludes any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the **development** or **use** of the property allowed by the applicable land **development** regulation(s), except where a change in state or federal law mandating local government enforcement occurs after the **development** application is submitted that has a fundamental and retroactive effect on the **development** or **use**.

A. Building Permits

1. As provided in G.S. § 160D-1111, **building** permits expire six months after issuance, if the permit work has not commenced.
2. **Discontinuance** of work for a period of 12 months shall render the permit expired.

B. Zoning Compliance Permits

1. Pursuant to G.S. § 160D-108(d), **zoning compliance permits** shall expire within one year from date of issuance unless work has substantially commenced.
2. For these purposes, “substantially commenced” includes but is not limited to application for and timely pursuit of a **building** permit, grading permit, or other permit necessary to commence installation of infrastructure or establishment of the intended **use**.

C. Site-Specific Vesting Plans

1. Pursuant to G.S. § 160D-108.1, the appropriate decision-making body’s approval of a site-specific vesting plan establishes a **vested right** that runs with the land and authorizes the recipient to complete **development** as authorized by the approved plan or permit.
2. Site-specific vesting plans shall remain vested for two years, unless, upon applicant request, the Town Council grants a longer period of up to no more than five years total.
3. The right shall terminate at the end of the vesting period if the next requisite permits have not been procured for the **project**.
4. Deviation from the site-specific vesting plan shall result in forfeiture of the **vested right**.

Commentary: Site specific vesting plans include planned **developments**, preliminary **subdivision plats**, **site plans**, preliminary or general **development plans**, **special use permits**, and **conditional zoning districts**.

5. Pursuant to G.S. § 160D-108(f), multi-phase **developments** shall be vested in their entirety with the regulations and ordinances in place at the time of **site plan** approval for the initial **development** phase. The vesting period for multi-phase **developments** shall be seven years.

4.3. REVIEW AUTHORITY TABLE

The Review Authority Table displays decision types, the participants in the review process, and their respective roles.

Figure 4.3-A: Review Authority Table

PROCESS	TYPE	REVIEW	FINAL ACTION	APPEAL PROCESS	PUBLIC NOTICE LEVEL (SEE SECTION 4.4.6.)	SECTION
44.5. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — SUBDIVISIONS						
Major Subdivision	Admin	TRC	Planning Director	BOA	N/A	4.5.3.
Minor Subdivision/ Final Plat	Admin	TRC	Planning Director	BOA	N/A	4.5.2., 4.5.4.
44.6. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — MAP AND TEXT AMENDMENTS						
Rezoning (Map Amendment)	Leg	Planning Commission	Town Council	Superior Court	A, B, C	4.6.1.
Conditional Zoning District/ Conditional Rezoning	Leg	Planning Commission	Town Council	Superior Court	A, B, C	4.6.2.
Text Amendment	Leg	Planning Director/ Planning Commission	Town Council	Superior Court	A, B, C	4.6.3.
44.7. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — PERMITS						
Zoning Compliance Permit	Admin	Planning Director	Planning Director	BOA	N/A	4.7.1.
Sign Permit	Admin	Planning Director	Planning Director	BOA	N/A	4.7.2.
4.8. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — SITE PLANS AND MODIFICATIONS						
Site Plan	Admin	TRC	Planning Director	BOA	N/A	4.8.1.
Administrative Modification	Admin	Planning Director	Planning Director	BOA	N/A	4.8.2.

PROCESS	TYPE	REVIEW	FINAL ACTION	APPEAL PROCESS	PUBLIC NOTICE LEVEL (SEE SECTION 4.4.6.)	SECTION
Determination of Vested Right	See Written Interpretation					
Written Interpretation	Admin	Planning Director	Planning Director	BOA	N/A	4.9.2.
44.9. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — MISCELLANEOUS						
Administrative Appeal	QJ	Planning Director	BOA	Superior Court	A, B	4.9.3.
Special Use Permit	QJ	TRC	Town Council	Superior Court	A, B, C	4.7.4.
Traffic Impact Analysis	Admin	TRC	Per primary development permit	Per primary development permit	Per primary development permit	4.9.1.
Variance	QJ	TRC	BOA	Superior Court	A, B, C	4.9.4.
Temporary Use Permit	Admin	TRC	Planning Director	BOA	N/A	4.7.3.
44.10. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — ENVIRONMENTAL						
Flood Mitigation Permit	QJ	Town Engineer (Floodplain Administrator)	BOA (acting as WRB)	Superior Court	Per Variance	4.10.1.
Notes: TRC = Technical Review Committee, which also includes Planning Director BOA = Board of Adjustment WRB = Watershed Review Board				Admin = Administrative Leg = Legislative QJ = Quasi-Judicial		

4.4. COMMON REVIEW PROCEDURES

4.4.1. Pre-application Conference

- A. The purpose of a pre-application conference is to provide the applicant information on the appropriate application procedure for their desired action, background information, necessary materials, and other relevant information applicable to their proposed request.
- B. Pre-application conferences are encouraged for all **development** applications, but are mandatory for the following:
 - 1. Rezoning.
 - 2. **Conditional zoning.**
 - 3. **Minor subdivision.**
 - 4. **Major subdivision.**
 - 5. **Site plan.**
 - 6. **Special use permit.**
 - 7. **Variance**, including **Flood** mitigation permit.
- C. Applicants shall provide a sketch or drawing to aid in the understanding of the proposal. At minimum, the sketch plan shall include:
 - 1. Property location or parcel number;
 - 2. Approximate location of **existing structures**; and
 - 3. A description or drawing of the desired action or **use** and where it will occur.

4.4.2. Application Requirements

- A. Applicant Eligibility
 - 1. The property owner or the property owner's authorized agent may submit the applications described in this Article. Authorized agents must produce notarized documentation of permission from the property owner.
 - 2. Pursuant to G.S. § 160D-703, the Town Council may initiate rezonings through direction to the **Planning Director**.
- B. Application Completeness
 - 1. The **Planning Director** determines the completeness of each application.
 - 2. A complete application contains all materials and requirements set forth on each application form as maintained and provided by the **Planning Director**.
 - 3. The **Planning Director** may find that additional information is necessary to determine the sufficiency of a submitted application. The **Planning Director** is authorized to require the applicant to

present this information for inclusion in the consideration of the application.

4. Incomplete applications do not have the sufficient information or materials necessary for review and processing.
5. No application will be considered complete without rendering of appropriate fees at submittal.
6. If an application is found to be incomplete, the **Planning Director** shall notify the applicant and provide a list of deficiencies or missing materials that need correcting.

C. **Deadline**

All applications shall be completed and submitted to the **Planning Director** in accordance with the published calendar on file in the Planning Department.

D. **Refunds**

The Town may fully refund application fees for withdrawn applications, provided review of the application has not begun.

E. **Permits and Approvals from Outside Agencies**

No plan or permit approval or Certificate of Occupancy shall be issued without proof of receipt of necessary permits from outside agencies.

Commentary: Examples include permits issued by outside agencies such as USACE, CORPUD, etc. for approvals such as wetland mitigation (404/401), CLOMAR, utility tap approval, etc.

4.4.3. **Withdrawal**

A. **Voluntary**

1. An applicant may withdraw an application at any time, by filing a signed, written statement of withdrawal with the **Planning Director**.
2. The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative or court appointed guardian or duly authorized power of attorney.

B. **Administrative**

1. Any application that has not provided any requested revisions or materials within 120 days of the request shall be **administratively** withdrawn by the **Planning Director**, with no refund of fees.
2. The applicant shall be notified of the pending withdrawal in writing or by email 90 days after requested revision, with the withdrawal effective 120 days after requested revision.

4.4.4. **Resubmission**

- A. An incomplete application may be resubmitted at the next application intake date according to the standard application submission procedure described herein.

- B. Upon the denial or disapproval of an application (except for a rezoning application), an identical application may not be submitted.
- C. Any resubmittal must meet at least one of the following criteria:
 - 1. New or additional information has become available that may impact the application of review standards;
 - 2. The new application incorporates different standards, e.g., new **uses** or changes in density; or
 - 3. A finding is made by the approving body that the final decision on the application was based on a material mistake of fact.

4.4.5. Neighborhood Meetings

- A. The purpose of a neighborhood meeting is to inform neighbors of the **development** proposal, receive their comments, and potentially resolve any conflicts or concerns prior to the official hearing.
 - 1. Applicability

A neighborhood meeting(s) is required for the following:

- a. **Rezoning / Map Amendments.**
 - b. **Conditional Zonings.**
 - c. **Special Use Permits.**
 - 2. A pre-submittal neighborhood meeting is required for all of the preceding applications and shall be held following the pre-application conference and before the official application is submitted.
 - 3. A second neighborhood meeting is required for any of the preceding applications containing a site, **subdivision**, or **master plan** and shall be held after official application submittal and before the application may proceed to public hearing.
 - 4. The applicant shall hold the neighborhood meeting(s) within the town's **ETJ** in an accessible location that is proximate to the site or at a location that is centrally located within the town and at a time in the late afternoon or early evening that is convenient to most people that work daytime jobs.
- B. Notification
See requirements for mailed notice, **Section 4.4.6.**
 - C. The applicant shall submit a meeting summary identifying all issues raised and any resolution or explanation, a list of attendees, a list of addresses where notices were mailed, and a list of returned mail notices no later than 10 calendar days prior to the public hearing.

4.4.6. Public Notice Requirements

A. Published

The **Planning Director** shall place an advertisement on the Town's official webpage once a week for two successive weeks. The first notice shall be published no less than 10 days and no more than 25 days prior to the hearing. The contents of the published notice shall include:

1. The general location (including a map for mailed notices);
2. The parcel number and/or **street** address;
3. A description of the action requested;
4. Current and proposed zoning districts (rezonings only);
5. The time and location of the anticipated public hearing;
6. Phone number and email of the appropriate applicant's contact;
7. Phone number and email of the appropriate Town contact;
8. A statement that interested parties may appear at the hearing; and
9. A statement that substantial changes to the proposed action may occur following the hearing.

B. Posted

The **Planning Director** shall post a notice of application at a visible location on subject property no less than 14 days prior to the hearing. The contents of the posted notice shall include the Town's general contact information and that a land **use** decision is under consideration.

Commentary: Note that G.S. § 160D-602 requires posting a site 10-25 days before the hearing.

C. Mailed

1. Mailed notice shall be provided to all property owners and tenants within 1,000 feet of the affected parcel as reflected in the Wake County tax records at the time of submittal.
2. Where the tax records reflect a mailing address for an owner of property to be different than the address of the property owned, then notification shall also be mailed to the address of the property itself so that the tenant may be notified.
3. For **zoning map amendments**, properties shall be considered abutting even if separated by a **street**, railroad, or other transportation corridor or right-of-way. Mailed notices shall contain the same content as published notices outlined in **Section 4.4.6.A.**
4. Pursuant to G.S. § 160D-602(b), if a mailed notice for a **zoning map amendment** hearing includes more than 50 individual owners of more than 50 individual properties, the Town may instead elect to publish notice of the hearing as specified in G.S. § 160D-602(a).
5. If a notice contains errors regarding the time, date, or location of the hearing or the location of the subject property, the notice shall be rendered inadequate. However, if any other minor or clerical

Commentary: When a mailed notice involves properties within an HOA, it is best practice to send a letter directly to the HOA also.

defects are present, but time, date, and location of hearing and subject property are correct in the notice, the notice shall remain valid. If questions of validity arise, the decision-making body shall make a formal finding of substantial compliance or lack thereof. If the decision-making body finds there is substantial compliance, it may then begin the proceedings for the case.

4.4.7. Hearings

A. Modification of Application

1. The applicant may agree to application modifications in response to questions or comments by persons appearing at the public hearing or to recommendations by the Town Council, Planning Commission, or BOA.
2. Unless such modifications are so substantial that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Planning Department.
3. The decision-making body may refer the case back to the recommending body for review, prior to further consideration. The decision-making body shall choose one of the following options:
 - a. Continue the hearing to a new date and time certain within 45 days in accordance with the provisions below; or
 - b. Close the hearing and re-publish notice of any future hearing in accordance with this Article.

B. Continuation

The decision-making body may continue hearings without further notification so long as the motion to continue the hearing, made in open session, specifies the date and time of the hearing continuation.

C. Evidentiary Hearings

Pursuant to G.S. § 160D-406, **evidentiary hearings** shall be required as specified in the Review Authority Table (**Section 4.3.**).

1. Oaths

The chair of the decision-making body and the clerk to the board are authorized to administer oaths to all witnesses in **evidentiary hearings**.

2. Parties

Pursuant to G.S. § 160D-1402(c), the applicant, local government, and other appropriate parties shall have the right to participate at

the hearing. Additional witnesses may present competent evidence pertaining to the case.

3. Evidence

- a. All findings and conclusions shall be based on substantial, competent, and material evidence. All competent evidence must be admissible in a court of law except as provided by G.S. § 160D-1402(j)(3).
- b. Competent evidence does not include the opinions of lay witnesses attesting to property value implications, traffic impacts, or other matters about which only expert testimony would generally be admissible.

4. Meeting Record

Records of meetings shall be kept pursuant to state public record retention laws.

4.4.8. Written Decision

Within 30 calendar days after a final decision is made by the Town Council, Planning Commission, BOA, **Planning Director**, or other review body under the requirements of this UDO, a copy of the written decision shall be sent to the applicant or appellant.

- A. A copy of the written decision shall be filed in the office of the **Planning Director**, where it shall be available for public inspection during regular office hours.
- B. The written decision shall state the review body's findings, conclusions, and supporting reasons or facts whenever this UDO requires these as a prerequisite to acting.

4.4.9. Extensions

The **Planning Director** shall grant time extensions to approved and unexpired **special use permits** and **administrative development** approvals according to the provisions of this subsection.

- A. To receive an extension, the permit holder must file a written request with the **Planning Director**.
- B. One extension is permitted per parcel per **development** approval.
- C. Permit time extensions shall be limited to a period not to exceed 24 months from the date of the original permit expiration.

4.4.10. Completing Developments in Phases

- A. **Developers** shall submit a phasing plan for **developments** that will be completed in phases. The phasing plan shall include drawings of each phase and a schedule of any associated improvements to be completed

during the phase. Any **development** approval or permit shall be contingent on the drawings and the approved schedule.

- B. Each phase of a proposed **development** shall include the infrastructure and other required elements of this Ordinance for each phase to stand alone.

4.5. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — SUBDIVISIONS

4.5.1. Subdivision in General

A. Applicability

1. Pursuant to Article 8 of G.S. § 160D, **subdivision** approval shall be required before the division of land into two or more parcels.
2. In accordance with G.S. § 160D-802, the following types of **subdivisions** proceed directly to Final **Plat** (per **Section 4.5.4.**):
 - a. The combination or recombination of portions of previously subdivided and recorded **lots** where the total number of **lots** is not increased and the resulting **lots** are equal to or exceed the standards of this UDO.
 - b. The division of land into parcels greater than 10.0 acres where no **street** right-of-way dedication is involved.
 - c. The public acquisition of land for water or sewer infrastructure or the widening or opening of **streets** or public transportation corridors.
 - d. The division of a tract in single ownership whose entire area is no greater than 2.0 acres into not more than three **lots**, where no **street** right-of-way dedication for new **streets** is involved and where the resultant **lots** are equal to or exceed the standards of this UDO.
 - e. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession, per G.S. § 29.
 - f. The division of a tract into plots or **lots** used as a cemetery.

Commentary: These types of **subdivisions** were previously referred to as “exempt” **subdivisions**.

B. No **Subdivision** without **Plat** Approval

1. As provided in G.S. § 160D-807, no person may subdivide land except in accordance with all the provisions of this UDO. No **subdivision** may occur unless and until a **final plat** of the **subdivision** has been approved in accordance with the provisions of this Section and recorded in the Wake County Registry. The provisions of this Section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary **plat** for which a **final plat** has not yet been approved or recorded in the Wake County Registry. Such arrangements shall strictly follow the provisions of G.S. § 160D-807.
2. As provided in G.S. § 160D-807, the Wake County Register of Deeds shall not record a **plat** of any **subdivision** within the Town’s **planning jurisdiction** unless the **plat** has been approved in accordance with the provisions of this UDO.

3. As provided in G.S. § 160D-802, not all divisions of land constitute **subdivisions** that are subject to all regulations under this UDO. However, to ensure that such divisions are exempt from the requirements of this UDO, all **plats** creating a division of land shall be presented to the Planning Department before recordation in the Wake County Registry, and the **Planning Director** shall indicate on the face of the **plat** that the division is exempt from the provisions of this UDO.
 4. All **stormwater** management provisions must be met prior to the **subdivision** of land.
 5. It shall be unlawful to offer and cause to be recorded any major or **minor subdivision** plan, **plat**, or replat of land within Garner's jurisdiction with the Wake County Register of Deeds unless the same bears the endorsement and approval of the **Planning Director** or Town Clerk. As provided in G.S. § 160D-807, a **violation** of this provision is punishable as a Class 1 misdemeanor.
- C. No Occupancy, **Use**, or Sale of **Lots** Until Requirements Fulfilled
1. Where the **subdivision** process applies, the **development** or sale of **lots** prior to approval of a **final plat** is prohibited.
 2. For **development** on existing **lots**, no occupancy or **use** shall be permitted prior to the approval of at least one of the following permits:
 - a. **Site Plan**.
 - b. **Special Use Permit**.
 - c. **Temporary Use** Permit.
 - d. Certificate of Zoning Compliance.
 3. Issuance of a **final plat** or any of the permits listed above authorizes the holder to commence the approved activity; however, excepting phased **developments**, **structures** with temporary certificates of occupancy, and **subdivisions** with improvement guarantees; no intended **use** may commence, no **building** be occupied, nor any **lot** be sold until all of the UDO requirements have been met.

4.5.2. Minor Subdivision

- A. A **minor subdivision** is any **subdivision** that does not involve any of the following:
1. Creation of a total of five or more **lots**.
 2. Creation of any new public **streets**.
 3. Extension of the public water or sewer system operated by the City of Raleigh.

4. Installation of drainage improvements through one or more **lots** to serve one or more other **lots**.
- B. A preapplication conference with the City of Raleigh Public Utilities Department (CORPUD) is required prior to submission of an application to the Town.
- C. After a preapplication conference and sketch plan review and approval by the TRC, the applicant may apply for **final plat** approval.
- D. See **Section 4.5.4.** for approval criteria for **minor subdivision final plats**.

Commentary: Approval of utility tap locations by CORPUD is required prior to **final plat** review by the Town.

4.5.3. Major Subdivision

- A. All other **subdivisions** of land not listed in **Section 4.5.2.** shall be considered **major subdivisions**.
- B. Review
 1. A **major subdivision** requires submission and review of a preliminary **plat**.
 2. The Town shall forward the preliminary **plat** to the Wake County Health Department and any other potentially affected agencies including, but not limited to, the North Carolina Department of Transportation (NCDOT) and the Wake County Board of Education.
 3. The TRC shall review the preliminary **plat** and application for consistency with the UDO. For preliminary **plats** that do not meet the standards of this Ordinance, a list of deficiencies shall be provided to the applicant, which may also include a list of potential options for bringing the preliminary **plat** into compliance.
 4. Upon a **determination** by the TRC that the preliminary **plat** meets the standards of this Ordinance, it shall be approved by the **Planning Director**.
- C. Action Following Preliminary **Plat** Approval
 1. Following preliminary **plat** approval, the applicant may proceed to comply with other requirements of this UDO including **special use permits**, construction plans, preparation of the **final plat**, and other approvals and permits as may apply.
 2. Preliminary **plat** approval does not guarantee the approval of the final **subdivision plat**.

4.5.4. Final Plat

- A. Final **plats** are required for all **subdivision** of land in Garner's **planning jurisdiction**.
- B. The **final plat** shall only constitute the portion of the approved preliminary **plat** that the **subdivider** proposes to record and develop at the time of submission. Approval shall be subject to the installation and completion of **subdivision** improvements described in this UDO.

C. Application

1. The final **subdivision plat** shall be submitted in accordance with G.S. § 47-30 and with the requirements maintained by the **Planning Director**.
2. Endorsements Required (See Appendix of Certificates)
 - a. Certificate of ownership.
 - b. Certificate of survey and accuracy.
 - c. Certificate of approval by the **Planning Director**.
 - d. Wake County **Plat** Review Officer's certificate.
 - e. Other endorsements as applicable:
 - i. Certificate of dedication.
 - ii. Certificate of approval by City of Raleigh Utilities.
 - iii. Wake County Environmental Health certificate of approval of non-municipal water supply and sewage disposal systems.
 - iv. NCDOT Division 5 of Highways District 1 Engineer certificate.
3. When required by the federal government, all **final plats** shall contain a certificate for a federally funded **project**.
4. No **final plat** showing **lots** served by private drives may be recorded unless the **final plat** contains a notation that: "Further **subdivision** of any **lot** shown on this **plat** as served by a private drive may be prohibited by the Town of Garner UDO."

D. Approval

1. The **Planning Director** shall not approve a final **subdivision plat** until the TRC has certified that the **final plat** meets all applicable requirements of this Ordinance.
2. When required improvements are not fully installed, the **Planning Director** shall not approve a final **subdivision plat** until sufficient financial security in the amount of 125 percent of the required, uninstalled improvements is furnished to the Town, guaranteeing the completion of the improvements.
3. Additional approval criteria for **minor subdivision final plats** are as follows:
 - a. The **plat** complies with the standards of **Article 8.** and **Article 9., Subdivision**, design/improvements, and any other applicable requirements of this UDO.
 - b. The **plat** is consistent with the approved preliminary **plat**, if applicable.
 - c. The **plat** indicates that all subject **lots** will have frontage on existing, approved **streets** or such provision will be made.

- d. New or residual parcels will conform to the requirements of this UDO and other applicable regulations.
- e. No new **streets** (not including widenings of existing roads) or road extensions are required or are likely to be required for access to interior property, or they have been provided.
- f. No drainage or utility easements will be required to serve interior property, or they have been provided.
- g. No extension of public sewerage or water lines will be required, or they have been provided.
- h. All necessary right-of-way has been offered for reservation or dedication.
- i. The proposed **subdivision** will not adversely affect permissible **development** of the remainder of the parcel or of adjoining property.

4.6. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — MAP AND TEXT AMENDMENTS

4.6.1. Rezoning / Map Amendment

A. Initiation

Any owner of land, their authorized representative, or the Town Council may request that land be rezoned.

B. Review

The **Planning Director** shall review the complete application and prepare a written report summarizing the nature of the request and its compliance with this Ordinance as applicable. The report and subsequent revisions shall be made available to the applicant, the Town Council, and the Planning Commission.

C. Public Hearing

At the conclusion of the preceding review, the Town Clerk shall establish a date for a public hearing and schedule and advertise a public hearing.

D. Citizen Comments

In addition to comments provided in person at the public hearing, any resident or property owner in the Town may submit a written statement regarding the proposal to the Town Clerk at least two business days prior to the proposed vote on such change. If submitted according to the preceding condition, the Town Clerk shall submit said written statement(s) at any time prior to the Town Council vote.

E. Planning Commission

1. At the conclusion of the public hearing, and in accordance with G.S. § 160D-604(b), the Council shall refer the case to the Planning Commission for review and recommendation.
2. Within 30 days of the referral, the Commission shall examine the request and forward a written recommendation to Town Council, including a statement on consistency with applicable adopted plans. After 30 days have passed from the date of referral, the Town Council may proceed towards a decision without the Commission's report.

F. Recommendations

In making recommendations regarding amendments to the official zoning map, the following criteria may be considered:

1. Consistency (or lack thereof) with the **Comprehensive Plan** and other adopted plans.
2. Compatibility with the present zoning and conforming **uses** of nearby property and with the character of the neighborhood.

3. Suitability of the subject property for **uses** permitted by the current versus the proposed district.
4. Whether the proposed change tends to improve the balance of **uses** or meets a specific demand in the Town.
5. Availability of sewer, water, transportation infrastructure, **stormwater facilities**, and other necessary infrastructure generally suitable and adequate for the proposed **use**.
6. Preservation of key features of the natural environment.

G. Modification of Application

1. An applicant in a zoning matter may reduce the geographic scope or propose a different district or combination thereof from that requested in the application by filing a statement of the same with the **Planning Director**.
2. If the application is limited by excluding certain enumerated land **uses**, either in the original application or in any amendment thereto, the application shall be resubmitted as a **conditional zoning** request.

Commentary: Requesting to limit **uses** must be a condition on a **conditional zoning** or **conditional rezoning** application.

H. Time Lapse Between Similar Applications

1. In the event of a withdrawal of an application prior to action by the Town Council on the merits, no application may be filed requesting the rezoning of any parcel contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application.
2. When the Town Council has voted on a zoning application and the proposed rezoning has either been denied or has failed to be adopted, then the application shall be deemed to have expired.
3. No subsequent application requesting a zoning change for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.
4. No subsequent application requesting the same zoning category for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.
5. The Town Council, by a three-fourths majority vote, may waive the time-lapse requirements of this Section if the Council deems it to be in the public interest to do so.

I. Town Council

1. The Town Council may not take final action on a request until it has received the Planning Commission recommendation or 30 days have passed since the **zoning map amendment** was first referred to the Planning Commission.

2. Pursuant to G.S. § 160D-605, the Council shall approve statements regarding **comprehensive plan** consistency and reasonableness of the request.

4.6.2. Conditional Zoning

A. Applicability

Conditional zoning shall follow the same review and approval process as **Section 4.6.1.**, with additional standards as described in this subsection. Where conflict occurs, these standards shall apply.

B. Underlying General Zoning District

All **conditional zoning** districts shall be based on an underlying (base) general **use** zoning district.

C. Designation and Tracking

Any **conditional zoning** district shall be designated by the letters “CZ” followed by a unique number assigned chronologically. These designations shall be applied to the official zoning map as in the case of other amendments. Ordinances are on file in the Planning Department.

D. Tiers

There are two tiers of **conditional zoning** districts.

1. Tier 1

Tier 1 **conditional zoning** requests identify a base district(s) and any **uses** in that base district’s permitted **uses** which are permitted or excluded in the **conditional zoning** district. Dimensional standards of the base district remain intact and unchanged. Tier 1 **conditional zoning** requests do not require a **master plan**. Any **uses** in the underlying zoning district identified as requiring a **special use permit** will still require **special use permit** review if they are to be constructed.

2. Tier 2

Tier 2 **conditional zoning** requests identify a base district(s), any **uses** in that base district’s permitted **uses** which are permitted or excluded in the **conditional zoning** district, dimensional standards for each **use** permitted (either by-right or by other criteria such as **Special Use Permit**), and a **master plan**. Tier 2 specifications shall also apply to any **uses** requiring **conditional zoning** approval as outlined in **Article 6. Use Regulations**. Any **uses** in the underlying zoning district identified as requiring a **special use permit** will still require **special use permit** review if they are to be constructed.

a. Master Plan

Tier 2 **conditional zoning** requests shall be accompanied by a **master plan** which shall be reviewed by the TRC and approved

Commentary: Conditions may neither circumvent the intent of the established general district nor alleviate the regulations without providing a method of alternative compliance. Conditions may impose stricter regulations.

in concert with the **conditional zoning** request. The **master plan** shall show the following:

- i. The correct number of external, cross-access, and adjacent property stub-out access points, although the exact location may be modified through subsequent review.
- ii. The **uses** desired and their general location and intensity or density. Tier 2 **conditional zoning** requests shall include a table of permitted **uses** for the proposed district. It shall include all **uses** listed in the table of permitted **uses** in Article 6, and whether they are permitted or excluded.
- iii. The appropriate setbacks, dimensional standards, and other regulations for each zoning district, **use**, or area. Tier 2 **conditional zoning** requests shall include a table of dimensional standards. This shall be based on the general zoning district and updated to reflect altered dimensional standards. Any other information necessary to ensure that the **master plan** can meet the standards required by this Ordinance to execute a logical **development** plan. This may include preliminary description of utility, **stormwater**, and/or transportation conditions or connections.

Commentary: The **uses** should be of similar intensity and complement each other to avoid creating conflicts or **nuisances**.

- E. If the Town Council modifies any conditions or imposes new ones, the property owner or authorized agent must provide (or decline) written consent prior to any decision of approval.
- F. Addition of property to a **conditional zoning** district shall require a separate **conditional rezoning**. Previous **conditional rezonings** shall not be considered as precedent setting or entitle future additions to any specific **development** pattern, **uses**, or other entitlement.
- G. Entitlement, recordation, or construction of any or all portions of a **conditional zoning** district **master plan** shall not constitute any precedent or vesting of rights, design, **development** standards, **uses**, or otherwise, on any property that might be proposed for addition to a **conditional zoning master plan** in the future. The standards of this Ordinance in effect at the time of formal application of the property addition to a **conditional zoning** district **master plan** shall prevail.

4.6.3. Text Amendment (Ordinance Amendment)

A. Initiation

Amendments to the text of this Ordinance may be initiated by any citizen, by the Town Council, or proposed to Council by staff.

B. Review

1. Upon receipt of an application, any supporting materials, and associated review fees, the **Planning Director** shall review the

application and determine if the proposed amendment should be treated as if it were initiated by the Town.

2. The **Planning Director** shall review the request and prepare a written report summarizing the nature of the request and its compliance with this Ordinance as applicable. The report and subsequent revisions shall be made available to the applicant, the Town Council, and the Planning Commission.

C. Public Hearing

At the conclusion of the preceding review, the Town Clerk shall establish a date for a public hearing and schedule and advertise a public hearing.

D. Citizen Comments

In addition to comments provided in person at the public hearing, any resident or property owner in the Town may submit a written statement regarding the proposal to the Town Clerk at least two business days prior to the proposed vote on such change. If submitted according to the preceding condition, the Town Clerk shall submit said written statement(s) at any time prior to the Town Council vote.

E. Planning Commission

1. At the conclusion of the public hearing, and in accordance with G.S. § 160D-604(b), the Council shall refer the case to the Planning Commission for review and recommendation.
2. Within 30 days after referral, the Commission shall examine the request and forward a written recommendation to Town Council, including a statement on consistency with applicable adopted plans. After 30 days have passed from the date of referral, the Town Council may proceed towards a decision without the Commission's report.

F. Recommendations

In making recommendations regarding amendments to the text of this Ordinance, the following criteria may be considered:

1. The extent to which the proposed **text amendment** is consistent with the remainder of the UDO, including, specifically, any purpose and intent statements.
2. The extent to which the proposed **text amendment** represents a new idea not considered in the existing UDO, or represents a revision necessitated by changing circumstances over time.
3. Whether or not the proposed **text amendment** corrects an error in the UDO.
4. Whether or not the proposed **text amendment** revises the UDO to comply with state or federal statutes or case law.

G. Town Council

1. The Town Council may not take final action on a request until it has received the Planning Commission recommendation or 30 days have passed since the **text amendment** was first referred to the Planning Commission.
2. Pursuant to G.S. § 160D-605, the Council shall approve a statement regarding **comprehensive plan** consistency.

4.7. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — PERMITS

4.7.1. Zoning Compliance Permit

A. Applicability

Zoning compliance permits are required for all activities that do not require **special use permits** (*Section 4.7.4.*) or **site plans** (*Section 4.8.1.*).

B. Effect

It shall be unlawful to construct, grade, alter, excavate, or move, any land or **building**, including **accessory structures**, or to establish or change of **use** without a valid **Zoning Compliance Permit** issued by the **Planning Director**.

C. Application Submittal

The application for a **Zoning Compliance Permit** shall be submitted to the **Planning Director** at the time of **building** permit application.

Where a **building** permit is not required, the application shall be made prior to initiating any activity described herein.

D. Review

The **Planning Director** shall review the application for conformity with the requirements of this Ordinance and shall approve, approve with conditions, or deny the permit request. The **Planning Director** may grant approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into compliance with the applicable standards of this UDO.

E. Expiration

Failure to begin activities outlined in the **Zoning Compliance Permit** within one year shall render the permit of no further force and effect.

4.7.2. Sign Permit

It is the purpose of this subsection to permit and regulate **signs** and their placement (*Article 12.*) in such a way as to support and complement the land **use** objectives set forth in this UDO and in other Town Council declarations of policy; to avoid endangering the **public safety**, and not confuse or mislead a driver or obstruct the vision necessary for traffic safety; and to advance the economic stability, preservation and enhancement of property values, and the visual impact and image of the Town.

A. Applicability

Sign permits are a type of **Zoning Compliance Permit** and follow the same review and approval process as outlined in *Section 4.7.1.*

B. Effect

Except as otherwise provided in this UDO, no **sign** may be erected, moved, enlarged, or altered except in accordance with and pursuant to an approved **sign permit**.

C. Other Permits Required

A **sign** may also require separate **building** and electrical permits from the Town.

4.7.3. Temporary Use Permit

A. Applicability

Temporary uses operating for up to 90 days within a one-year period shall obtain a **temporary use** permit from the **Planning Director** that outlines conditions of operations to protect the public health, safety, and welfare. Such **uses** include short-term or seasonal **uses** that are not otherwise permanently allowed in the zoning district regulations.

B. Application Submittal

The application should be submitted at least 30 days prior to the requested start date. Applications submitted late may not be approved.

C. Review

1. The TRC shall evaluate **temporary uses** based on the following standards:

a. Land **Use** Compatibility

The **temporary use** must be compatible with the purpose and intent of this UDO and the associated zoning district. The **temporary use** shall not impair the **primary use** of the same site.

b. Review by **Building** Official

Any temporary **structures** shall require **building** permits or approvals by the **Building** Official and Fire Code Inspector. If necessary, the applicant must obtain approvals from the State of North Carolina and Wake County Health Department.

c. Hours of Operation and Duration

Hours of operation and duration shall be approved by the **Planning Director** at the time of permit issuance.

d. Traffic Circulation

The Town Engineer shall determine that the **temporary use** will not disturb traffic patterns or cause undue congestion.

e. Off-street Parking

Adequate off-street parking must be provided for the **use** without creating greater than a 25 percent shortage of parking for permanent **uses**.

f. Appearance and **Nuisances**

The **temporary use** shall be compatible in intensity, appearance, and operation with surrounding land **uses**. It shall not impair the usefulness, enjoyment, or value of the surrounding properties by introducing **nuisances**.

g. Signs

The **Planning Director** shall review and approve all **signage** prior to issuing the permit.

2. In regard to timely applications, the **Planning Director** shall request additional materials or revisions to the application, approve, approve with conditions, or deny the permit at least 10 business days in advance of the requested start date.

D. Other Conditions

The applicant must adhere to conditions specified by the TRC. These conditions may include, but are not limited to, provisions for screening and buffering, site restoration, and clean-up, as well as conditions that ensure compliance with the standards described above.

E. Expiration

If the **temporary use** has not commenced within 90 days of the requested event start date, the permit shall expire.

4.7.4. Special Use Permit

Special use permits, as defined in G.S. § 160D-102(30) and described in G.S. § 160D-705(c), are required for **uses** which in an unmitigated state may create negative impacts to neighboring properties or **uses**. This process allows each proposed **use** to be evaluated by its merits and conditions specific to each site.

A. Applicability

In addition to the other special **uses** listed in the **use** table in **Article 6. Use Regulations**, the following **development** types have significant city-wide impacts and require **special use permits**:

1. Any nonresidential or mixed-use **development** encompassing 100,000 or more square feet of **gross floor area** or more.
2. Any residential **development** or **subdivision** involving 200 **dwelling units** or more.

B. Staff Review

Upon receipt of the application and **determination** of completeness, the **Planning Director** shall prepare a written report for the Town Council summarizing the nature of the request.

C. Public Hearing

At the conclusion of the preceding review, the Town Clerk shall establish a date for a public hearing and schedule and advertise a public hearing.

D. Town Council

1. Findings of Fact

Special **use** applications may be approved by the Town Council if it finds that all the following findings of fact have been met:

- a. The proposed **use** will not endanger the public health or safety.
- b. The proposed **use** will not substantially injure the value of adjoining or abutting property.
- c. If completed as proposed, the **development** will comply with all requirements of this Ordinance.
- d. The proposed **use** is consistent with the Town's adopted transportation plan(s), other relevant adopted plans and policies, and the stated purpose and intent of this UDO (the fact that the **use** is permitted under certain circumstances in the zoning district creates a rebuttable presumption that the proposed **use** is in harmony with the intent of the UDO as relates to the general zoning plan).
- e. The proposed **use** is compatible with adjacent **uses** and proximate neighborhood in terms of **building** scale, site design, buffering and screening, operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).
- f. Any significant adverse impacts resulting from the **use** will be mitigated or offset, including impacts on the natural environment.
- g. The **public safety**, transportation and **utility facilities** and services will be available to serve the subject property while maintaining sufficient levels of service for existing **development**.
- h. Adequate assurances of continuing maintenance have been provided.

2. Conditions of Approval

- a. Without limiting the foregoing, the permit-issuing authority may attach a condition limiting the permit to a specified duration or may otherwise impose such reasonable conditions as necessary to address the impacts of the proposed **developments** on:
 - i. Adjoining property.

- ii. The existing natural and man-made features of the site.
 - iii. Off-site and on-site traffic flow.
 - iv. Public utilities, infrastructure, and services.
 - v. Such other public services or goals of the Comprehensive Growth Plan, adopted plans, or the Transportation Plan that may be negatively impacted by the proposed **development**.
- b. All additional conditions or requirements shall be recorded on the permit and shall be deemed to have been consented to by the applicant unless the decision is properly **appealed** in accordance with G.S. § 160D-406(k).
 - c. All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirements of this UDO.
 - d. A vote may be taken on additional conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth above. The applicant must give written consent to any conditions for the permit to be valid.

4.8. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — SITE PLANS AND MODIFICATIONS

4.8.1. Site Plan

A. Applicability

A valid **site plan** approval is required prior to issuance of a **Zoning Compliance Permit** or **building** permit, as applicable, for:

1. Any new nonresidential, mixed-use, and residential **development**, excluding single-family detached homes and **duplex** (aka two-family homes).
2. Any change of **use** from residential to nonresidential.
3. Any amenity, **facility**, parking area, developed common area, or accessory area, excluding discrete areas of **signage** permitted through the **sign permit** process.

B. Review

The TRC shall review **site plans** for consistency with this UDO and adopted Town plans and specifications.

C. Decision

1. Upon certification by the TRC that the **site plan** meets (or will meet) all applicable standards of this Ordinance and other Town ordinances, the **Planning Director** shall approve the **site plan** with or without conditions. Approval with conditions may only be permitted to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this UDO.
2. Should the TRC make a final **determination** that all such requirements and provisions have not been (nor will be) satisfied, the **Planning Director** shall deny the application.

4.8.2. Design Modifications

A. Applicability

A design modification may be requested for any valid **development** approval or site-specific vesting plan, including **conditional zoning** districts and **special use permits**.

B. Design-related modifications to approved plans, permits, or **development** approvals shall be approved according to the following standards:

1. Major Modifications

- a. Major modifications require review according to the appropriate review procedure per the **Review Authority Table (Figure 4.3-A)**.

- b. Major modifications include:
 - i. Removal of a new vehicular access point to an existing **street**, road, or thoroughfare.
 - ii. Modification of special performance criteria, design standards, or other conditions or requirements specified in the original entitlement.
 - iii. An increase or decrease in the total number of residential **dwelling units** by 10 percent or greater.
 - iv. An increase in total floor area by 10 percent or greater or a decrease in total floor area by 20 percent or greater.
 - v. Any increase in number of **parking spaces** of greater than 10 percent.
 - vi. Any increase greater than 20 percent or decrease of greater than 10 percent in **open space**.
 - vii. Any increase greater than 10 percent in the amount of public right-of-way or utilities, provided that any change in location or reduction in amount must also be reviewed and approved by TRC.

2. Minor Modifications

All other design-related modifications shall be considered minor, except that if cumulative minor modifications would result in a significant deviation from the original entitlement, or if review of a minor modification requires the application of subjective review criteria or standards, the modification request shall be considered major and subject to the appropriate review process.

a. Review

The TRC shall review minor modifications for consistency with this UDO and adopted Town plans and specifications.

b. Decision

- i. Upon certification by the TRC that the modification meets (or will meet) all applicable standards of this Ordinance and other Town ordinances, the **Planning Director** shall approve the modification with or without conditions. Approval with conditions may only be permitted to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this UDO.
- ii. Should the TRC make a final **determination** that all such requirements and provisions have not been (nor will be) satisfied, the **Planning Director** shall deny the application.

4.9. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — MISCELLANEOUS

4.9.1. Traffic Impact Analysis

A. Applicability

1. A Traffic Impact Analysis (TIA) shall be required for **projects** that are anticipated to generate 100 or more peak hour vehicle trips, based on the latest edition of the Institute of Transportation Engineers (ITE) Traffic Generation Manual.
2. A TIA shall be required for **projects** that are anticipated to generate 1,000 or more average daily trips (ADT), based on the latest edition of the ITE Traffic Generation Manual.
3. A TIA may also be required, at the discretion of the **Planning Director**, Town Engineer and/or the decision-making body in the following instances:
 - a. Major or **minor thoroughfares** near the site are experiencing significant delays.
 - b. Traffic safety issues or high vehicle crash history exist at intersection(s) served by the proposed **development**.
 - c. The site is located in a highly congested area (where volume-to-capacity ratios are greater than 1.0).
 - d. An associated or proposed rezoning to a more intensive district would create more intensive trip generation than the current **Comprehensive Plan** anticipates.

Commentary: The application of these provisions should match the type of **development** proposed so that excessive study scope requirements are not unreasonably imposed.

B. Scope

When a TIA is required, the **Planning Director** and the Town Engineer shall determine the type and scope of the study jointly during a meeting with the applicant. The **Planning Director** may also involve representatives of other agencies or departments. The elements to be determined during the scoping session shall include:

1. Type of Study

A letter report, full TIA report, or special report (such as a sight distance survey) may be required.

2. Definition of Impact Area

The points of access and key **streets** and intersections that may be affected by **development** of the subject tract constitute the impact area. Traffic recorder and turning movement assessment locations shall also be determined.

3. Period of Analysis

The period of analysis shall be for both the morning and afternoon peak hour.

4. Analysis Scenarios

Scenarios for analysis shall include existing conditions, and opening year with and without **development**, and shall include increments of five years after opening until the expected completion of the **project**, with or without **development**.

5. Assumptions

Trip generation and distribution assumptions including trip generation categories, diversion assumptions and distribution assumptions. Assumed rate of growth in background traffic, and **developments** in the area that have been approved or are under review shall also be included.

6. Duration of Study

The duration of traffic studies (the time period for which they are considered a valid basis for approvals) for large **projects** will be evaluated on a case-by-case basis as part of the application review process.

C. Study Elements

The following details shall be required as determined in the scoping meeting:

1. Existing Conditions Survey

a. **Street** System Description

The **street** system shall be described, including geometric features, lane usage, traffic control, **signage**, sight distances, and adjacent **uses** and curb cuts.

b. Traffic Volumes

Existing traffic volumes shall be provided for the impact area, including both average annual daily traffic (AADT) and peak hour volumes. AADT may be derived from current counts of the NCDOT, where available, and peak hour volumes shall be provided from field counts. Data shall be adjusted for daily and seasonal variations. Turning movement counts for peak hour shall be provided for critical intersections.

c. Capacity Analysis

Existing capacity of signalized and unsignalized intersections.

d. Other Details

Other details may be required at the discretion of the Town Engineer or **Planning Director** depending upon the type and

scale of the **project**. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data, traffic speeds (both 50th and 85th percentile), and stopping distances.

2. Future without **Development**

Capacity analysis shall be based on the Highway Capacity Manual or other methodology approved in advance by the Town Engineer.

3. Future with **Development**

- a. Projections of peak hour traffic generation shall be made using the latest edition of the ITE Trip Generation Manual, unless the Town Engineer determines that locally derived data will provide more accurate forecasts. Data from similar **facilities** may be used where the information is not available from ITE.
- b. Special analysis may be required to determine the need for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements.

4. Mitigation Plan

Where the analysis indicates that the **project** will create deficiencies in the impact area, improvements shall be recommended, along with projected cost estimates. The design of improvements shall be in accordance with the Town of Garner or the NCDOT, as appropriate. Where a mitigation plan is not adequate to address the traffic impacts of the **project**, it may serve as a basis for denial of the rezoning, preliminary **plat**, or **site plan** request.

D. Consultants

The **Planning Director** or the Town Engineer may require that an independent consultant be hired by the Town to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The **Planning Director** or Town Engineer are authorized to administer the contract for any such consultant.

1. The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
2. The applicant shall provide an amount equal to the estimate to the Town, who shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest.
3. The Town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the

applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

4.9.2. Written Interpretation

A. Applicability

When uncertainty exists and unless otherwise specified, the **Planning Director** shall be authorized to make all interpretations concerning the provisions of this Ordinance and the review of **administrative decisions** taken in accordance with this Ordinance, including **determination** of existing **vested rights** of property in accordance with **Section 4.2.7**.

B. Review

1. The **Planning Director** shall review and evaluate the request according to the text of this Ordinance, the Zoning Map, all adopted plans, policies, or land **use** documents, and any other relevant information.
2. Following completion of any technical reviews by staff, the **Planning Director** shall render an opinion.

C. Official Record

1. The **Planning Director** shall maintain an official record of all interpretations.
2. The record of interpretations shall be available for public inspection during normal business hours.
3. The rendering of an interpretation on a specific piece of land does not necessarily constitute a precedent.

4.9.3. Administrative Appeals

A. Applicability

Any person possessing standing under G.S. § 160D-1402(c) may appeal a final order, interpretation, or **administrative decision** of the **Planning Director** to the BOA.

Commentary: In general, only an applicant or aggrieved party may bring an appeal.

B. Effect

1. Generally

Pursuant G.S. § 160D-405(f), an appeal does not stop action lawfully approved by the Town but stays enforcement of actions presumed in **violation** of this UDO.

2. Enforcement and Fines

Pursuant G.S. § 160D-405, enforcement action and accrual of fees and fines shall be stayed from the filing of the appeal until the time of decision unless an affidavit is filed certifying that a stay would

cause imminent peril to life or property or seriously interfere with enforcement of the **development** regulation.

C. Application Submittal

The aggrieved party must file a petition with the Town Clerk within 30 days of the written decision described in **Section 4.4.8**. Any other party with standing must file a petition with the Town Clerk within 30 days of actual or constructive notice of the disputed decision.

D. Public Hearing

1. The **Planning Director** shall transmit all materials constituting the record of the contested action to the BOA, the appellant, and/or the owner.
2. Witnesses
The official who made the decision, or his or her successor, shall appear at the hearing as a witness.
3. Decision
4. The BOA may make a motion to reverse, affirm (wholly or partly), or modify the order. A majority shall be required to decide the case. For the purposes of this Section, vacant positions on the Board and members who are disqualified from voting shall not be included in the calculation of the requisite majority if there are no qualified alternates available.

E. Appeals

Appeals of decisions of the BOA shall be directed to the Superior Court.

4.9.4. Variance

A. Applicability

1. Where, owing to special conditions, a strict enforcement of the provisions of this UDO would result in unnecessary hardship to the property owner, the BOA is authorized to grant **variances** from standards of this UDO in accordance with the public interest or the spirit of this UDO.
2. A **variance** shall be granted **administratively** by the **Planning Director** when necessary and appropriate to make reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

B. Burden of Proof

The applicant seeking the **variance** shall have the burden of presenting sufficient evidence to warrant Board approval.

C. Review

The **Planning Director** shall prepare a written report summarizing the nature of the request. The report shall be made available to the applicant prior the BOA meeting.

D. Public Hearing

1. The BOA shall hold a public hearing to consider the matter. Pursuant to G.S. § 160D-705(d), the Board may grant **variances** which meet the following findings of fact:

- a. Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the **variance**, no reasonable **use** can be made of the property.
- b. That the hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be a basis for granting a **variance**.
- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a **variance** shall not be regarded as a self-created hardship.
- d. The requested **variance** is consistent with the spirit, purpose, and intent of the regulation, such that **public safety** is secured, and substantial justice is achieved.

2. Upon Board consideration and closing of the public hearing, the BOA shall make one of the following **determinations**:

- a. Approval
- b. Approval with Conditions or Modifications

The BOA may impose reasonable conditions to ensure compatibility with surrounding property. Such conditions shall be included in the written decision and shall be deemed to have been consented to by the applicant unless the decision is properly **appealed** in accordance with G.S. §160D-406(k).

- c. Denial

4.10. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS — ENVIRONMENTAL

4.10.1. Flood Mitigation Permit

- A. No **stormwater variance** and subsequent **flood** mitigation permit shall be issued within any designated **floodway** or regulatory **floodplain** unless the BOA (acting in its capacity as the **Watershed** Review Board) finds the following:
1. The proposed **use** is not likely to cause any increase in **flood** levels during the **base flood** discharge; and
 2. The granting of a **stormwater variance** will not result in increased **flood** heights, additional threats to **public safety**, extraordinary public expense, create **nuisance**, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- B. In evaluating a **stormwater variance** application, the BOA shall consider all technical evaluations and all relevant standards specified in other sections of this UDO. Additionally, the Board shall assess the following:
1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger of life and property due to **flooding** or erosion damage;
 3. The susceptibility of the proposed **facility** and its contents to **flood** damage and the effect of such damage on the individual owner;
 4. The importance of the services provided by the proposed **facility** to the community;
 5. The necessity to the **facility** of waterfront location, where applicable;
 6. The availability of alternative locations, not subject to **flooding** or erosion damage, for the proposed **uses**;
 7. The compatibility of the proposed **use** with existing and anticipated **development**;
 8. The relationship of the proposed **use** to the Comprehensive Growth Plan and **floodplain management** program for that area;
 9. The safety of access to the property in times of **flood** for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise and sediment transport of the **flood** waters and the effects of wave action, if applicable, expected at the site; and
 11. The costs of providing governmental services during and after **flood** conditions including maintenance and repair of public utilities and **facilities** such as sewer, gas, electrical, and water systems, and **streets** and bridges.

Commentary: The term “**variance**” as used in this subsection only applies to relief from the **stormwater** provisions of this Ordinance.

ARTICLE 5. ZONING DISTRICTS

5.1. ESTABLISHMENT OF DISTRICTS

For the purpose of implementing the standards of this UDO, portions of the Town as specified on the Town’s official zoning map are hereby divided into the following zoning districts:

Figure 5.1-A: Zoning Districts Table

	CATEGORY	ZONING DISTRICT
BASE DISTRICTS	Residential	Rural Agricultural (RA)
		Residential 2 (R2)
		Residential 4 (R4)
		Residential 8 (R8)
		Multifamily A (MF-A)
		Multifamily B (MF-B)
	Nonresidential and Mixed Use	Manufactured Home Park (RMH)
		Neighborhood Mixed-Use (NMX)
		Commercial Mixed Use (CMX)
		Traditional Business District (TBD)
	Industrial	Activity Center (AC)
		Light Industrial (LI)
	Conditional Zoning District (formerly Planned Development or Conditional Use Zoning)	Heavy Industrial (HI)
Conditional Zoning District (CZ)		
Floating District	Manufactured Home Floating Overlay (-MH)	
OVERLAYS	Conservation Overlays	Conservation Buffer Area (CBA)
		Lake Benson Conservation Overlay (LBC)
		Lower Swift Creek Conservation Overlay (LSC)
	Transportation Corridor Overlays	Residential Thoroughfare Overlay (RTO)
		Commercial Highway Overlay (CHO)
		Limited Access Highway Overlay (LHO)

Commentary: In the general use single-family residential districts, the number represents the density of the district for single-family detached dwellings. For instance, R4 is for neighborhoods with a gross density of 4 single-family detached dwelling units per acre, which is roughly equivalent to an average lot size of about 8,500 to 9,000 square feet. However, this equivalency does not necessarily hold true for multifamily structures or for the MF districts.

5.1.1. General Use Districts

Also known as base zoning districts, general use districts represent the traditional residential, commercial, and industrial range of districts established above. These districts set uniform standards for uses within them, and these uniform standards are the governing standards unless overlaid with more restrictive standards as in the case of an overlay district or other district-specific restrictions as in the case of a conditional district.

5.1.2. Conditional Zoning Districts

- A. The Town Council may establish by ordinance **conditional zoning** districts upon petition of the landowner.
- B. In accordance with G.S. § 160D-703 and the standards outlined in **Article 4.**, specific conditions approved by the Town Council and consented to by the petitioner in writing may be incorporated into the **conditional zoning** district regulations.
- C. In lieu of setting forth all of the regulations applicable to such district, the ordinance establishing it shall incorporate by reference all of the regulations applicable to a specified general **use** district or districts, except to the extent that the ordinance sets forth exceptions that are more stringent than those of the referenced general **use** district, as outlined in **Article 6.**

Commentary: E.g.- the ordinance may provide for greater (but not lesser) setbacks or landscaping buffering standards than those applicable to the referenced general **use** district and/or may specify that only one or some of the **uses** permissible in the referenced general **use** district are permissible.

5.1.3. Floating Districts

Floating districts are set forth in the ordinance text but not on the initial official zoning map. A floating district may be employed when the local government recognizes that a particular type of activity is desired for a general area, but the specific site has not been located in advance. Property intended to be used for that activity may be rezoned upon application if the landowner can meet the regulations of this UDO.

5.1.4. Overlay Districts

Overlay districts are established to define certain sub-areas within which **development** is subject to restrictions over and above those applicable to the underlying district. Within these overlay districts, any **development** must be in compliance not only with the regulations of the underlying district but also with the additional requirements of the overlay district. Overlay zones are not required to be mapped on the official zoning map if the description of such zones in this UDO is sufficient to define their extent and application to specific properties.

5.2. OFFICIAL ZONING MAP

5.2.1. Establishment

There shall be a map known as the official zoning map, which shall show the boundaries of all zoning districts within the Town's **planning jurisdiction**. This map shall be dated and drawn on a durable material or generated in a digital format from which prints or digital copies can be made. Both the current and prior zoning maps shall be maintained and made available for public inspection in the offices of the Town's Planning Department.

5.2.2. Adoption

The official zoning map is adopted and incorporated herein by reference.

5.2.3. Damage

Should the official zoning map be lost, destroyed, or damaged, it can be redrawn on a durable material or generated in a digital format from which prints can be made, so long as no district boundaries are changed in this process.

5.3. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

5.3.1. Interpretations

- A. The BOA is authorized to interpret the official zoning map and to pass judgment upon disputed questions of **lot** lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a **Written Interpretation** decision of the **Planning Director**, they shall be handled as an **Administrative Appeal** according to the process outlined in **Article 4**.
- B. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:
 - 1. Boundaries indicated as approximately following the centerlines of alleys, **streets**, highways, **streams**, or railroads shall be construed to follow such centerlines.
 - 2. Boundaries indicated as approximately following **lot** lines, city limits or extraterritorial boundary lines, shall be construed as following such lines, limits or boundaries.
 - 3. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.
- C. Where a district boundary divides a **lot**, or where distances are not specifically indicated on the official zoning map, the boundary shall be determined by measurement, using the scale of the official zoning map.
- D. Where any **street** or alley is hereafter officially vacated or **abandoned**, the regulation applicable to each parcel of abutting property shall apply to that portion of such **street** or alley added thereto by virtue of such vacation or **abandonment**.

5.4. MEASUREMENTS AND EXCEPTIONS

5.4.1. Density

A. Defined

Density refers to the number of **dwelling units** per unit of land area.

B. Calculation

1. Density is calculated by dividing the number of **dwelling units** on a site by the gross area (in acres) of the site on which the **dwelling units** are located.
2. When calculating density of developed **lots** fronting on **streets**, half of the abutting right of way shall be used in calculations of gross density. This does not apply to railroad rights-of-way.

C. Considerations

1. The number of **dwelling units** allowed on a site is based on the presumption that all other applicable standards will be met.
2. The maximum density established for a district is not a guarantee that such densities may be obtained, nor shall the inability of a **development** to achieve the stated maximum density be considered sufficient justification for varying or otherwise adjusting other density, intensity, or dimensional standards.

5.4.2. Lot Area

A. Defined

Lot area refers to the gross horizontal land area within **lot** lines.

B. Exceptions

Except for **structure** height requirements, utilities using land or located within an unoccupied **building** covering less than 1,000 square feet of site area shall be exempt from dimensional standards.

C. No conservation **buffer** or other officially designated **buffer** area shall be included within the area calculation of any **lot**.

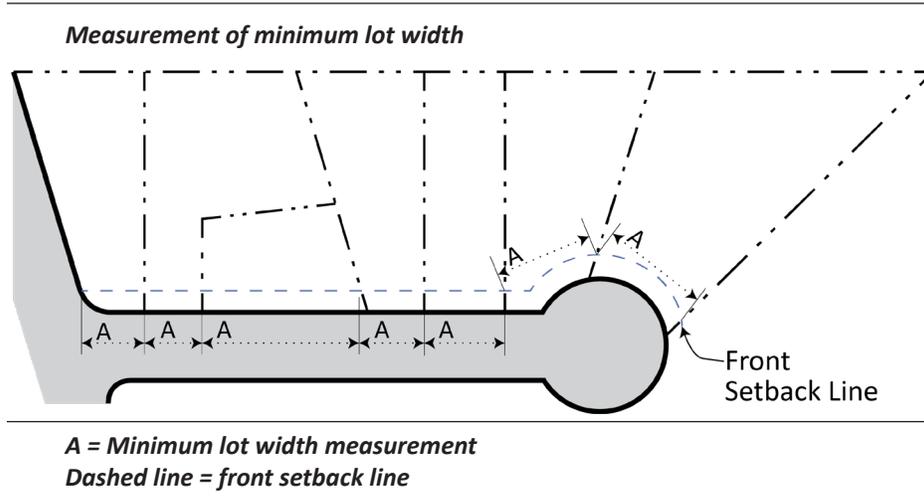
5.4.3. Minimum Lot Widths

- A. No **lot** may be created that is so narrow or so irregularly shaped that it would be impracticable to construct on it a **building** that:
1. Could be used for purposes permissible in that zoning district; or
 2. Could satisfy setback and minimum **lot** width requirements for that district.

B. Measurement

1. **Lot** width is calculated as a straight-line measurement between opposite-side boundaries at the minimum required setback from the right-of-way or **street**. Where the setback curves into the **lot**, the measurement is at the midpoint of tangency of the curve.

Commentary: For instance, a **cul-de-sac lot** may not be 80 feet wide at the 35-foot front setback but may be 80 feet wide at a point that is 45 feet into the **lot**. **Lot** width would be measured at the 45-foot line, and this would become the front setback line as well.



2. No **lot** created after July 5, 2022, having less than the recommended width shall be entitled to a **variance** from any **building** setback requirement.

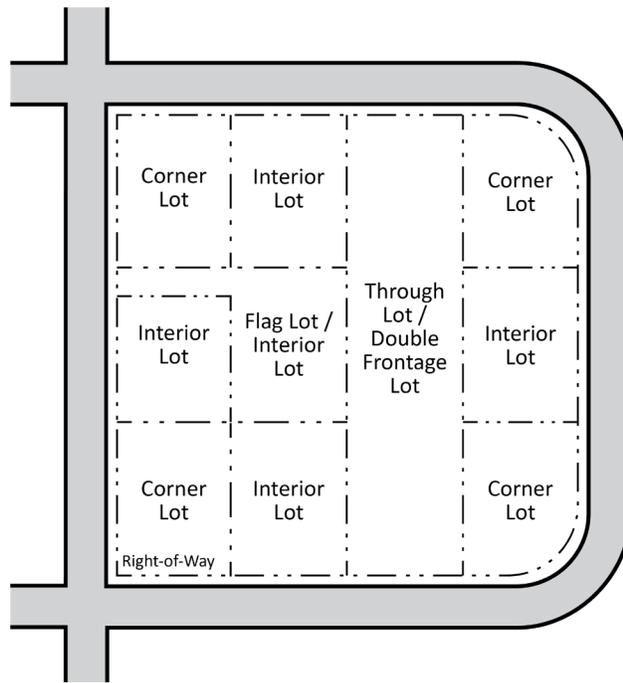
5.4.4. Flag Lots

The Town discourages the creation of flag **lots** in **subdivisions**. A flag **lot** will only be permitted via **variance** if such design is necessary to allow the property owner reasonable **use** of his property when otherwise it would cause an extreme hardship for the owner to comply with the standards of the UDO.

A. Measurement of Setback

The front setback line will be measured from that **lot** line that runs parallel to the public or **private street** that provides the border between the flag **lot** and the **lot** that borders the **street**.

Lot types



- B. Flag **lots** are prohibited unless one of the following applies:
 - 1. It is necessary to eliminate access onto a **major thoroughfare**;
 - 2. It is necessary to reasonably **use** irregularly shaped property;
 - 3. It is necessary to reasonably **use** land with significant topography limitations;
 - 4. It is necessary to reasonably **use** land with limited sites for septic tank drain fields; or
 - 5. It is necessary to protect significant environmental resources.
- C. The minimum **lot** width for a flag **lot** is 20 feet at the **street**.
- D. **Subdivisions** approved and recorded after October 1, 2003, shall not be re-subdivided to create flag **lots**.
- E. No flag **lot** will be allowed if it increases the number of access points to a **major or minor thoroughfare**.

5.4.5. Setbacks

- A. Minimum setbacks refer to the required unobstructed and unoccupied open area (no enclosed usable **structured** space) between the furthestmost projection of a **structure** and the property line of the **lot** on which the **structure** is located, except as modified by the standards of this Section.

B. Measurement

Actual setback distances are measured from the right-of-way line or property line (as applicable) to the nearest extension of any part of the **building** that is a substantial part of the **building** itself and not a mere appendage to it (such as a flagpole, awning, or **antenna**). For measurement of flag **lot** setbacks, see **Section 5.4.4.**, **Flag Lots**.

C. Features Allowed within Required Minimum Setbacks

1. The following features may be wholly or partially located within required minimum setbacks:
 - a. Permitted **rear yard** accessory **buildings**.
 - b. Trees, shrubbery, or other landscape features.
 - c. **Fences** and walls.
 - d. **Impervious surface** associated with parking, pedestrian access, service areas, and **driveways**.
 - e. Utility lines, wires, and associated **structures**, such as a power pole.
2. The following features may be partially located within required minimum setbacks as noted:
 - a. Uncovered porches, uncovered steps to **building** entrances, uncovered patio decks, and uncovered balconies may extend up to five feet into any required front, rear or corner side setback for single-family detached and **duplex uses**.
 - b. Covered porches may extend 10 feet into the front setback for single-family detached and **duplex uses**. Covered porches may extend for a depth of up to 50 percent of the required side or corner side setback (i.e. if the required setback is 10 feet, a porch may extend up to five feet into the setback.)
 - c. Openwork fire balconies and fire escapes may extend up to five feet into any required setback.
 - d. Sills, belt courses, cornices, buttresses, bay windows, eaves, and other architectural features may extend up to two feet into any required setback.
 - e. Chimneys and flues may extend up to two feet into any required setback.

D. Reduction for Public Purpose

When an existing setback is reduced because of conveyance to a federal, state or local government for a public purpose, and the remaining setback is at least 50 percent of the required minimum setback for the district in which it is located, then that remaining setback will be deemed to satisfy the minimum setback standards of this UDO.

- E. The **Planning Director** shall grant an allowance of not more than 10 percent from any setback specified in this Article when:
1. a **violation** of any such requirements has been created through a good faith error of the property owner or a person acting on his behalf;
 2. the error cannot be corrected without substantial hardship or expense (more than 25 percent of the cost of the improvement); and
 3. that granting this relief would not substantially interfere with the convenient and enjoyable **use** of adjacent property or pose any substantial danger to the public health or safety.

Prior to any decision to grant relief under this Section, the owners of the directly adjoining properties shall be given notice by certified mail that a request for this **encroachment** has been made to the Planning Department. The notice given shall give the adjoining property owners a minimum of 10 days from the date of postmark to provide any comments regarding the request to the Planning Department. A notarized letter of written consent from adjoining owners may be provided in lieu of certified mail notice. The letter must be signed by all owners of the adjoining real property. The decision of the **Planning Director** or designee may be **appealed** to the BOA as provided in **Article 4**.

5.4.6. Yards

- A. Yards collectively refer to the areas comprising a **lot** outside of the enclosed usable space of the primary **building(s)** or **structure(s)**. Every point within the yard area falls exclusively within one specific yard designation, the front and **rear yards** being designated first, and **side yards** comprising the remainder.
- B. Yard Exceptions in All Zoning Districts
- The following exceptions shall apply in all zoning districts for projection of open **structures** into required yards. At no time shall an exception be granted if it results in interference with a required **sight distance triangle** or substantial danger to the public health or safety.
1. Uncovered porches, stairways, sun decks, and similar **structures** completely open except for necessary supports, may extend into or over not more than 30 percent of the required **rear yard** distance or more than 20 percent into a **front yard**.
 2. Open stairways or wheelchair ramps may extend into the **front yard** setback as required to meet the **building** code.
 3. Projections of the above-described open **structures** in any required **side yard** will be permitted only by **variance** from the BOA. Such projections shall not extend more than 40 percent into the required

side yard distance, including gutters, except in no case shall any projection be closer than five feet to the side property line.

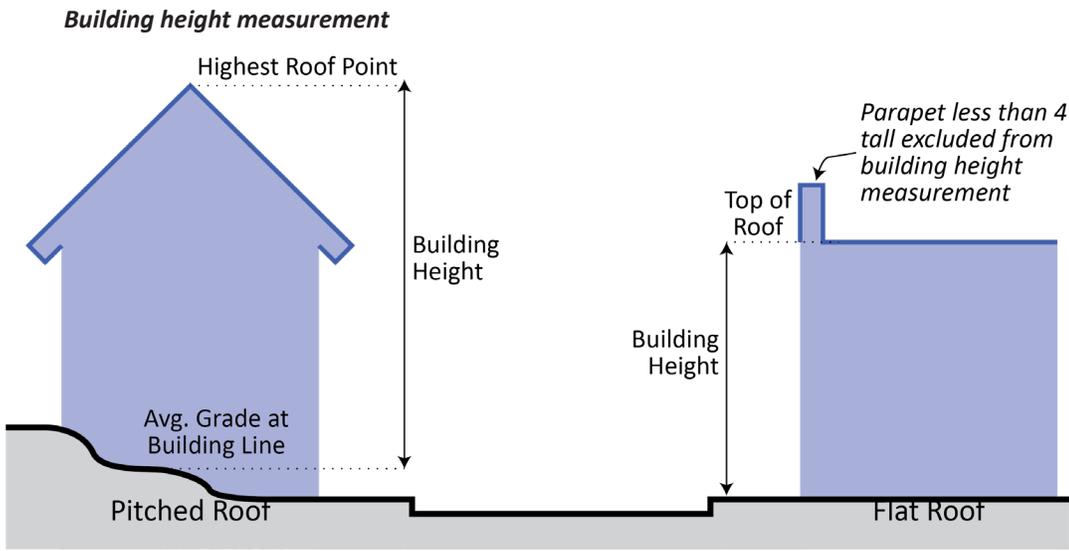
4. **Decorative walls**, planting areas, and uncovered paved areas, such as stoops, patios, drives not more than three and one-half feet above surrounding grade level, may **project** up to 20 percent into any required yard. If such areas are constructed at surrounding grade, they may extend into any yard spaces; except that at-grade swimming **pool** surroundings shall be no closer to any property line than five feet.
- C. In nonresidential and mixed-use districts, gas pump islands (without pay booths) and all canopies not attached to **buildings** may be permitted to **encroach** into the front and corner **side yards** for a depth of up to 75 percent, so long as a minimum front setback of 25 feet or corner side setback of 18 feet remains between the right-of-way line and the closest canopy **structure**, support face, or pump island. **Encroachments** of greater than that may be permitted only by **variance** granted by the BOA. In addition to the findings required by **Section 1.**, the Board must also be able to find that such projections will not interfere with adequate sight distance or negatively impact traffic circulation patterns.

5.4.7. Minimum Building Separation

- A. Unless otherwise modified by this Article, the minimum separation requirements for **buildings** with more than two **dwelling units** on the same **lot** shall be equivalent to twice the required minimum side (interior) setback defined by the respective zoning district.
- B. The minimum separation requirements for mixed-use and nonresidential **buildings** on the same **lot** shall be governed by the North Carolina State **Building** Code or other applicable code, whichever is more stringent.

5.4.8. Building Height Limitations

- A. Measurement
 1. The height of a **building** shall be the vertical distance measured from the mean elevation of the finished grade at the front of the **building** to the highest point of the **building**. This data shall be provided by the landowner, applicant or other authorized agent.



Measuring from the front of the structure allows a consistent and intuitive building frontage along the street.

- B. Roofs with slopes greater than 75 percent are regarded as walls.
- C. Exceptions to Height Limits

Unless otherwise expressly stated, the height limitations of this UDO shall not apply to any of the following:

1. Electrical power transmission lines;
2. Flagpoles, belfries, cupolas, spires, domes, monuments, chimneys, radio/television receiving **antennas**, or chimney flues; and
3. Bulkhead, elevator, water tank, or any other similar **structure** or necessary mechanical appurtenance extending above the roof of any **building** if such **structure** does not occupy more than 33 percent of the area of the roof.

5.5. RESIDENTIAL DISTRICT PURPOSE STATEMENTS

5.5.1. Rural Agricultural (RA) District

The RA District primarily accommodates **agriculture**, **silviculture**, and rural residential (aka **large-lot single-family residential**) **uses**. Other **uses** typically found in rural areas, including utility **structures** and other compatible **uses** are also found in the district. Properties zoned RA are typically found in areas outside the Town's corporate limits where public water and sewer services are not readily available.

5.5.2. Residential (R2, R4, R8) Districts

These districts are designed to create and maintain livable residential neighborhoods composed primarily of single-family residences and, in other select locations, such institutional, public, low-intensity nonresidential, house-scale multifamily, and other compatible **uses** that do not detract from the character of each district as a place for healthful, quiet, and aesthetically pleasing residential living. These districts generally provide a transition between areas of the RA District designation and the more intense multifamily and nonresidential or mixed-use areas and are typically found within Garner's corporate limits.

A. Residential 2 (R2)

The R2 district is established to accommodate low-density single-family homes farther away from nonresidential areas. The district encourages high-quality **development** and **open space** protection and is found further away from nonresidential areas. These low-density suburban neighborhoods may or may not include public water and sewer services, although **development** on public services at this density is not generally considered an efficient **use** of these services.

B. Residential 4 (R4)

The R4 district accommodates suburban residential **development** at a moderate density. These neighborhoods primarily consist of detached single-family **structures** or **duplexes** and require public water and sewer service as well as infrastructure to support walking and outdoor recreation.

C. Residential 8 (R8)

The R8 district is a dense, residential district with urban character and potentially a mix of low-impact nonresidential and mixed-use **structures** at select locations. House-scale multifamily units are also appropriate and add to the diversity of the neighborhood. These neighborhoods are very walkable and often border or are within a short distance of commercial or mixed-use districts where shopping, **retail**, and services exist. The R8 district may also provide a transition from more commercially active districts to lower density single-family districts.

5.5.3. Multifamily (MF-A, MF-B) Districts

These districts are designed to create and maintain dense residential neighborhoods composed primarily of **multifamily residences**, and in select locations those service, institutional, commercial, public, and other compatible **uses** that are so designed, constructed, and maintained so that they do not detract from the quality of the neighborhood as a place for healthful, quiet, and aesthetically pleasing residential living. These districts may also provide a transition between the **single-family residential** districts and more active nonresidential or mixed-use areas. Higher density **multifamily residential developments** may also require easy access to high-capacity transportation **facilities**. The density found in these districts necessitates a high-quality, walkable neighborhood with pedestrian infrastructure and private or public outdoor recreation **facilities**, although in some instances commercial and mixed-use areas may provide adequate “third places”- the social surroundings separate from the two usual social environments of home (“first place”) and the workplace (“second place”).

A. Multifamily A (MF-A)

The MF-A district is intended to primarily accommodate neighborhood-scale multifamily **dwellings**, including **duplexes**, lower-unit count **townhomes**, and other housing-scale multifamily products. Multifamily **dwellings** in this district are low impact and can fit into existing single-family neighborhoods without excessive disruption of the character of the neighborhood. Some nonresidential or mixed-use **structures** and **uses** may also occur.

B. Multifamily B (MF-B)

The MF-B district is intended to primarily accommodate more intense multifamily **uses** with larger **structures** that contain more units. **Structures** are more urban in character and are located closer to the **street** than in the MF-A District with parking generally in the rear. These multifamily **developments** generally are clustered around active areas and allow people to live closer to places where they work and play. Some nonresidential or mixed-use **structures** and **uses** may also occur.

5.5.4. Manufactured Home Park (RMH) District

The RMH **manufactured home park** district is established to provide for the **development** of **manufactured home parks** in which any **manufactured home** may be located.

5.6. RESIDENTIAL DISTRICT DEVELOPMENT STANDARDS

5.6.1. Standards for All Residential Development

A. Double frontage **lots**

Where residentially-zoned **lots** or **lots** with residential **structures** that are not mixed **use** have **streets** on both front and rear sides, they shall provide an additional setback to the **street** they do not access (i.e. – the rear of the **lot**). This additional setback shall be on top of any setbacks for the district and shall be a minimum of 20 feet for local or **collector streets**, 25 feet for arterials or thoroughfares, and 40 feet for limited access highways. Alleys or **private streets** that function as **frontage roads** must also meet this setback requirement, but the alley or **private street** is not qualified as a local or **collector street**.

B. Rear- and alley-loaded **development** is only permitted if at least 60 percent of the block length is also rear- or alley-loaded **lots**.

C. Sufficient space for formalized on-street parking, including landscaping islands and intersection bulb-outs where appropriate, is required whenever **dwelling**s are alley-loaded.

D. When **lots** are narrower than 40 feet, or where there are shared **lots** and the average **lot** size is narrower than 40 feet, alley-loaded parking is required. This is intended to prevent **driveways** that are so close together that on-street parking is not feasible.

E. Except for mixed-use **structures** with upper story residential, all front-loaded **single-family detached residential, duplex, townhome,** and house-scale **multifamily residential structures** in the RA, R2, R4, R8, MF-A, or NMX districts shall have no more than 40 percent of the **front yard** area covered by **impervious surfaces**.

F. Homeowners Association (HOA)

HOA declaration and by-law documents shall be submitted to the Town of Garner for review by the Town Attorney.

1. Such HOA documents shall have adequate provisions to ensure proper maintenance of all privately-owned areas such as, but not limited to: **open space**, recreation **facilities** and areas, **parking lot areas**, and private drives.
2. Applicants shall submit HOA documents which contain provisions addressing both proffered (as part of a **conditional zoning** district approval) and other exterior appearance and maintenance standards according to a set of architectural design criteria.
3. The HOA documents shall clearly state that the Town of Garner shall be held harmless from liability and responsibility relative to the delivery of Town services on privately owned property.

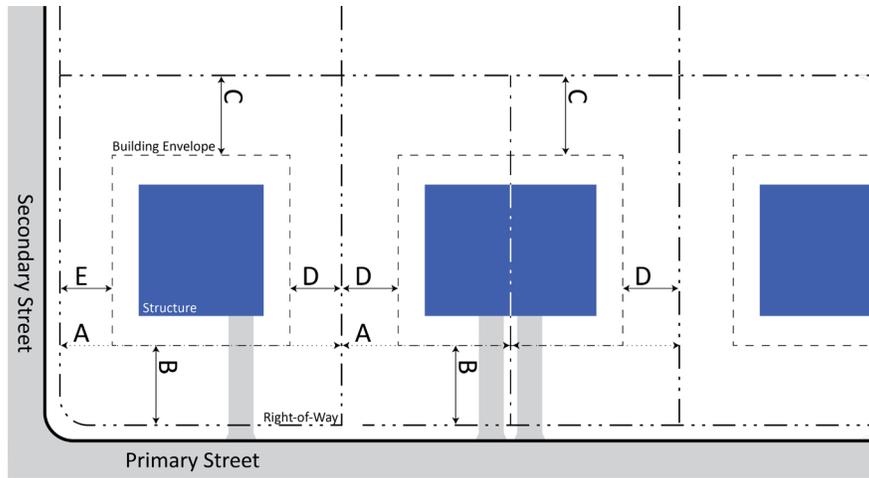
4. The HOA documents shall be recorded in the Wake County Registry prior to or concurrent with the recordation of the associated final **subdivision plat**.

5.6.2. Standards for All Single-Family Detached and Duplex Residential Development

- A. The footprint of the primary **structure** (i.e. **impervious surfaces**) may not exceed 70 percent of the **building** envelope.
- B. Where corner **lots** or **structures** on corner **lots** are side-loaded, garages shall provide a minimum of 25 feet of centerline **driveway** length from the right-of-way of the **street** they access.

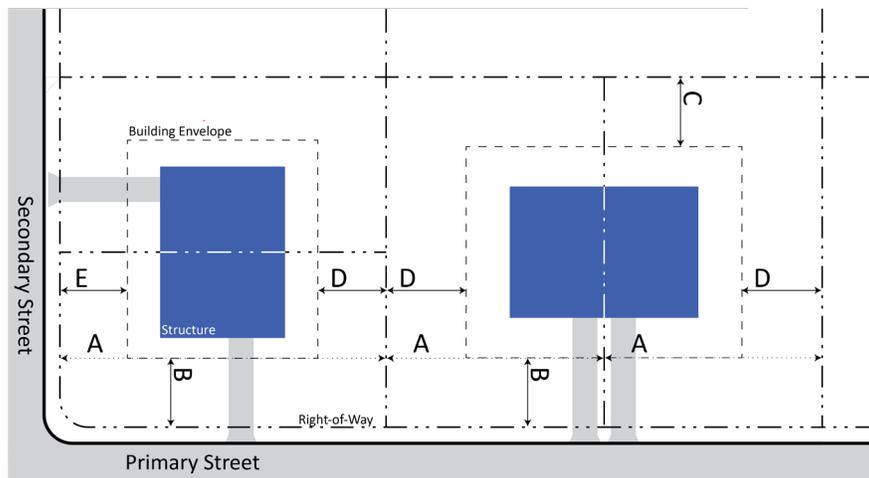
5.6.3. Single-Family Detached and Duplex Standards for Front-loaded Lots

Figure 5.6-A: Front-loaded single-family and duplex



- A = Lot width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

Figure 5.6-B: Corner and front-loaded duplexes



- A = Lot width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. **Impervious surface** associated with parking, pedestrian access, service areas, and **driveways** for front-loaded **single-family detached residences** and **duplexes** may not occupy more than 40 percent of the **front yard**.
- B. **Duplex Driveways**
1. If a shared **driveway** is used, it shall have a standard **driveway** width until it crosses the right-of-way line and then may flare out or diverge to access each individual **dwelling unit**.
 2. If a shared **driveway** is not used, the individual **driveways** shall be located close together. A planting strip may be located between the **driveways** provided that it is at least three feet wide but no more than six feet wide.
 3. **Duplexes** on corner **lots** are encouraged to have their **driveways** access separate **streets**.

Figure 5.6-C: Standards for Front-loaded Single-Family Detached and Duplexes

DIMENSIONAL STANDARDS FOR FRONT-LOADED SINGLE-FAMILY DETACHED AND DUPLEXES					
	RA	R2	R4	R8	MF-A
Minimum Lot Width; Single-family detached / Duplex (where applicable) (Feet)	100	80 / 100	60 / 80	45 / 65	45 / 60
Minimum Front Setback (Feet)	35	35	25	25	25
Minimum Rear Setback (Feet)	25	25	20	20	20
Minimum Side (Interior) Setback; Single-family / Duplex (Feet)	10	10 / 15	10 / 15	6 / 10	6 / 10
Minimum Side (Corner) Setback (Feet)	25	25	20	10	10
Maximum Height (Feet)	35	35	35	35	35
Maximum Gross Density (Dwelling Units per Acre)	1	2	4	8	20

5.6.4. Single-Family Detached and Duplex Standards for Rear- or Alley-loaded Lots

Figure 5.6-D: Rear- or alley-loaded single-family and duplexes



- A = Lot width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

Figure 5.6-E: Standards for Rear- and Alley-loaded Single-Family Detached and Duplexes

DIMENSIONAL STANDARDS FOR REAR- AND ALLEY-LOADED SINGLE-FAMILY DETACHED AND DUPLEXES			
	R4	R8	MF-A
Minimum Lot Width; Single-family detached / Duplex (where applicable) (Feet)	60 / 80	45 / 65	35 / 50
Minimum Front Setback (Feet)	10	10	10
Minimum Rear Setback (Feet)	20	20	15
Minimum Side (Interior) Setback; Single-family / Duplex (Feet)	6 / 10	6 / 10	6 / 10
Minimum Side (Corner) Setback (Feet)	20	10	10
Maximum Height (Feet)	35	35	35
Maximum Gross Density (Dwelling Units per Acre)	4	8	20

5.6.5. Standards for All Townhome and Multifamily Development

To the extent they do not conflict with G.S. § 160D-702(b), the following standards apply:

- A. **Side yards** are not required between connected **dwelling units**.
- B. **Lots** are required to front on a public **street**.
- C. **Townhome Minimum Lot Size**

There is no minimum size for individual units; density is controlled by district regulations.

- D. House-Scaled **Townhome** and Multifamily **Structures**

- 1. Defined

- The term “house-scaled” includes **townhome** and multifamily **structures** with three or four **dwelling units** up to a maximum 2,500 square foot footprint. These **structures** are specifically identified as compatible with and appropriate for integration into primarily **single-family residential** neighborhoods if the design criteria of this subsection are met. They are also appropriate as a transition to denser multifamily housing or commercial districts and may appear along the edges of predominantly **single-family residential** neighborhoods.

- 2. Design Criteria

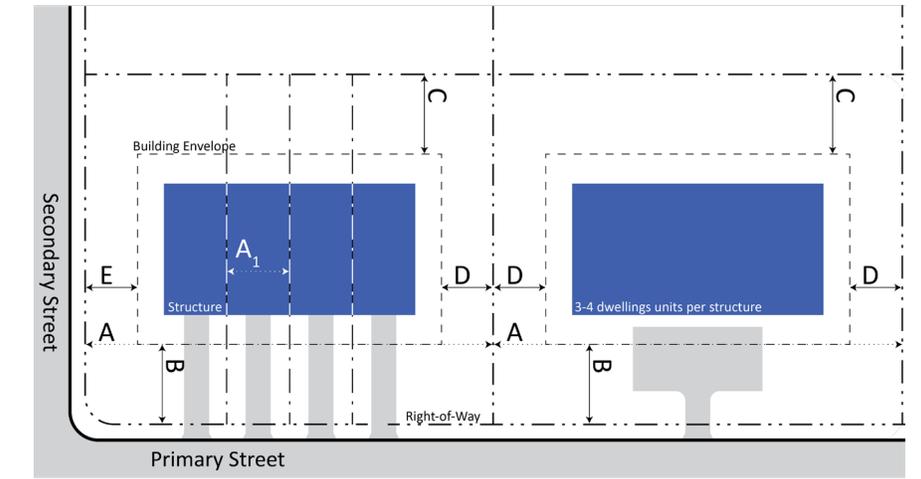
- a. In order to prevent a wind-tunnel effect, the minimum **structure** separation is regulated for all **townhome structures** and for multifamily **structures** with fewer than five **dwelling units** according to the standards set forth in the respective dimensional standards table. These standards apply whether the **structures** are on the same or separate **lots**.
 - b. Where end units have gabled, parapet, or non-hipped roofs, the side setback or **structure** separation is increased by five feet.

- E. **Upper-Story Residential**

- 1. Mixed-use **developments** shall adhere to the setback and dimensional standards for nonresidential **development** in the respective district.
 - 2. Density is the same as for multifamily **development** with greater than four **dwelling units** per **structure**, in the respective district.
 - 3. Where **upper-story residential** exists in other districts, residential density shall not be expressly limited, although it will likely be restricted by other dimensional standards within the district.

5.6.6. House-scaled Townhome and Multifamily Standards for Front-loaded Lots/Structures

Figure 5.6-F: Front-loaded house-scale townhome or multifamily



- A = Lot width**
- A₁ = Dwelling unit width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. Any parking areas in the **front yard** must be sufficiently deep enough that they do not **encroach** on the right-of-way or pedestrian ways. Garage doors shall be set back at least 25 feet from the sidewalk to allow for parking and passage of pedestrians between the parked vehicle and the **structure**.
- B. **Impervious surface** associated with parking, pedestrian access, service areas, and **driveways** for front-loaded house-scaled **townhomes** or multifamily **structures** may not occupy more than 70 percent of the **front yard**, measured as an average or aggregate for the entire **structure**.

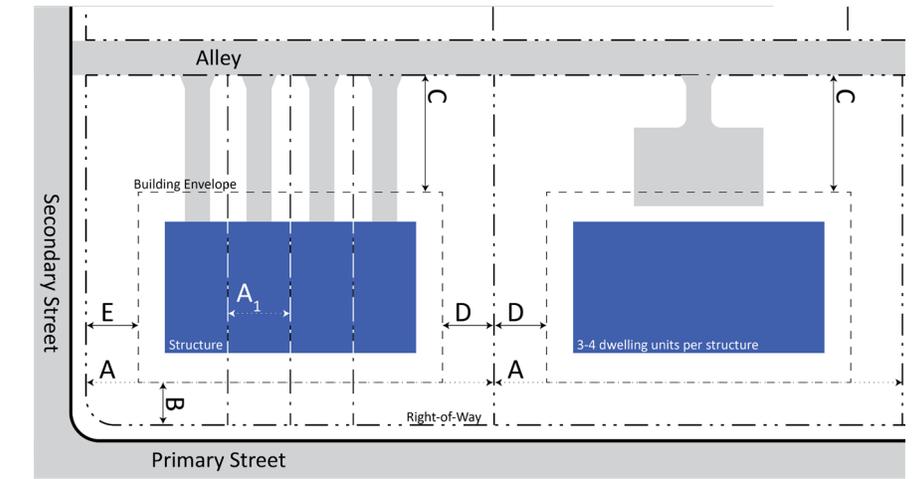
Figure 5.6-G: Standards for Front-loaded House-scale Townhomes and Multifamily Residential Structures

DIMENSIONAL STANDARDS FOR FRONT-LOADED HOUSE-SCALE TOWNHOMES AND MULTIFAMILY RESIDENTIAL STRUCTURES			
	R4	R8	MF-A, NMX, CMX
Minimum Lot Width for the whole structure; 3 units / 4 units (Feet)	110 / 120	110 / 120	110 / 120

DIMENSIONAL STANDARDS FOR FRONT-LOADED HOUSE-SCALE TOWNHOMES AND MULTIFAMILY RESIDENTIAL STRUCTURES			
Minimum width for each dwelling unit (Feet)	16	16	16
Minimum Front Setback (Feet)	25	25	25
Minimum Rear Setback (Feet)	20	20	20
Minimum Side (Interior) Setback (Feet)	15	15	15
Minimum Side (Corner) Setback (Feet)	20	15	15
Maximum Height (Feet)	35	35	35
Maximum Gross Density (Dwelling Units per Acre)	5	10	20
Note: Front-loaded House-scale Townhomes are not permitted in the MF-B district			

5.6.7. House-Scaled Townhome and Multifamily Standards for Side-, Rear-, or Alley-Accessed Lots/ Structures

Figure 5.6-H: Rear- or alley-loaded house-scale townhome or multifamily



- A = Lot width**
- A₁ = Dwelling unit width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- A. Alley-loaded **townhomes** shall have parallel, on-street parking in the front. If the **townhomes** are fronting a central green or common courtyard with no vehicular accommodation areas (VAA), then an equivalent number of **parking spaces** shall be provided in an accessible, adjacent, off-site parking location.

Figure 5.6-I: Standards for Alley- or Rear-loaded House-scale Townhomes and Multifamily Residential Structures

DIMENSIONAL STANDARDS FOR FRONT-LOADED HOUSE-SCALE TOWNHOMES AND MULTIFAMILY RESIDENTIAL STRUCTURES				
	R4	R8	MF-A, NMX, CMX	MF-B
Minimum Lot Width for the whole structure; 3 units / 4 units (Feet)	110 / 120	90 / 100	75 / 95	55 / 70
Minimum width for each dwelling unit (Feet)	16	16	16	16
Minimum Front Setback (Feet)	10	10	10	10
Minimum Rear Setback; from rear lot line and alley; primary structure / attached garage (Feet)	25 / 6	20 / 6	15 / 6	15 / 6

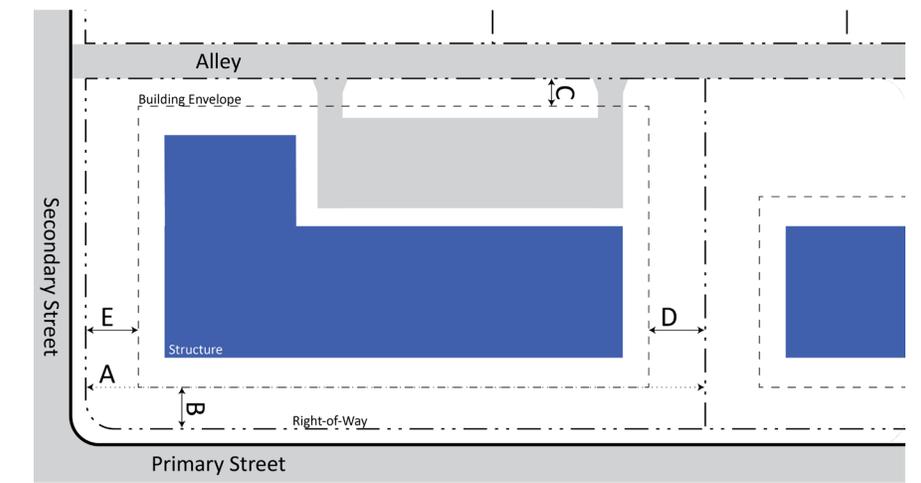
DIMENSIONAL STANDARDS FOR FRONT-LOADED HOUSE-SCALE TOWNHOMES AND MULTIFAMILY RESIDENTIAL STRUCTURES

Minimum Side (Interior) Setback (Feet)	15	15	6	6
Minimum Side (Corner) Setback (Feet)	20	10	10	6
Maximum Height (Feet)	35	35	35	45
Maximum Gross Density (Dwelling Units per Acre)	5	10	20	50

5.6.8. Townhome and Multifamily Standards for Lots/ Structures with More than Four Dwelling Units per Structure or Others Not Described Elsewhere

- A. The following standards apply to **townhome** and multifamily **developments** of greater than four **dwelling units** per **structure** or with a footprint greater than 2,500 square feet, where permitted, or to other multifamily **structures** not regulated elsewhere in this Article.

Figure 5.6-J: Large-scale townhome or multifamily structure



- A = Lot width**
- B = Front setback**
- C = Rear setback**
- D = Side (interior) setback**
- E = Side (corner) setback**
- Dashed line = Potential building envelope, as defined by setbacks**
- Dash/dot/dot/dash line = Right-of-way**
- Dash/dot/dash line = Potential/optional lot line for duplex/multifamily**

- B. Wherever **townhome** and multifamily **structures** with more than four **dwelling units** per **structure** but **single-family detached residential** or **duplex structures**, the adjoining minimum setbacks shall be increased by 10 feet.
- C. In all districts, the maximum **building** height at any given point may be increased by up to 12 additional feet at a rate of one foot in height for every additional one foot of setback from all property lines.

Figure 5.6-K: Dimensional Standards for Townhomes and Multifamily Residential Structures Not Regulated Elsewhere

DIMENSIONAL STANDARDS FOR TOWNHOMES AND MULTIFAMILY RESIDENTIAL STRUCTURES NOT REGULATED ELSEWHERE			
	MF-A, NMX	CMX	MF-B
Minimum Lot Size, for the first five dwelling units (Feet)	24,000	24,000	24,000
Minimum Lot Width, per structure (Feet)	60	60	60
Minimum Front Setback (Feet)	10	10	10
Minimum Rear Setback; from rear lot line / alley (Feet)	20 / 10	20 / 10	20 / 10
Minimum Side (Interior) Setback (Feet)	10	10	6
Minimum Side (Corner) Setback (Feet)	10	10	6
Maximum Height (Feet)	35	45	60
Maximum Gross Density (Dwelling Units per Acre)	20	30	50

5.6.9. Nonresidential Development in Residential Districts

- A. Nonresidential **development** in residential zoning districts shall **use** the dimensional standards for front-loaded single-family detached and **duplexes** (*Section 5.6.3.*) or for rear-loaded single-family detached and **duplexes** (*Section 5.6.4.*) as applicable.
- B. Any parking areas shall be screened to a height of four feet. Screening may be accomplished with a high evergreen hedge, a decorative masonry wall, opaque **fencing**, or a combination thereof.
- C. Service areas, **loading areas**, and mechanical areas shall be screened from abutting residential **lots** by a minimum six-foot tall opaque privacy **fence**.
- D. See *Article 6.* for specific **use** standards.

5.7. DEVELOPMENT STANDARDS FOR ALTERNATIVE SINGLE-FAMILY OPTIONS

The following alternative **single-family residential** options are permitted subject to the associated standards.

5.7.1. Zero Lot Line

A. Description

A zero **lot** line **development** is where houses in a **development** on a common **street** frontage are shifted to one side of their **lot**. This provides for greater usable **side yard** space on each **lot**. These **developments** require that planning for all of the house locations be done at the same time. Since the exact location of each house is predetermined, greater flexibility in site **development** standards are possible while assuring that a **single-family residential** character is maintained.

B. Setbacks

The side **building** setback may be reduced to zero on one side of the **lot**. This reduction does not apply to any corner side setback or to an interior side setback adjacent to **lots** that are not part of the zero **lot** line **project**. The reduced interior side setback may be located anywhere between the **lot** line and the minimum interior side setback required for the district. The remaining minimum **side yard** setback (interior or corner) shall be increased by one foot for every foot reduced on the zero **lot** line side.

C. Deed Restrictions and Easements

1. The minimum distance between **buildings** must be equal to twice the required interior side setback required by the underlying zoning district. A deed restriction must be recorded on the deed of each applicable **lot** to ensure continued compliance with this setback.
2. The eaves on the side of a house with a reduced setback may **project** a maximum of 18 inches over the adjacent property line. In this case, an easement for the eave projection must be recorded on the deed for the **lot** where the projection occurs.
3. An easement between the two property owners to allow for maintenance or repair of the house is required when the eaves or side wall of the house are within four feet of the adjacent property line. The easement on the adjacent property must provide at least five feet of unobstructed space between the furthestmost projection of the **structure** and the edge of the easement. The easement shall be recorded on the **subdivision plat**.

5.8. NONRESIDENTIAL AND MIXED-USE DISTRICT PURPOSE STATEMENTS

5.8.1. Neighborhood Mixed Use (NMX) District

This district is intended to accommodate low intensity commercial enterprises that provide goods or services primarily to residents of the surrounding neighborhood so that residents have convenient access without necessitating cross-town trips. The **uses** permitted are of a nature and scale that are compatible with nearby residences. The district provides areas for **uses** that include offices, **professional services**, and small-scale **retail** at key locations and may act as a transition from residential neighborhoods to the more intense Commercial Mixed **Use** district.

5.8.2. Commercial Mixed Use (CMX) District

This district is designed to accommodate general commercial, **retail**, and service activities that serve the whole community. Offices and very **light industrial uses** may also be appropriate depending on the context. This district serves a wide range of users and may draw customers from outside of the town. It must have good automobile access and access to transit is preferred. Pedestrian connectivity is also important.

5.8.3. Traditional Business District (TBD)

This district is intended to provide a character-rich, concentrated, traditional downtown-style district with active storefronts, **retail**, and services. Residential **dwellings** and non-active **uses** (like professional offices) are encouraged in upper stories, so people can live in the district where they work or play. Residential **dwellings** and non-active **uses** are also allowed in either vertical mixed-use **structures** or on the edge of the district, where they provide a transition to a lower intensity **use**. Ground floor **uses** should be active and should not include residential, except as a lobby. This district is very urban and walkable, with **structures** pulled close to the **street**. On-**street** parking and outdoor seating or **sales** are also common.

5.8.4. Activity Center (AC) District

The Activity Center district is designed to encourage dense, walkable, mixed-use **development** of the type that would support future public transportation operations or allow for intensification or **redevelopment** of existing nonresidential **uses**, including commercial, **retail**, service, and employment **uses**. Vertical mixing of **uses** is encouraged, with emphasis on active ground floor **uses**. This extremely dense and intense district will create a focal point around which other relatively intense districts emanate. High-rise **towers** and block-scale **redevelopment projects** are expected.

5.9. NONRESIDENTIAL AND MIXED-USE DISTRICT STANDARDS

5.9.1. Nonresidential Development Standards

- A. The following table illustrates the dimensional standards that apply in the Town’s commercial, mixed **use**, and **industrial** districts.

Figure 5.9-A: Nonresidential Development Standards

STANDARD	NMX	TBD	CMX	AC	LI	HI
Lot width, Minimum (Feet)	45	None	60	30	100	100
Minimum Front Setback (Feet)	25	3	15	3	50	50
Minimum Rear Setback (Feet)	20	15	25	6	50	50
Minimum Alley Setback (Feet)	6	6	6	6	6	6
Minimum Side (Interior) Setback (Feet)	10	0	10	6	25	25
Minimum Side (Corner) Setback (Feet)	15	3	15	3	35	35
Maximum Height	35	55	45	No limit	50	60
Density Maximum for Upper Story Residential (Dwelling units per acre)	20	30	30	No limit	n/a	n/a

- B. **Buildings** in the LI and HI districts may exceed the designated maximum height limit, provided the depth of the required front, rear and **side yards** shall be increased one foot for each foot, or fraction thereof, of **building** height exceeding the standard.
- C. **Buildings** in the CMX district may exceed the designated height limit via a **special use permit**, provided the depth of the required front, rear and **side yards** shall be increased by a minimum of 0.5 feet for each foot, or fraction thereof, of **building** height exceeding the standard, or that the **building** may be designed with a stepped profile to achieve the same outcome.

5.10. INDUSTRIAL DISTRICT PURPOSE STATEMENTS

The following districts are established primarily to accommodate enterprises engaged in the **manufacturing**, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment. These districts serve the entire community (and beyond) as employment centers. Achieving compatibility between these **uses** and less intense **uses**, especially residential **uses**, often requires separation via other districts and **uses**, or extensive landscaping, screening, and buffering.

5.10.1. Light Industrial (LI) District

The **Light Industrial** District is intended to provide for a limited range of low-intensity **industrial uses** that are not noxious or offensive due to odors, smoke, dust, noise, fumes, or vibration. Operations are restricted to inside a **building** with **outdoor storage** prohibited.

5.10.2. Heavy Industrial (HI) District

The Heavy **Industrial** District is intended to provide for **industrial uses** that are, by their very nature, generally more noxious or offensive due to odors, smoke, dust, noise, fumes, or vibration. Operations may be inside or outside of a **building**.

5.11. **CONDITIONAL ZONING DISTRICT PURPOSE STATEMENT**

Conditional zoning districts (CZs) are essentially an expedited route to enact a combined rezoning and ordinance **text amendment** to this UDO for a specific property or group of properties which by their uniqueness or by the uniqueness of the proposed **development** plan do not easily fit into the existing zoning districts. The options and specifications for **conditional zoning** districts are specified in **Article 4.**, and each new CZ is essentially a new appendix to this UDO. **Development** in CZs is made compatible with surrounding **uses** and zoning districts through the designation of additional **use** restrictions or heightened, more stringent dimensional and design standards.

5.12. FLOATING DISTRICT PURPOSE STATEMENTS

5.12.1. Manufactured Home (-MH) Floating District

A. District Established

The **manufactured home** floating district is hereby established to provide for the designation of areas within select residential zones other than RMH within which **manufactured homes** may be located. When the regulations and standards of this Section are met, the suffix -MH is attached to a base residential zone on the Town's official zoning map. Without an -MH designation, a **manufactured home** cannot be placed in any residential zone except RMH. Such -MH designated districts may not consist of an individual **lot** or scattered **lots** but shall consist of a defined area of not less than two acres and must conform to the requirements for conventional residential **subdivisions** as set forth in **Section 5.6.**, as well as those contained herein.

B. Purpose and Intent

This section is established to provide alternative, affordable housing opportunities for Garner and its **planning jurisdiction** by permitting the **use of manufactured homes** in selected **single-family residential** zoning districts, subject to the requirements set forth herein.

C. Development Standards

The **development** standards applicable to **manufactured homes** are located in **Article 6.**

D. Additional Requirements

Structures within a district suffixed as a **manufactured home** district (-MH), must conform to the applicable dimensional, parking, and setback requirements of this Article, and specifically those applicable to their underlying base zoning district. Developed **subdivisions** containing other than **manufactured homes** when rezoned with the -MH suffix may infill with either Class A manufactured, stick built, or modular homes.

5.13. CONSERVATION OVERLAYS

5.13.1. Conservation Buffer Area (CBA) Overlay District

A. Purpose and Intent

CBAs are designated for the following purposes:

1. Soil and pollutants carried overland, primarily from roads, construction and **development**, can be effectively trapped by leaving a relatively undisturbed strip of vegetation parallel and adjacent to the **watercourse**;
2. Properly managed overland water flow can be directed into this **buffer** area in a manner that will reduce velocity and cause dispersion of the water;
3. Sediments and associated pollutants carried by the water will settle out as a result of this slowing and dispersion process; and
4. These are highly desirable effects of **stream** and **watershed** protection in that non-point pollution, erosion and sedimentation, and the resulting property damage and devaluation, are so reduced.

B. Areas Designated

1. The CBAs located within the Town of Garner are not expressly mapped on the official zoning map. These provisions do not create a new zoning district; rather, they overlay whatever zoning is in place.
2. This section shall apply to property within 100 feet of any FEMA-designated 100-year **floodplains**, and if a future extraterritorial expansion includes any designated 100-year **floodplain**, such **floodplain** shall automatically be included.
3. Exception

The CBA requirements for nonresidential **development** shall not apply for property located adjacent to the White Oak Creek 100-year **floodplain**; however, where residential **development** adjoins the White Oak Creek 100-year **floodplain**, a CBA shall still be required according to the provisions of this Section.

C. Limitations on **Development** in Conservation **Buffer** Areas

1. Except for **single-family detached residential** on existing **lots** platted prior to March 1984, **development** is prohibited in both the **floodplain** and the CBA.
2. **Development** within and adjacent to the CBAs shall be subject to the following **buffer** width criteria:
 - a. Along the lakefront or **streams** within 5,000 feet of the Lake Benson shoreline, the **buffer** area shall include the 100-year **floodplain** plus an area whose width is proportional to its

distance from Lake Benson, beyond the edge of the **floodplain** and parallel to the **stream**, as follows:

Figure 5.13-A: Development Lakefront Buffer

DISTANCE FROM LAKE BENSON	BUFFER
Lakefront and within 1,000 feet of lakefront	100 feet
1,000 to 2,000 feet from lake	90 feet
2,001 to 3,000 feet from lake	80 feet
3,001 to 4,000 feet from lake	70 feet
4,001 to 5,000 feet from lake	60 feet

- b. Along **streams** beyond 5,000 feet from the lakefront, the **buffer** area shall include the 100-year **floodplain** plus a 50-foot-wide area beyond the edge of the **floodplain** and parallel to the **stream**.
 - 3. Application of CBAs shall not diminish other riparian **buffer** requirements.
 - 4. **Buffers** from which the vegetation cover has been removed shall be provided with ground cover.
 - 5. Crossings by **streets**, bridges, utilities, or other **facilities** shall be kept at a minimum and their negative impact minimized.
 - 6. Residential accessory **buildings**, on **lots** of record prior to March 1984, may **encroach** into designated conservation **buffers** provided that:
 - a. Such **buildings** shall not exceed 25 percent of the area of the **principal building** served;
 - b. Such accessory **building** shall not be located in any designated **floodway**;
 - c. Placement of an accessory **building** in a **flood** fringe area shall meet all applicable construction requirements; and
 - d. The area of the **lot** covered by **impervious surfaces**, including the accessory **building**, shall not exceed 25 percent.
 - 7. **Buffers** shall be protected by easements and shall remain, where possible, in private ownership.
- D. Land Disturbance Limits in Conservation **Buffer** Areas
- 1. No land-disturbing activities (including agricultural **uses**) are permitted within CBAs, except for the following **uses**:
 - a. **Street** and associated **facilities**.
 - b. Greenways and pedestrian paths.

- c. Utility mains, **pump stations**, and drainage **facilities** which comply with Town of Garner standards.
2. Community service **facilities**, educational **facilities**, government **facilities**, **parks** and **open space uses**, or public or private water dependent **structures (functionally dependent facilities)** may **encroach** into CBAs provided that:
 - a. The area of **encroachment** does not exceed 10 percent of the total **buffer** area on the **project** site and a minimum of 40 feet of the **buffer** width remains undisturbed;
 - b. The area of **encroachment** is the minimum amount necessary in order to reasonably **use** the property;
 - c. No direct discharge of **stormwater** into the **buffer** from rooftops is allowed;
 - d. No VAAs are allowed within the **buffer**;
 - e. The elevation of all finished floors of all **structures** located within the **buffer** shall be a minimum of two feet above the **base flood elevation**; and
 - f. No **encroachment** into the **floodplain** or **floodway** shall be allowed except for water dependent **structures** and then only in accordance with the requirements and restrictions contained within **Article 11**.
3. Throughout the Lake Benson Conservation Overlay District (**Section 5.13.2**.) and CBAs, strict compliance with the Wake County Erosion and Sedimentation Control Ordinance is required. No construction is allowed in classes of soils which have severe erosion potential, or are classified as being otherwise unsuitable for urban **uses**, under the Urban Suitability Soil Groups in the Planning Guide to the Wake County Soil Survey (1970), unless the **developer** can provide either of the following:
 - a. An independent (sealed) engineering study which documents that the soils to be developed are not in the stated erosion categories, or
 - b. Erosion prevention control measures that satisfy the Wake County Erosion and Sedimentation Control Ordinance.

5.13.2. Lake Benson Conservation (LBC) Overlay District

A. Purpose and Intent

The Council finds that Lake Benson, as a water supply for the Raleigh water service area, which includes Garner, is sensitive to and more quickly impacted by pollutants set into the system by **development** or other pollution sources. Protection of the lake from non-point pollution sources is the intent of the provisions of this Section.

B. Lake Benson Conservation Overlay District Boundary

That portion of the **watershed** which was made subject to **watershed** protection regulations known as the LBC overlay district effective March 1, 1984, as shown on maps previously adopted and reflecting approximately that area within 2,000 feet of the northern shoreline of Lake Benson, shall constitute the LBC overlay district for purposes of this UDO. This boundary of this district aligns with the WSW **Critical Area** surrounding Lake Benson, as defined by the current NCDENR Division of Water Resources map.

C. Exemptions

All **lots** platted prior to March 1, 1984, are exempt from the requirements of LBC.

D. Limitations on **Use**

1. Permitted **uses**

Within the LBC, only the following **uses** are permitted:

- a. **Agriculture.**
- b. Residential (meaning only the following **uses** as listed in **Article 6, Table of Permitted Uses**):
 - i. Single-family residences; other than **manufactured home parks** or **manufactured home subdivisions**.
 - ii. **Duplex** and triplex.
 - iii. **Multifamily residences.**
 - iv. **Townhouses** and **townhouse developments.**
- c. Churches.
- d. Cemeteries.
- e. **Public parks** including ancillary concessions.
- f. **Community centers.**
- g. Indoor and outdoor recreation.
- h. **Home occupations.**
- i. **Zero-lot-line developments.**
- j. Necessary municipally owned and operated utilities.
- k. Individual residential wastewater holding tanks (sump pumps) and conventional septic tanks, subject to the other provisions.

2. Density

Within the LBC, density shall not exceed:

- a. 2.5 residential units per acre where the **development** is served by municipal water and sewer.
- b. 0.5 units per acre where there is no municipal water and sewer.

E. **Master Plan** Required

A **master plan** detailing the distribution of units and improvements across the total **development**, shall be presented as part of application for land **use** permits. Where possible, **developers** shall **use** innovative site planning techniques to keep units away from the lakefront, **streams**, and other sensitive areas. Such techniques include but are not limited to cluster **development** patterns, mixtures of zoning categories, strategic location of densities so that larger and less densely developed **lots** are closer to the lakefront and creative **use** of greenways and **open space**.

F. Performance Standards

1. Within the LBC, the **impervious surface** may not exceed six percent of land area per **lot**, except where runoff as described above is retained by retention ponds or other approved devices constructed pursuant to **best management practices** in which case it may not exceed a maximum of 35 percent.
2. Within areas of the LBC not constituting CBAs, site disturbance on existing **lots** of record as of March 1, 1984, except for agricultural **use**, including the cutting of trees, shall be permitted only pursuant to a removal plan approved by the **Planning Director** and the cutting of trees shall not exceed five times the actual **impervious surface** area planned for each site.

G. **Impervious Surface** Limits

1. Within the LBC, in order to reduce **stormwater** pollution through natural infiltration on undisturbed vegetated land, the **impervious surface** area may not exceed six percent regardless of **lot** size or density, except where the **stormwater** runoff from a one-inch rainfall event is retained by retention ponds or other approved devices.
2. **Impervious surface** area within the LBC may be a maximum of 35 percent under the high-density **development** option where the **stormwater** runoff from a one-inch rainfall event is retained by retention ponds or other approved devices.
3. **Stormwater** retention may be accomplished by paying a fee-in-lieu of pond construction if the proposed **development** is within the Regional Retention Pond Service District and meets the requirements of **Section 11.3.2**.
4. The calculation of the **impervious surface** ratio contained in **subdivisions** or other **developments** required to apply for **major subdivision** approval, **special use permits**, or **conditional zoning** districts shall include impervious areas from all newly proposed collector and sub-collector **streets**, **parking lots** and tennis courts

as well as **buildings, driveways**, patios, decks and other **impervious surfaces**.

5. The calculation of **impervious surface** ratios shall not include roads that were publicly maintained prior to March 1, 1984.
6. The calculation of **impervious surface** ratios may be based on the land area of the **lots** and any common areas, rights-of-way and easements dedicated pursuant to the **development** of the tract.
7. Where the **project** is developed in phases, with separately recorded survey **plats**, the area to which the calculation is applied shall consist of that area within the recorded **plat**. Such phases shall be based upon natural or proposed drainage where practicable. The designation of a phase shall have as its objective the principle of not overloading one drainage way with run-off from high **impervious surface** ratios while underutilizing the capacity of other drainage ways. Approval of the Town Engineer is required for designation of each phase used in this calculation to ensure that the loading of drainage ways is balanced.
8. **Front yards. Impervious surface** shall occupy no more than 40 percent of the required **front yard**.

H. Standards for **Stormwater** Drainage System

Standard 90-degree curb and gutter construction is not allowed in the LBC. Streets with properly maintained grass swales or roll type curb and gutter construction may be allowed in the LBC overlay as an option by the Town Council if it concludes that regardless of **street** design used, surface run-off is diverted to permanent retention ponds constructed in accordance with the requirements of this UDO and the proposed design protects the water quality of Lake Benson.

5.13.3. Lower Swift Creek Conservation (LSC) Overlay District

A. Purpose and intent

The purpose of these regulations is to protect and preserve the water quality of the Lower Swift Creek **Watershed** below Lake Benson while allowing the orderly **development** of land in this environmentally sensitive area. It has been determined by federal and state agencies that this **watershed** area provides significant wildlife, aquatic, or plant life habitats that possess characteristics unique to the Town of Garner. It is the intent of these regulations to protect the water quality in this **watershed** by requiring limits on the amount of **impervious surface** areas permissible for new residential and non-residential **development**.

B. Location

The portion of the Lower Swift Creek **Watershed** that is subject to these protection standards is located below Lake Benson in the Town

of Garner’s zoning jurisdiction generally bounded by Garner Road, N.C. 50, New Rand Road, White Oak Road, and the southern Garner **ETJ** boundary. The exact boundaries are shown on the Official Town of Garner Zoning Map which constitute the official boundaries of the LSC overlay district where these provisions shall apply for purposes of this UDO.

C. **Use Regulations**

The **uses** permitted or prohibited in the LSC shall be those **uses** permitted or prohibited in the underlying zoning district that apply to a particular parcel of land.

D. **Exemptions**

All parcels of land that fall within the boundaries of the LSC which are identified on the Town of Garner Official Zoning Map as being exempt properties, shall not be subject to provisions of this overlay district.

Existing **Development, Redevelopment** and Expansions

Existing **development** (residential or non-residential) is not subject to the requirements of this Section. Existing **development** shall be considered to be any existing **impervious surfaces**, or for which plan or permit approval has been officially granted; or where a **vested right** has been established, as of May 31, 2005.

Redevelopment or expansion of any existing non-residential **development** shall be subject to the requirements of this Section; however, the **impervious surface** coverage of the existing **development** is not required to be included when applying the **impervious surface** coverage limits of this Section.

E. **Development Standards**

The following standards shall apply for new residential and non-residential **development** in the LSC:

1. The standards of both the LSC overlay district and the underlying zoning district shall apply to each parcel. Where the standards of the overlay district and the underlying district differ, the more restrictive standards shall control **development** in new **projects** created after effective date of the LSC which is May 31, 2005.
2. The maximum **impervious surface** coverage of the new residential **development projects** and new non-residential **development projects**, which are defined as those **projects** approved or permitted after May 31, 2005, are as follows:
 - a. New **single-family detached residential subdivision development projects** shall be limited to a maximum of 30 percent total **impervious surface** area.

- b. New **multifamily residential development projects** defined to include **townhomes**, condominiums, apartments, or other attached multifamily housing units shall be limited to a maximum of 50 percent total **impervious surface** area.
- c. New non-residential **development projects** shall be limited to a maximum of 70 percent of total of **impervious surface** area.

5.14. TRANSPORTATION CORRIDOR OVERLAYS

5.14.1. Residential Thoroughfare (RTO) Overlay District

A. Purpose and Intent

In the interest of the public health, safety, and welfare, the Town Council seeks to maximize vehicular and pedestrian mobility along the Timber Drive and Timber Drive East corridors. The Council establishes the Residential Thoroughfare Overlay District to:

1. Preserve the character of residential neighborhoods.
2. Locate quality commercial **uses** in areas recommended by the **Comprehensive Plan**.
3. Promote a pleasing physical environment where nature and **development** exist in harmony.

B. Location

The RTO shall apply to:

1. The entire length of Timber Drive from U.S. 70 to N.C. 50 for a depth of 250 feet from the right-of-way line on both sides including all of the property that has frontage on Timber Drive from N.C. 50 to U.S. 70. In cases where any portion of a **building** or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all other **buildings** and parking areas.
2. The segment of Timber Drive East from N.C. 50 to White Oak Road including all of the property with frontage on Timber Drive East from N.C. 50 to White Oak Road as defined by the Official Zoning Map. In cases where any portion of a **building** or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all other **buildings** and parking areas.

C. Use Regulations

Unless otherwise restricted below, all **uses** allowed by the underlying zoning district are permissible in the RTO, provided all requirements and permits as required by this UDO are satisfied.

1. Restricted **Uses**

The following **uses** are permissible in the RTO provided they meet special standards listed below and as specified in Article 6. In the case of conflict, the more stringent requirement shall apply.

- a. Open storage and operations are restricted to only those activities associated with a garden center **use** operated in conjunction with a home improvement center or a large **retail** store provided the location of outside storage is sufficiently screened from public **street** views with a minimum 25-foot wide Type D **buffer** (see **Section 10.6.7.**). The amount of outside

- storage areas is limited to 25 percent of the **gross floor area** of principal **use** served.
- b. Fast food **restaurants** with drive-through window operations are permitted only when such drive-through window service areas are not visible from **street** views.
 - c. **Convenience store** or gas **sales** operations are permitted that meet the following design criteria:
 - i. Operations are exclusively between 5:00 a.m. and 11:00 p.m. when the site is adjacent to residential **uses** or separated by only a right-of-way;
 - ii. The **principal building** shall have a pitched roof with shingle roof material; and
 - iii. Gas **sales** operations, which may include a small kiosk or enclosed **structure** not exceeding 300 square feet in size that is not designed for walk-in traffic, may be allowed in the RTO, provided that the site does not front directly on Timber Drive or Timber Drive East and the **building/canopy** is located a minimum of 200 feet from Timber Drive or Timber Drive East.
 - d. **Vehicle service** is permitted that meets the following design criteria:
 - i. **Vehicle service** is permissible on parcels located within the RTO that directly front along the thoroughfare only;
 - ii. All service bay(s) associated with **uses** shall be oriented so as not to directly face the arterial or adjoining residential **use**; and
 - iii. A year-round, opaque, 100 percent screen to a minimum height of eight feet shall be required where the property directly adjoins a residential **use**.
2. Prohibited **Uses**
- The following **uses** are prohibited in the RTO:
- a. **Hotel and motels.**
 - b. **Sales** and rental of goods, merchandise and equipment with storage operations and display of goods outside fully enclosed **building.**
 - c. Offices, clerical operations, research, and services not primarily related to goods or merchandise where operations are conducted outside a fully enclosed **building.**
 - d. **Manufacturing**, processing, creating, repairing, renovation, painting, cleaning, assembling of goods, merchandise and equipment.

- e. Pool halls.
- f. Golf driving ranges (not accessory to golf courses), miniature golf courses, skateboard **parks**, water slides and similar **uses**.
- g. Drive-in movie **theaters**.
- h. **Bars, nightclubs**, ABC permitted private clubs.
- i. Adult cabarets and establishments.
- j. **Vehicle sales**, rental or repair.
- k. Storage and parking.
- l. Scrap materials, **salvage yards, junkyards**, automobile graveyards.
- m. Service and enterprises related to animals with outside **facilities** for keeping animals.
- n. Mining or quarrying operations; including on-site **sales** of products; coal or aggregate **sales** and/or storage; concrete mixing plant.
- o. Reclamation **landfill**.
- p. **Towers** and **antennas** greater than 35 feet tall.
- q. **Open air markets**.
- r. Bus stations.
- s. Taxi base operations.
- t. Commercial **greenhouse** operations.
- u. **Recyclable material collection centers**.
- v. **Flex spaces**.
- w. Outdoor **entertainment facilities**.
- x. **Jail/detention facility**.
- y. **Self-storage facilities**.
- z. **Solar farms**.

D. Land Disturbing Activities

1. All **development** plans submitted under this UDO shall show a construction limit line delineating protected **buffer** areas and any tree save areas intended for the property. Protective orange **fencing**, surrounding all protective **buffer** areas plus 10 feet and around tree save areas at the drip line, shall be installed prior to construction. Any cutting or clearance within an approved protected **buffer** or tree save areas shall be subject to a fine of \$5.00 per square yard of area in the protected **buffer** or tree save area that has been prematurely denuded.
2. No minor clearance of the existing vegetation within an approved, protected **buffer** area or tree save area to be retained on the

property shall be allowed until after construction on the parcel is completed and upon approval by the **Planning Director**.

3. Logging or timbering activities on properties within the corridor are limited to the interior portions of the **lot** exclusive of required **buffer** areas.
4. Land **development** activities such as, but not limited to, site grading, **buildings**, and VAAs, shall be excluded from the perimeter area of **lots** in order to protect existing trees and vegetation in required **buffer** areas.
5. Any grading or clearing (including removal of stumps) on land within the overlay district, not part of a **development** proposal, requires **site plan** approval by the Town of Garner prior to any such activity on the site. All such activities shall be consistent with the standards of this UDO.

E. **Street Access**

The existing access location standards set forth in this UDO shall govern **driveway** locations. Deviations recommended by the Town Engineer and the NCDOT may be allowed.

F. **Design Standards**

The following design standards shall apply to all new **development** within the RTO:

1. **Building Height**

The maximum **building** height for **development** located in the RTO is 35 feet. **Buildings** in districts that would otherwise allow taller **buildings** may exceed the designated maximum RTO height limit, provided the depth of the required front, rear and **side yards** shall be increased one foot for each foot, or fraction thereof, of **building** height exceeding the overlay standard.

2. **Building Setback from Right-of-Way**

The **building** setback shall be 35 feet from the right-of-way line. A build-to line of 20 feet is permitted when no vehicle surface areas are located in front of the **building**. For all other **building** yard setbacks, the applicable underlying zoning standards shall apply.

G. **Landscaping Standards**

In addition to complying with all the general landscape standards in the Garner UDO, new **development** must meet the following standards:

1. Construction limit lines shall be shown on all site **development** plans. Approved undisturbed areas shall be protected on the ground with orange **fencing** and shall be installed prior to the issuance of a **building** permit. Such **fencing** shall be maintained during the entire time of construction.

2. Existing healthy vegetation may be incorporated into the landscaping plan on a one-for-one basis provided that all other criteria of this UDO are met.
3. **Street Buffer** Requirements
 - a. General
 - i. An undisturbed **street buffer** along Timber Drive and Timber Drive East shall be required. Minor underbrush clearing is permissible only.
 - ii. The **street buffer** shall extend 50 feet along corner side **streets** and 40 feet along all entrances to new **development**.
 - iii. The **use** of native or locally adaptable species is required.
 - b. Residential Street **Buffer**
 - i. Residential **subdivisions** and unsubdivided **developments** with frontage along the right-of-way of Timber Drive and Timber Drive East shall maintain a 25-foot undisturbed **buffer**.
 - ii. No **fencing** shall be allowed within the 25-foot **buffer** area. **Fences** shall not be allowed along property frontages with Timber Drive and Timber Drive East unless they are of uniform height and design.
 - iii. Required landscape planting within the residential **street buffer** shall consist of one **street tree** (minimum 10 feet tall with a two-inch **caliper** at installation) for every 40 feet of **street** frontage, with a combination of vegetation and/or earthen berms to achieve a 100 percent screen to a height of four feet.
 - c. Nonresidential Street **Buffer**
 - i. A 20-foot undisturbed **street buffer** along Timber Drive and Timber Drive East shall be required. Minor underbrush clearing of an undisturbed **street buffer** is permissible only with pre-approval from the Planning Department. Where existing trees and vegetation are retained that qualify according to the terms of this UDO regarding types, sizes, locations, and are healthy species as determined by the Planning Department, they may be substituted for the landscaping requirements on a one-for-one basis.
 - ii. One **street tree** shall be provided for every 40 feet of frontage. Such tree shall be a minimum of 12 feet tall with a two-and-one-half-inch **caliper** at installation.
 - iii. All VAAs visible from Timber Drive must provide landscape screening that achieves a 100 percent screen of the VAA

to a minimum height of three feet within three years of installation.

d. **Street Buffer** for 20-foot Build-To Line Option

Where the build-to line option is utilized, and there is no VSA between the **building** and the right-of-way of Timber Drive or Timber Drive East, a 20-foot **street buffer** with only a lawn area and one **street tree** (minimum 12-feet tall with a 2.5-inch **caliper** at installation) for every 40 feet of frontage is permissible. Under this option, VAAs shall be located in the rear of the **building**.

5.14.2. Commercial Highway (CHO) Overlay District

A. Purpose and Intent

In the interest of the public health, safety, and welfare, the Town Council seeks to improve conditions along limited access highways. The Council establishes the Commercial Highway (CHO) Overlay District to:

1. Provide for functional, efficient transportation corridor.
2. Expand economic opportunity.
3. Protect community character.
4. Preserve and promote the community's appearance and quality.

B. Location

The CHO shall apply to:

1. The entire length of U.S. 70 and U.S. 401 located within Garner's zoning jurisdiction. The overlay district shall be designated on each side of the thoroughfare to a depth of 450 feet measured from the applicable right-of-way line. In cases where any portion of a **building** or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all **buildings** and parking areas.
2. Those properties fronting on or within 50 feet of Garner Road, within the Town's **planning jurisdiction** (generally that segment of Garner Road located from Northview Street east to the limits of the Town's jurisdiction near the intersection of Garner Road and Auburn-Knightdale Road) as illustrated on the Official Zoning Map. In cases where any portion of a **building** or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all **buildings** and parking areas.

C. Use Regulations

Unless otherwise prohibited or restricted below, all **uses** allowed by the underlying zoning district are permissible in the CHO, provided all requirements and permits as required by this UDO are satisfied.

1. **Restricted Uses**

Within the CHO and along all of U.S. 401, along the portion of U.S. 70 from New Rand Road west to the Town limits at the intersection of U.S. 70 and Mechanical Boulevard, and along the segment of Garner Road located generally from Northview Street east to the limits of the Town's jurisdiction near the intersection of Garner Road and Auburn-Knightdale Road; the following **uses** are prohibited when directly adjacent to, or within 150 feet of residential **uses**:

- a. **Hotel/motels.**
- b. Pool halls/bowling alleys.
- c. **Bars/night clubs/ABC-permitted private clubs.**

2. **Prohibited Uses**

The following **uses** are prohibited in the CHO:

- a. Drive-in movie **theaters.**
- b. Adult cabarets and establishments.
- c. Outside storage of goods not related to sale or **use** on premises.
- d. Scrap materials, **salvage yards, junkyards** automobile graveyards.
- e. Mining or quarrying operations including on-site **sales** of products; coal or aggregate sale and or storage; concrete mixing plants.
- f. Reclamation **landfills.**
- g. Commercial **greenhouse** operations.
- h. **Recyclable material collection centers.**
- i. **Solar farms.**

D. **Development Standards**

1. For new **development**:

- a. A maximum of 50 percent of the total property frontage along U.S. 70/401 may be devoted to outside display or storage of goods when parking areas (excludes vehicular loading/service areas) are located in the **street** yard area.
- b. A maximum of 66 percent of the total property frontage may be devoted to outside display or storage areas when parking areas are located in side or **rear yards.**

2. All **development** plans submitted under this UDO shall show a construction limit line delineating protected **buffer** area and any tree save areas intended for the property. Protective orange **fencing**, surrounding all protective **buffer** areas plus 10 feet, and around tree save areas at the drip line, shall be installed prior to **building** and/or grading permit issuance. Any cutting or clearance within an

approved protected **buffer** or tree save area shall be subject to a fine of \$5.00 per square yard of area in the protected **buffer** or tree save area that has been prematurely denuded and must be replaced with equivalent vegetation as determined by the Town of Garner.

3. No minor clearing of the existing understory vegetation within an approved protected **buffer** area or tree save area to be retained on the property shall be allowed until after construction on the parcel is completed and upon approval by the Planning Department.
4. Logging or timbering activities on properties within the corridor are strongly encouraged to be limited to the interior portions of the **lot** exclusive of required **buffer** areas.
5. Land **development** activities such as, but not limited to, site grading, **buildings**, and VAAs shall be excluded from the perimeter area of **lots** in order to protect existing trees and vegetation in required **buffer** areas.
6. Any grading or clearing (including removal of stumps) on land within the overlay district, not part of a **development** proposal, requires **site plan** approval by the Town of Garner prior to any such activity on the site. All such activities shall be consistent with the standards of this UDO.

E. **Street** Access

The existing access location standards set forth in this UDO shall govern **driveway** locations. Deviations recommended by the Town Engineer and the NCDOT may be allowed.

F. Design Standards

1. **Building** Height

- a. The maximum **building** height for all **buildings** in the CHO is 70 feet, unless otherwise specified below.
- b. When a nonresidential **use** or mixed-use **structure** directly adjoins an existing residential **use**, the maximum **building** height is 24 feet unless an additional setback distance of one foot is provided for every additional foot of **building** height over 24 feet measured from the property line adjoining the existing residential **use**.
- c. These **building** height limitations do not apply to the property within the CHO located east of New Rand Road along U.S. 70.

G. Landscaping Standards

In addition to complying with all the general landscape standards in the Garner UDO, new **development** must meet the following standards:

1. Construction limit lines shall be shown on all site **development** plans. Approved undisturbed **buffer** areas shall be protected on

the ground with orange **fencing** and shall be installed prior to the issuance of a **building** and/or grading permit. Such **fencing** shall be maintained during the entire time of construction.

2. High-Intensity Activities (New **Development** Only)

a. Intent

The objective of this requirement is to provide denser screening, landscaping or a combination thereof where more intense **uses** of land occur between the highway and the principal improvements on properties which contain high intensity **uses**.

b. Defined

High intensity **uses** include outdoor operations (including but not limited to loading or **assembly** areas), operation utility service areas, and similar **uses**.

c. Screening Standard

All such high intensity **uses** not screened by an intervening **building** shall be screened 100 percent from public **street** views by a year-round continuous screen of evergreen plant material, **fence**, and/or berm that is a minimum of six feet in height.

3. Screening of Certain Nonresidential **Uses** Adjoining Residential **Uses**

a. The following nonresidential **uses** shall be required to provide a 40-foot wide undisturbed **buffer** area with year-round, opaque screening to a minimum height of eight feet when directly adjacent to residential **uses**:

i. Golf driving range.

ii. **Veterinarian/kennel** with outside operations.

iii. Auto service/auto repair.

iv. Any other permissible **use** with outdoor display/storage that directly adjoins existing residential property.

b. Required screening may be achieved by using evergreen vegetation, earthen berms, solid **fences**, or a combination thereof.

5.14.3. Limited Access Highway (LHO) Overlay District

A. Purpose and Intent

The Town Council finds that the general welfare will be served by orderly **development** along existing and future interstate roads. The LHO will accomplish the following objectives:

1. Preserve natural scenic beauty and aesthetic character.
2. Promote design quality.
3. Enhance trade, tourism, capital investment, and the general welfare along the thoroughfare.
4. Preserve undisturbed natural or native vegetation between the interstate(s) and current and future adjacent **uses**.

B. Location

The LHO applies to either side of I-40 within the Garner zoning jurisdiction, as well as to all future interstate **development** including the future I-540, and is measured from the outside right-of-way line of the roadway at its farthest point (including access ramps and interchanges and rights-of-way for those same areas) a distance of 1,250 feet, as shown on the Official Zoning Map.

In cases where any portion of a **building** or parking area falls within the boundaries of the overlay district, these provisions shall apply to any and all other **buildings** and parking areas.

C. Use Regulations

1. Restricted **Uses**

- a. The following **uses** are permitted only if **site plans** are approved which assure that these **uses** will have no visible **outdoor storage** or operations adjacent to the highway:
 - i. Truck service centers (truck stops).
 - ii. **Vehicle sales**.
 - iii. **Uses** with storage for **retail** such as lumber yards, heavy equipment dealers, and similar **uses**.
- b. Such **site plans** shall indicate that all **outdoor storage** and operation will be located in the yard space farthest away from the highway and on the far side of the **principal buildings**.
- c. Outdoor display (as differentiated from **outdoor storage**) shall consist of only a sampling of wares sufficient to convey what is sold and is permitted in **industrial** zones only on a limited basis (maximum 25 percent of square footage of the primary **structure**) in accordance with the approved **site plan**.

2. Prohibited **Uses**

The following **uses** are prohibited:

- a. **Truck terminals.**
- b. **Mobile home parks.**
- c. **Subdivisions.**
- d. Mobile home **sales lots.**
- e. Scrap material **salvage yards, junkyards,** automobile graveyards.
- f. Sanitary (reclamation) **landfill.**
- g. Body shops.
- h. Storage of radioactive or otherwise hazardous wastes.
- i. Outside **kennels.**
- j. **Drive-in theaters.**
- k. Golf driving ranges.
- l. Water slides.
- m. Self-serve car washes.
- n. **Solar farms.**

D. **Development Standards**

1. Unless qualifying under **development** options set forth in Subsection **G.2.a.** or **G.2.b.,** no clearing of vegetation shall be allowed for any purpose, including **agriculture** and timber harvesting, within the 50-foot **buffer** adjacent to the right-of-way regardless of whether land **use** permits are required under this UDO.
2. Subject only to **Article 2. Nonconformities,** any expansion of existing land **uses** involving frontage on the limited access highway shall comply with this Section.
 - a. **Site plans** submitted under this Section shall show a construction limit line delineating the **buffer** area existing prior to commencing construction.
 - b. No construction, and only selective thinning of underbrush are permitted in the **buffer.** No clearance of the existing vegetation within the delineated **buffer** area is allowed until after construction on the parcel is completed. Any cutting or clearance before completion of construction shall be subject to a fine of \$5.00 per square yard of area in the protected **buffer** that has been prematurely denuded.
 - c. Upon completion of construction, if an approved screening/landscaping plan has not already been approved, such plan shall be submitted at that time indicating how the screening/

landscaping objectives of this Section are to be achieved, with particular regard to the delineated **buffer**.

E. **Street Access**

1. For **lots** having more than 500 feet of frontage on an access or **frontage road**, points of ingress and egress shall be no closer than 500 linear feet apart.
2. For **lots** having less than 500 feet of frontage onto an access or **frontage road**, only one point of ingress or egress shall be allowed. Whenever possible, a minimum distance of 200 feet must be maintained between points of ingress and egress.
3. Ingress to and egress from a **lot** along a cross-**street** shall be prohibited within 200 feet of said cross-**street's** intersection with a limited access highway's on- or off- ramp.

F. **Design Standards**

1. **Lot Dimensions**

All dimensional requirements, including minimum **lot area** and minimum **lot width** requirements, are established in the underlying zones, but may be enlarged based on the enhanced setback requirements herein.

2. **Building Height**

No **building** shall exceed 150 feet above grade; other **building** height restrictions are governed by **Subsection 3. Building Setbacks**, below.

3. **Building Setbacks**

The required setback for yards not abutting the right-of-way shall be as set forth in the underlying zone. The minimum **building** setbacks measured from the scenic corridor right-of-way, including access ramps and interchanges, shall be as follows:

- a. For **buildings** up to 35 feet above grade, there shall be a minimum setback of 50 feet from the right-of-way.
- b. For **buildings** extending up to 60 feet above grade, there shall be a minimum setback of 100 feet.
- c. For **buildings** exceeding 60 feet above grade, there shall be an additional setback, measured beyond the initial 100-foot setback, consisting of two feet for each additional one foot in height up to the maximum height of 150 feet.

4. **Parking**

Parking areas shall be paved with dust-free, all-weather surface, and shall be properly drained and landscaped.

The number of **parking spaces** shall be governed by the standards of the underlying base district; however, the number of spaces required may be reduced to the least extent necessary to accommodate landscaping required by **Subsection G**.

G. Landscaping Standards

In addition to complying with all the general landscape standards in the Garner UDO, new **development** must meet the following standards:

1. Yards Not Adjacent to the Right-of-Way

Except for **single-family residential uses**, those portions of front, rear, side or corner **side yards** that are not adjacent to the 50-foot (interstate) **buffer** and are not devoted to the **uses, buildings and structures** that are permitted within this Section shall provide screening and buffering consistent with this UDO while emphasizing their natural wooded state, and where required shall provide additional landscaping, provided however that a minimum of 50 feet of natural transitional **buffer** area or its planted equivalent shall be preserved on corner side **lot** lines within 200 feet from the intersection of the side road and the interstate.

2. Yards Abutting the Right-of-Way

The 50-foot **buffer** adjacent to the interstate right-of-way shall be preserved or constructed in accordance with the following **development** options:

- a. A natural screen or its newly planted equivalent providing the percentage of visual screening required by this Section, established and maintained by the owner. This subsection shall not apply to agricultural **uses** where the 50 feet adjacent to the road has been cleared prior to December 7, 1987.
- b. A natural water body or one specifically designed as a naturally-appearing landscape feature adjacent as part of the **site plan**.
- c. Other improvements which themselves provide no visual obstruction, such as access roads, which meet the standards of this Section and for which the BOA grants a **variance** if the Board finds the proposed **use** will not result in a deviation from the letter of this Section to any greater extent than is necessary to allow for reasonable **development** of the tract, provided that the **site plan** presented for the permit shall contain a condition that the **developer** install and maintain compensatory landscaping, screening or a combination thereof to meet the percentage of visual screening otherwise required in the 50-foot **buffer** area.

3. High-Intensity Activities

For purposes of this Section, high-intensity activities include outdoor operations (loading, service, or **assembly** areas), **outdoor storage**, and operation utility service areas, and similar **uses**. All such high intensity **uses** not screened by an intervening **building** shall be completely screened (100 percent, year-round, visual obstruction) from view from public right-of-way except for necessary access in the following manner:

- a. A continuous, year-round screen of evergreen plant material and/or berm that reaches at least ten feet high within three years is required. This screen may be placed on either side of a public access road;
- b. Beyond the initial three-year height requirement, all required trees newly planted in the **buffer** must have an expected mature height of at least 35 feet or greater, unless subject to an overhead power line in which case the minimum mature height may be 12 feet; and
- c. Alternative screening for utility service areas may be accomplished by locally adapted planting (evergreen or deciduous) which are a minimum of 18 inches tall when planted and are expected to reach height and width equal to or greater than the utility service **structures** which are required to be screened (up to a maximum mature height of 12 feet). Screening for utility service areas in the right-of-way are to be installed by the utility company or person who installed the service; in all other instances, the property owner shall install the plantings

ARTICLE 6. USE REGULATIONS

6.1. USE TABLES

This Article describes the **uses** permitted in zoning districts, associated **accessory uses** and **home occupations**, and any additional design standards that are required for specific **uses**.

6.1.1. Types of Use

All of the **use** categories listed in the **use** table are defined and described in **Section 6.2.** immediately following the **use** table.

A. **Uses** permitted by-right may be subject to supplemental standards

A “P” indicates that a **use** is allowed by right in the respective district. Additional specific **use** standards may be required as outlined in this Article. Permitted **uses**, whether by-right or **special use permit**, are subject to all other applicable regulations of this UDO.

B. **Special uses**

An “S” indicates that a **use** is allowed only if reviewed and approved as a **special use permit** in accordance with **Article 4.** **Special uses** are subject to all other applicable regulations of this UDO.

C. **Conditional Zoning** Districts

Any **use** identified as a **special use** and established through a **conditional zoning** shall still require approval via the **special use** review process.

6.1.2. Uses not Allowed

A blank cell in the **use** table indicates that a **use** or **use** category is not allowed in the respective district.

6.1.3. Uses not Listed

The **Planning Director** shall determine whether or not an unlisted **use** is part of an existing **use** category defined in or is substantially similar to an already defined **use**, using the criteria in **Section 6.2. Use Categories.**

(Table of Permitted **Uses** begins on next page)

TABLE OF PERMITTED USES P = PERMITTED BY-RIGHT; SEE ADDITIONAL STANDARDS LISTED IN ARTICLE 5.; S = SPECIAL USE PERMIT REQUIRED.														
SPECIFIC USE	RESIDENTIAL DISTRICTS							NONRESIDENTIAL AND MIXED USE DISTRICTS					NOTES	
	RA	R2	R4	R8	RMH	MF-A	MF-B	NMX	CMX	TBD	AC	LI		HI
RESIDENTIAL USE CATEGORY														
Single-Family Detached	P	P	P	P										Includes Modular Home; 6.4.4.A.
Two-Family Dwelling (2 dwelling units per structure, aka Duplex)		P	P	P		P								6.4.4.B.
Townhouse (3 or 4 dwelling units per structure)				P		P	P	P						6.4.4.C.
Townhouse (> 4 dwelling units per structure)						P	P	S	P					6.4.4.D.
Multifamily (triplex or quadplex, up to 2,500 sq ft footprint)				P		P	P	P						6.4.4.D.
Multifamily (> 4 units per structure or over 2,500 sq ft footprint)						P	P	S	P					6.4.4.D.
Upper-Story Residential						P	P	P	P	P	P			6.4.4.E.
Manufactured Home – Class A	P	P	P											Requires -MH floating overlay district in R2 or R4; 6.4.4.F.
Manufactured Home – Class B	P													6.4.4.G.
Manufactured Home Park					P									Includes Mobile Home Park and RV Park ; 6.4.4.G. ; 6.4.4.H.
Security or Caretaker's Quarters									P			P	P	6.4.4.I.
Other Group Living Uses Not Listed	S													(including Boarding House, Post-Incarceration Facilities, Halfway Homes, and Homes for the Mentally Ill (per G.S. 122-3(11)b); 6.4.4.J.)
Group Care (with 9 or fewer residents)	P	P	P	P		P	P	P						Including Family Care Home, Intermediate Care Home, and, Nursing Home, Congregate Living Facility, Assisted Living Facility, Group Care Facility, Handicapped Institution, Intermediate Care Institution, Nursing Care Institution, Mental Health Facility, Continuing Care, Retirement Facility ; 6.4.4.K.
Group Care (with more than 9 residents)						S	P	S	P					6.4.4.K.

TABLE OF PERMITTED USES														
P = PERMITTED BY-RIGHT; SEE ADDITIONAL STANDARDS LISTED IN ARTICLE 5.; S = SPECIAL USE PERMIT REQUIRED.														
SPECIFIC USE	RESIDENTIAL DISTRICTS							NONRESIDENTIAL AND MIXED USE DISTRICTS					NOTES	
	RA	R2	R4	R8	RMH	MF-A	MF-B	NMX	CMX	TBD	AC	LI		HI
CIVIC AND INSTITUTIONAL USE CATEGORY														
Other Civic and Institutional Uses Not Listed									S					6.5.4.A.
Assembly, Civil, Service Fraternal Clubs, Lodges and Similar Uses	P	S	S	S				P	P		P	P		6.5.4.B.
Library, Museum, Art Gallery								P	P	P	P			6.5.4.C.
Community Center	P	P	P	P	P	P	P	P	P	P	P			6.5.4.D.
Higher Education	S								P		P	P		Includes Business School / Satellite; 6.5.4.E.
School, Primary or Secondary	P	P	P	P		P	P	P	S					6.5.4.F.
Emergency Services	P	S	S	P	P	P	P	P	P	P	P	P	P	6.5.4.G.
Prison, Jail, Detention Facility	S											S	S	6.5.4.H.
Cemetery	P	P						S	S			S		6.5.4.I.
Hospice						P	P	P	P					6.5.4.J.
Hospital									P*			S		6.5.4.K.
Ambulatory Health & Emergency Care Facility									P*			S		6.5.4.L.
Religious Institution	P	P	P	P	P	P	P	P	P	P	P	P		6.5.4.B.1.b.
RECREATIONAL AND ENTERTAINMENT USE CATEGORY														
Other Indoor Recreational and Entertainment Uses Not Listed									S					6.6.4.A.
Bar, Nightclub, Tavern									P	P	P	P		6.6.4.B.
Golf Course or Country Club, Private	P	P	P											6.6.4.C.
Horse Stables and Related Facilities	P	S												6.6.4.D.
Indoor Athletic or Entertainment Facility (not theater)								S	P	S	P	P		Including Gym, Spa, Indoor Pool, etc.; 6.6.4.E.
Electronic Gaming Centers									S		S			6.6.4.F.

TABLE OF PERMITTED USES														
P = PERMITTED BY-RIGHT; SEE ADDITIONAL STANDARDS LISTED IN ARTICLE 5.; S = SPECIAL USE PERMIT REQUIRED.														
SPECIFIC USE	RESIDENTIAL DISTRICTS							NONRESIDENTIAL AND MIXED USE DISTRICTS					NOTES	
	RA	R2	R4	R8	RMH	MF-A	MF-B	NMX	CMX	TBD	AC	LI		HI
Outdoor Athletic or Entertainment Facility									P			S		Including Water Park , Golf Driving Range, Miniature Golf, Batting Cage, Go-Cart, etc.; 6.6.4.G.
Theater									P	S	S			6.6.4.H.
Other Outdoor Parks and Open Space Uses Not Listed	S								S					6.6.4.I.
Public Park, Passive Open Space, Nature Park	P	P	P	P	P	P	P	P	P	P	P			Including accessory sports facilities (basketball, tennis, pickleball, etc.); 6.6.4.J.
Sexually Oriented Business									S					6.6.4.K.
Theater, Drive-In									S			S		6.6.4.L.
OVERNIGHT ACCOMMODATION USE CATEGORY														
Other Overnight Accommodation Uses Not Listed									P	P	S			Includes Short Term Rentals ; 6.7.4.A.
Bed and Breakfast Home, 8 rooms or fewer	P	S	S	S	S	P	P	P	P	P				Includes Boutique Hotel ; 6.7.4.B.
Bed and breakfast Inn, 9-30 rooms							P		P	P	S			6.7.4.1.b.
Hotel / Motel									P	S	P	P		Includes Extended Stay Facility ; In TBD or AC district, only small lobby permitted on the ground floor; 6.7.4.C.
COMMERCIAL, OFFICE, RETAIL, SERVICE USE CATEGORY														
Other Office Uses Not Listed								P	P	P	P	P		6.8.4.A.
Medical Office								S	P	P	P	P		Includes Medical Clinic or Urgent Care Clinic; 6.8.4.B.
Other Restaurant and Food Service Uses Not Listed								S	P	S	P			6.8.4.C.
Restaurant, Sit-down Establishment								P	P	P	P	P		6.8.4.D.
Restaurant, with Drive-In or Outdoor Curb Service								S	P		S			6.8.4.E.
Convenience Store, without Fuel Sales								P	P	P	P	P		6.8.4.F.
Convenience Store, with Fuel Sales									P			P	P	6.8.4.F.

TABLE OF PERMITTED USES P = PERMITTED BY-RIGHT; SEE ADDITIONAL STANDARDS LISTED IN ARTICLE 5.; S = SPECIAL USE PERMIT REQUIRED.														
SPECIFIC USE	RESIDENTIAL DISTRICTS							NONRESIDENTIAL AND MIXED USE DISTRICTS						NOTES
	RA	R2	R4	R8	RMH	MF-A	MF-B	NMX	CMX	TBD	AC	LI	HI	
In Home Family Child Care Home	P	P	P	P	P	P	P	P						6.8.4.G.
Day Care Center								P	P		P			includes Adult and Child Day Care, Family Child Day Care; 6.8.4.H.
Gym, Spa, or Pool								P	P	P	P			SF max for TBD; 6.8.4.I.
Funeral Home									P			P		6.8.4.J.
Crematorium	S											S	P	6.8.4.K.
Personal or Professional Services (up to 5,000 sqft ground floor footprint)								P	P	P	P	P		Including Hair Salons, art studio, dance studio (excludes commercial greenhouses or any use with outdoor operations); 6.8.4.L.
Personal or Professional Services (> 5,000 sqft ground floor footprint)									P	S	P	P		6.8.4.L.
Banks or Financial Institution								P	P	P	P			6.8.4.M.
Banks or Financial Institution, with Drive-thru or Vehicular ATM								S	P					6.8.4.M.
Sales / Retail (no outdoor operations)								P	P	P	P	P		6.8.4.N.
Sales / Retail (with outdoor operations up to 25 percent of total sales area)								S	P	P	P	P		6.8.4.N.
Sales Oriented Use (with outdoor operations > 25 percent of total sales area)									S			P	P	Includes Open Air Market; 6.8.4.N.
Parking Lot or Deck, Commercial									P	S	S	P		6.8.4.O.
Self Storage, Mini Storage									P			P		6.8.4.P.
Manufactured Home Sales													P	6.8.4.Q.
Veterinarian / Kennel, Indoor								P	P		P	P		6.8.4.R.
Veterinarian / Kennel, with Outdoor Operations									P			S		6.8.4.R.
Vehicle Sales, Rental, Service, Repair									P			P	P	Includes Vehicle Sales, Rental, Limited, Service; 6.8.4.S.
Vehicle Towing, Storage													P	6.8.4.T.

TABLE OF PERMITTED USES P = PERMITTED BY-RIGHT; SEE ADDITIONAL STANDARDS LISTED IN ARTICLE 5.; S = SPECIAL USE PERMIT REQUIRED.														
SPECIFIC USE	RESIDENTIAL DISTRICTS							NONRESIDENTIAL AND MIXED USE DISTRICTS						NOTES
	RA	R2	R4	R8	RMH	MF-A	MF-B	NMX	CMX	TBD	AC	LI	HI	
INDUSTRIAL, MANUFACTURING, WAREHOUSING, WASTE SERVICES, AND TRANSPORTATION USE CATEGORY														
Flex Space, Other Light Industrial, Manufacturing, Warehousing, or Transportation Uses Not Listed												P	P	Any uses with outdoor component or noxious emissions, vibrations, or by-products are considered Industrial, Manufacturing, or Production with Outdoor Operation; 6.9.5.A.
Microbrewery / Microdistillery								S	P	P	P	P		Includes accessory tasting room; 6.9.5.B.
Wholesale Sales												P	P	6.9.5.C.
Industrial, Manufacturing, or Production, Indoor Only												P	P	6.9.5.D.
Industrial, Manufacturing, or Production with Outdoor Operation													P	6.9.5.D.
Outdoor Storage (> 10 feet above grade)													P	6.9.5.E.
Resource Extraction													S	6.9.5.F.
Passenger Terminals									S	S	S	S	P	6.9.5.G.
Truck Terminal, Fueling Terminal													P	6.9.5.H.
Aviation Service and Freight													S	6.9.5.I.
Warehouse and Freight Movement													S	6.9.5.J.
Other Waste Related Services													S	6.9.5.K.
Recyclable Materials Collection Center													P	6.9.5.L.
Sanitary Landfill, Junk or Salvage Yard													S	6.9.5.N.
UTILITIES USE CATEGORY														
Other Utilities Uses Not Listed													P	6.10.4.A.
Water Treatment, Wastewater Treatment, Natural Gas, Electric Substation	S											S	P	6.10.4.B.
Minor Utility	P	P	P	P	P	P	P	P	P	P	P	P	P	Includes Elevated Water Storage Tank, pump stations ; 6.10.4.C.

TABLE OF PERMITTED USES														
P = PERMITTED BY-RIGHT; SEE ADDITIONAL STANDARDS LISTED IN ARTICLE 5.; S = SPECIAL USE PERMIT REQUIRED.														
SPECIFIC USE	RESIDENTIAL DISTRICTS							NONRESIDENTIAL AND MIXED USE DISTRICTS					NOTES	
	RA	R2	R4	R8	RMH	MF-A	MF-B	NMX	CMX	TBD	AC	LI		HI
Solar Farms	S													6.10.4.D.
Telecommunication Facility	P								P			P	P	6.10.4.E.
Concealed Telecommunication Facility						P	P	P	P	P	P	P	P	6.10.4.F.
AGRICULTURAL AND MISCELLANEOUS USE CATEGORY														
Other Agricultural Uses Not Listed	S													6.11.4.A.
Agriculture or Silviculture	P	P												6.11.4.B.
Greenhouse, Nursery (commercial), indoor operations	P							P	P			P	P	6.11.4.C.
Greenhouse, Nursery (commercial), outdoor operations	S								P				P	6.11.4.C.
ACCESSORY, TEMPORARY, AND HOME OCCUPATION USE CATEGORY														
Accessory Uses and Structures														6.12.
Home Occupations														6.13. and 6.14.
Temporary Uses														6.15.

(Remainder of this page blank. End of Table of Permitted Uses.)

6.2. USE CATEGORIES

6.2.1. Basis for Classification

- A. **Use** categories classify land **uses** and activities into **use** categories based on common functional, product or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The **use** categories provide a systematic basis for assigning present and future land **uses** into appropriate zoning districts.
- B. Residential **uses** encompass all **uses** within the residential **use** category. All other **uses** are nonresidential.
- C. In a mixed-use **development**, where nonresidential and residential **uses** both exist, the **uses** shall be counted separately where it is pertinent. For example, when evaluating parking reductions for nonresidential **uses**, only the floorspace housing nonresidential **uses** shall be counted.

6.3. PRINCIPAL USES

Principal **uses** are assigned to the category that most closely describes the nature of the principal **use**. The characteristics, definitions, examples, and exceptions subsections below describes the common identifying features of each principal **use** and may be used to classify **uses**.

6.3.1. Developments with Multiple Principal Uses

When all principal **uses** of a **development** fall within one **use** category, the entire **development** is assigned to that **use** category. A **development** that contains a coffee shop, bookstore and bakery, for example, would be classified in the **retail sales** and service category because all of the **development's** principal **uses** are in that category. When the principal **uses** of a **development** fall within different **use** categories, each principal **use** is classified in the applicable category and each **use** is subject to all applicable regulations for that category. If a principal **use** is not listed for a given district, it may not be developed in that district, whether as part of a proposed mixed-use **project** or a stand-alone **project**.

6.3.2. Accessory Uses

Accessory uses are allowed by-right in conjunction with a principal **use** unless otherwise stated in this UDO. Also, unless otherwise stated, **accessory uses** are subject to the same regulations as the principal **use**. Common **accessory uses** are listed as examples in the **use** category descriptions.

6.3.3. Use of Examples

The “examples” subsection of each **use** category lists common examples of **uses** included in the respective **use** category. The names of these sample **uses** are generic. They are based on common meanings and not on what a specific **use** may call itself. For example, a **use** that calls itself “wholesale **warehouse**” but that sells mostly to consumers, is included in the **retail sales** and service category rather than the **wholesale sales** category. This is because the actual activity on the site matches the description of the **retail sales** and service category.

6.3.4. Similar Use Interpretation Criteria

The following considerations shall be used in making similar **use** interpretations:

- A. The actual or projected characteristics of the activity in relationship to the stated characteristics of each **use** category.
- B. The relative amount of site area or floor space and equipment devoted to the activity.
- C. Relative amounts of **sales** from each activity.
- D. The customer type for each activity.
- E. The relative number of employees in each activity.

- F. Hours of operation.
- G. **Building** and site arrangement.
- H. Vehicles used with the activity.
- I. The relative number of vehicle trips generated by the **use**.
- J. How the **use** advertises itself.
- K. When multiple options for a classification of a **use** exist, the more specific option shall prevail.

6.4. RESIDENTIAL USE CATEGORY

6.4.1. Characteristics

- A. **Household** living is characterized by the residential occupancy of a **dwelling unit** by a **household**. Tenancy is arranged on a month-to-month or longer basis.
- B. Group living is characterized by the residential occupancy of a **structure** by a group of people who do not meet the definition of **household** living. The size of the group may be larger than the average size of a **household**. Tenancy is arranged on a monthly or longer basis. **Uses** where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see overnight accommodations and community service categories). Generally, group living **structures** have a common eating area for residents. The residents may receive care, training or treatment, as long as the care givers also reside at the site.

6.4.2. Examples

Examples include **single-family residential uses**, multifamily housing of all scales, **townhomes**, and mobile homes. Group care can include **boarding house** or rooming house, **family care home**, immediate care home dormitories, monasteries, convents, group homes for persons with physical or mental disabilities, **nursing care institutions**, some residential programs for drug and alcohol treatment.

6.4.3. Exceptions

- A. Lodging where tenancy may be arranged for periods of less than a month is classified in the overnight accommodations category.
- B. Lodging where the residents meet the definition of **household** and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as **household** living.
- C. **Continuing care facilities** where individual units meet the definition of a **dwelling unit** in **Article 13**. are classified as **household** living.

6.4.4. Specific Uses

- A. Single-Family Detached
 - 1. Defined
 - One **dwelling unit** in a single **structure** on a single **lot**.
 - 2. **Use Standards**
 - See **Article 5**. for more **single-family detached dwelling** regulations.
- B. **Two-family Dwelling (Duplex)**
 - 1. Defined

Two **dwelling units** in a single **structure** on a single **lot** or on two **lots** where the **dwelling units** share a wall.

2. **Use Standards**
(None)

C. **Townhouse (Townhome, Rowhome)**

1. Defined

A form of single-family attached **dwelling** in which three or more units share common side walls and are often designed in rows and have individual entrances on the ground floor. Units are purchased on a fee-simple basis on small individual parcels of land, fronting on either a public or **private street**, and have parking located on each **lot** or attached to each **dwelling unit**, although garages may be separated from the **dwelling**. Yards are typically small or shared, and privacy requires careful protection. A **townhouse** with only two units is classified as a **duplex**.

2. See **Article 9** for more **townhome** regulations.

D. **Multifamily (Apartment, Condominium)**

1. Defined

Three or more attached residential **dwelling units** in a single **structure**, with either shared entrances or shared parking areas. Also multiple detached single unit residential **structures** or **duplexes** sharing parking areas on a single **lot**. Units are often stacked and at least one or more units does not have its only individual, ground-level entrance. An apartment or condo with only two units is classified as a **duplex**.

2. See **Article 5** and **Article 9** for more multifamily apartment and condominium regulations.

E. **Upper-story Residential**

1. Defined

A **dwelling unit** located on a floor above a nonresidential **use**.

2. See **Article 9** for **Upper-story Residential** standards.

F. **Manufactured Home (Class A)**

1. Defined

A **structure**, transportable in two or more sections that when combined the total is a minimum of 24 feet in width, and which is built on a permanent chassis and designed to be used as a **dwelling**, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

2. **Use Standards**

The home shall have a continuous, permanent brick, or stone foundation, constructed in accordance with standards of the North Carolina Residential **Building Code**, shall be installed under the perimeter of the **manufactured home**. The foundation shall be unpierced except for required ventilation and access.

- a. The home shall have windows set to the inside wall face.
- b. A covered front porch or covered front stoop shall be provided at the entrance and should **project** from the primary façade a minimum of four feet and be no less than four feet in width.
- c. The **manufactured home** shall front on a **street** such that the principal entrance is aligned to the **street**.
- d. All towing apparatus, wheels, axles, and transporting lights shall be removed.
- e. The pitch of the roof of each home shall have a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run.
- f. All roof **structures** shall provide an eave projection of no less than six inches, which may include a gutter.
- g. The length and width of the home shall be no smaller than the average **single-family detached dwelling units** within 1,000 feet of the **lot**.

G. **Manufactured Home** (Class B)

1. Defined

A **structure**, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a **dwelling**, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. The **structure** exceeds 40 feet in length and eight feet in width.

2. **Use Standards**

- a. Each home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the shorter axis.
- b. No **manufactured home** shall front the narrow end of the manufactured unit to the **street** or drive unless the width of the unit is greater than 24 feet.
- c. The towing apparatus, wheels, axles, and transporting lights of each home shall be removed and shall not be included in measurements.

- d. The exterior of each home shall consist of one or more of the following:
 - i. Vinyl or metal siding (whose reflectivity does not exceed that of flat white paint);
 - ii. Cedar or other wood siding;
 - iii. Weather resistant press board siding; and/or
 - iv. Stucco siding, brick, or stone siding, which shall be comparable in composition, appearance and durability to the exterior siding commonly used in the standard residential construction of the surrounding neighborhood.
- e. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from each **manufactured home**, shall be installed or constructed in compliance with the standards of the North Carolina **Building Code**, attached firmly to the primary **structure**, and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum of 24 square feet. **Use** of wood stairs without a porch is prohibited at any entrance to a **manufactured home**.
- f. All manufactured housing units shall conform to the State of North Carolina Standards for manufactured housing anchorage, tie downs, and blocking.

H. **Manufactured Home Park**

1. Defined

A site in an RMH district which contains the location of **manufactured homes** (Class A and B) or **recreational vehicles** that may include services and **facilities** for residents.

- a. **Mobile Home Park** is defined as a site with required improvements and utilities for the long-term parking of mobile homes which may include services and **facilities** for the residents.
- b. **Recreational Vehicle (RV) Park** is defined as any single parcel of land upon which two (2) or more **recreational vehicles**, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes. **Recreational Vehicle Parks** are referred to in this Ordinance as “**RV Park(s)**.”

2. **Use Standards**

- a. The minimum land area required for a manufactured housing **park** is three acres.

- b. Any **lot** or tract of land occupied by a manufactured housing **park** shall have a maximum density of five **dwelling** units per acre.
- c. **Site Plan**

Prior to the **development** of any new manufactured housing **park** established after October 1, 2003, and prior to the enlargement of any existing manufactured housing **park**, a **site plan** conforming to the requirements of this subsection shall be approved by the **Planning Director**. The required **site plan** shall be drawn to scale and shall explicitly illustrate at least the following features:

 - i. Location and dimensions of all **park** boundaries;
 - ii. Location of pavement on adjoining **street** rights-of-way;
 - iii. Location and dimensions of any permanent improvements existing or planned within the **park**, including but not limited to:
 - (A) Improved surfaces for common **driveways**, off-street parking, and recreation areas;
 - (B) **Buildings** for management, maintenance, and recreational purposes;
 - (C) Any other recreational **facilities**;
 - (D) Any **fences** or walls; and
 - (E) The location of pipelines and systems for potable water distribution, sewage collection, and fire protection, including location of all fire hydrants.
- d. **Rental Space Standards**
 - i. Each **dwelling unit** requires a minimum 5,000 square foot rental space for sites with both public water and sewer available, or a 10,000 square foot rental space where either a well and/or septic system is used. Wake County Health Department regulations may require larger **lots**.
 - ii. Every rental space shall have at least 20 feet of frontage on either a public **street** or a private drive, measured at the **street** right-of-way line or private drive “reserved area” limit.
 - iii. The minimum rental space width for each **dwelling unit** shall be 50 feet. This measurement will be made at the forward-most point of the home along a line that runs across the rental space parallel to the public or **private street** that provides access to the space.

- e. Every service **building** shall be set back at least 25 feet from the boundary of any adjacent property in a residential zoning district.
- f. **Accessory structures** shall be limited to one per **manufactured home** space.
- g. A minimum of two off-street **parking spaces** shall be provided for each **dwelling unit**.
- h. Phasing may be allowed, provided the proposed phasing is approved by the Town Council and will not create undue hardships for the residents of the **park** or those vehicles that can reasonably be expected to service the **park**.

I. **Security or Caretaker's Quarters**

1. Defined

A permanent residence, secondary and accessory to an existing main **dwelling** for persons employed principally on-site for purposes of care and protection of the site.

2. **Use Standards**

- a. Per **accessory dwelling unit** in the district in which it occurs.
- b. May not be placed in the **front yard**.
- c. Must be screened from view of public right-of-way by an opaque, year round, minimum six-foot tall, visual barrier.
- d. If in a separate **structure**, may not be taller than two stories or the height of the primary **structure**.

J. Other Group Living **Uses** Not Specifically Identified

1. Defined

This includes **uses** not listed below, for up to nine persons, such as **boarding house, post-incarceration facilities**, halfway homes, group homes for persons with a mental illness who are dangerous to others as defined in G.S. § 122C-3(11)b, as amended. For more than nine people, see the Institutional **Use** Category.

a. **Boarding House**

A rooming house or a **structure** which contains four or more rooms, each of which have no kitchen **facilities**, and are designed or intended to be used for residential occupancy on a rental basis.

b. **Post-incarceration Facility**

See **Correctional Facility**.

c. **Halfway House**

A residence within a single **dwelling unit** for at least six but not more than nine persons who are on release from more

restrictive custodial confinement or treatment, together with not more than two persons providing care or assistance to such persons, all living together as a single unit where supervision, rehabilitation, and counseling are provided.

d. **Homes for the Mentally III**

See G.S. 122-3(11)b)

2. **Use Standards**

- a. No family or **group care home** shall be established or maintained without trained supervisory personnel on site.
- b. Fifteen square feet of common living area other than kitchens, hallways, and bathrooms shall be provided per occupant.
- c. The property shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another of this defined **use** type.

K. **Group Care**

1. **Defined**

A home where rehabilitation and/or care services are provided in a residential setting and family environment including support and supervisory personnel who may reside in the home. According to G.S. § 168A-3(7a), a person with a disability is defined as a person with a temporary or permanent, physical, emotional or mental disability. A **group care home** is a residential **use** of property and permissible by right in all residential districts, subject to additional requirements.

a. **Family Care Home**

Subject to the regulations of G.S. § 131D, an **adult care home** with two to six residents.

b. **Intermediate Care Home**

See "**Group Care Facility**".

c. **Nursing Home**

A **facility** that provides care for persons who have remedial ailments, or other ailments, for which medical and nursing care are indicated, who however, are not sick enough to require general **hospital** care. Nursing care is their primary need, but they will require continuing medical supervision.

d. **Assisted Living Facility**

A **facility** which is (i) operated under State law to provide residential care for the aged or disabled whose principal need is a home which provides personal care appropriate to their age or disability; or (ii) meets the requirements for licensure under G.S. § 131D.

e. **Group Care Facility**

A **facility** whose primary purpose is for the care, treatment, habilitation, or rehabilitation of individuals with mental illnesses or intellectual or other **developmental** disabilities or substance abusers including 24-hour **facilities** that are not **hospitals**.

f. **Handicapped Institution**

An institutional **facility** housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

g. **Nursing Care Institution**

An institutional **facility** maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a **hospital** to more than nine persons.

h. **Mental Health Facility**

A **facility** or institution for diagnosing, treating, caring for, or counseling people requiring mental health services in confinement.

i. **Continuing Care Retirement Facility**

A property designed to provide a continuum of care within a single community. The living accommodations and care provided within a **continuing care retirement facility** are a combination of the accommodations and services provided by seniors apartments, independent living units, assisted living residences, and skilled nursing beds.

2. **Use Standards**

- a. Requires trained supervisory personnel on site.
- b. Shall not include persons being housed in a **correctional facility** or mentally ill persons who are dangerous as defined in G.S. § 122C-3(11).
- c. Group **care homes** shall not be located closer than one-half mile to any other existing **group care home, family care home, an intermediate care home** or another form of group living permitted through a **variance**; measured by a straight line from the nearest property lines.
- d. Group **care homes** with a significant juvenile population shall be required to have the **rear yard** area enclosed by a **fence** at least six feet in height.
- e. Group **care homes** shall be separated by a 15-foot wide **buffer** with 50 percent screening to height of six feet from any abutting property located in a residential district.

- f. One off **street parking space** shall be provided for every two beds in a **group care home** or **facility** plus one space for each staff person per shift. Parking improvements shall be constructed in accordance with all applicable parking standards.
- g. A residence used for a **group care home** shall maintain a residential appearance which is compatible with the surrounding neighborhood and no exterior alterations are permissible without prior approval from the **Planning Director**.
- h. Minimum 200 square feet per occupant and one full bath per five occupants.
- i. **Use** standards applicable to continuing care and retirement **facilities**:
 - i. The number of persons who may be housed in non-independent rooms or apartments (not including **hospital** or clinic beds) does not exceed the number of persons housed in independent **dwelling units** by a ratio of 3:1.
 - ii. The **continuing care retirement facility** does not exceed a density of 10 units per acre, not including the number of persons occupying **hospital** or clinic beds.
 - iii. The number of **hospital** or clinic beds shall not be more than 50 percent of the total number of permitted **dwelling units**.
 - iv. **Retail** stores and **personal service** establishments located within the **continuing care retirement facility** are permissible only when:
 - (A) Such **uses** exclusively serve the residents of the **facility**;
 - (B) There is no exterior evidence of such **uses** outside of the **building** they are located in and have no outdoor entrance for customers separate from the main entrance of the activity or **administrative building**;
 - (C) The floor area devoted to such **uses** shall not exceed 50 percent of the floor area of the **building** where the **uses** area located;
 - v. The **facility** is located on a minor or **major thoroughfare**;
 - vi. The total number of persons residing in the **continuing care retirement facility** does not exceed 500; and
 - vii. A minimum of 25 percent of the tract must be retained on site as permanent **open space**.

6.5. CIVIC AND INSTITUTIONAL CATEGORY

6.5.1. Characteristics

Facilities in this category are typically places of public **assembly** that serve an ongoing purpose to the greater community, but some private **uses** are also included. Many, but not all, **uses** are institutional such as schools or **religious institutions**. **Uses** in this category also include centers of public service such as **community centers, museums, healthcare centers, prisons, and cemeteries**. Most of the **uses** have a set schedule but some may serve as sites for intermittent gatherings such as weddings.

6.5.2. Examples

Examples include **libraries, museums, art galleries, art centers, senior centers; community centers, youth club facilities, and social service facilities; Town hall; public/community buildings; government offices; municipal service facilities; maintenance and utility facilities; fire stations, police stations and emergency medical and ambulance stations; prisons and jails; post offices and federal, state or local offices; medical centers, hospices, continuing care facilities, mental health facilities, ambulatory health and emergency care facilities without overnight care, and hospitals.**

6.5.3. Exceptions

- A. Preschools are classified as day care **uses**.
- B. Day care provided when parents are not on the premises is classified as child care.
- C. Private schools providing a K-12 curriculum similar to public schools are classified as schools.
- D. Passenger terminals for airports and regional bus service are classified as passenger terminals.
- E. State, county or city **parks** are classified as **parks** and **open space**.
- F. Water and wastewater **facilities, gas, electric and other infrastructure services, whether public or private, are classified as utilities.**
- G. Waste and recycling services are classified as waste related services.
- H. **Uses** that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the institutional category.
- I. Medical clinics that provide care where patients are not kept overnight are classified as office.

6.5.4. Specific Uses

- A. Other Civic and Institutional **Uses** Not Listed
 1. Defined

Regular or intermittent gathering spaces for people for purposes of socialization, performing arts, special events, conferences, or deliberation.

2. **Use Standards**
(None)

B. Assembly, Religious Institutions, Civic, Service, Fraternal Clubs, Lodges, and Similar Uses

1. Defined

- a. **Assembly**

A site or **facility** open to the public or membership groups for social, civic, political, educational or (generally passive) recreational purposes.

- b. **Religious Institution**

A place of worship or religious **assembly** with customary related **facilities** and **uses**. This may include retreats, convents, seminaries or other similar **uses** owned or operated by a tax-exempt religious group. Customary **accessory uses** include child care and book **sales**.

- c. **Civic Club**

Buildings and **facilities**, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

2. **Use Standards**

- a. All **uses** in or abutting residential districts shall comply with the following:
- b. A minimum setback of 40 feet from all exterior **lot** lines is required.
- c. The minimum distance between any exterior **lot** lines and the perimeter of a parking area shall be 25 feet where such boundaries adjoin a residential zoning district.
- d. The principal vehicular entrance and exit shall be located on an arterial **street**, or on a **collector street** at least 150 feet distant from its intersection with an arterial.
- e. The **principal building** and **accessory uses** must be on a contiguous site.

C. Library, Museum, Art Gallery

1. Defined

A **facility** involved in the display and **use** of books, arts, or other material of artistic or educational value.

2. **Use Standards**
(None)

D. **Community Center**

1. Defined

Governmentally owned and operated **building(s)** and **facilities** which may provide a wide range of activities predominately indoors to the general community such as but not limited to the following **use**: recreational, cultural, dining, educational, and social.

2. **Use Standards**
(None)

E. **Higher Education** (including but not limited to College or University)

1. Defined

An institution of higher learning offering post-high school, undergraduate, or graduate degrees, licenses, or certificates, and including the **buildings** required for educational or support services, including, but not limited to, classrooms, laboratories, and dormitories. Includes study in vocational, technical, or other special subjects.

2. **Use Standards**
 - a. Business schools, colleges or universities in the NMX district are permitted, provided that:
 - i. Only a single **building** is used for the school, college or university; and
 - ii. All activities are conducted in a completely enclosed **building**.

F. **School, Primary or Secondary**

1. Defined

A public or private institution offering a curriculum of education authorized by the state giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped.

2. **Use Standards**

Where in or abutting Residential districts, a primary or **secondary school** shall meet the following:

 - a. A minimum setback of 40 feet from all exterior **lot** lines is required;

- b. The minimum distance between any exterior **lot** lines and the perimeter of a parking area shall be 25 feet where such boundaries adjoin a residential zoning district;
- c. Have its principal vehicular entrance and exit on an arterial **street** (or arterial roadway), or on a **collector street** within 150 feet of its intersection with an arterial; and
- d. The **principal building** and **accessory uses** must be on a contiguous parcels.

G. **Emergency Services**

1. Defined

Emergency service providers and associated equipment and response **facilities**, including training **facilities**. Includes Ambulance Service, Rescue Squad, Police or Fire Station.

2. **Use Standards**

(None)

H. **Prison, Jail, or Detention Facility**

1. Defined

A **facility** that houses persons in the custody of Wake County, the North Carolina Department of Correction the state of North Carolina, federal government, or their agents as a result of an arrest or conviction of a criminal offense or persons on parole.

2. **Use Standards**

(None)

I. **Cemetery**

1. Defined

A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A cemetery may include an office, chapel, mausoleum or columbarium as customary **accessory uses**.

2. **Use Standards**

- a. When a cemetery abuts or is across a **street**, alley, or easement from a residential district, a 20-foot **buffer** shall be provided, and the following conditions shall be observed:
 - i. No burials shall be permitted in the **buffer**;
 - ii. The **buffer** shall be landscaped with grass and trees, shrubs, or other ornamental horticultural materials; and
 - iii. The **buffer** shall be maintained in a neat and orderly condition at all times.

- b. **Warehouses**, storage or maintenance **buildings**, mausoleums, crematories, or columbaria shall be located not less than 150 feet from the nearest residential property line.

J. **Hospice**

1. Defined

A **facility** which provides palliative and supportive medical and other health services to terminally ill patients and their families in a group residential setting.

2. **Use Standards**

(None)

K. **Hospital**

1. Defined

A **facility** licensed by the State of North Carolina which maintains and operates organized **facilities** for medical or surgical diagnosis, overnight and outpatient care, and treatment of human illness. A **hospital** may include **customary accessory** related support **facilities** such as a helipad, laboratories, out-patient departments, staff offices, food services, and gift shops.

2. **Use Standards**

The following provisions shall only apply to **hospitals** with **heliport** operations:

- a. **Structures** shall be designed and placed in a manner that is not to be detrimental to adjoining properties within a 1,000-foot radius of the **heliport** site measured from the center of final approach and take off area;
- b. Proof of airspace clearance from the Federal Aviation Agency must be provided prior to the issuance of a certificate of occupancy;
- c. Evidence of applicable approvals required by the North Carolina Department of Transportation for helicopter flight operations must be provided prior to the issuance of a certificate of occupancy;
- d. The Town Council may require the applicant to implement noise reduction measures or flight operational restrictions deemed reasonable in order to protect the public health, safety and welfare of surrounding residents and businesses; and
- e. A six-foot tall, opaque, year round landscape **buffer** is required in order to mitigate visual impacts to surrounding ground-floor residential properties.

L. Ambulatory Health and Emergency Care Facility

1. Defined

A stand-alone emergency department which operates under the governance of a **hospital** operator and is licensed by the State of North Carolina pursuant to G.S. § 131E as amended. A **heliport** may be considered a customary **accessory use** for this type of health care **facility** provided all applicable sections of the UDO are met.

2. **Use Standards**

The following provisions shall only apply to ambulatory health/**emergency care facilities** with **heliport** operations:

- a. **Structures** shall be designed and placed in a manner that is not to be detrimental to adjoining properties within a 1,000-foot radius of the **heliport** site measured from the center of final approach and take off area.
- b. Proof of airspace clearance from the Federal Aviation Agency must be provided prior to the issuance of a certificate of occupancy.
- c. Evidence of applicable approvals required by the North Carolina Department of Transportation for helicopter flight operations must be provided prior to the issuance of a certificate of occupancy.
- d. The Town Council may require the applicant to implement noise reduction measures or flight operational restrictions deemed reasonable in order to protect the public health, safety and welfare of surrounding residents and businesses.
- e. A six-foot tall, opaque, year round landscape **buffer** is required in order to mitigate visual impacts to surrounding **uses**.

6.6. RECREATIONAL AND ENTERTAINMENT USE CATEGORY

6.6.1. Characteristics

Entertainment **uses** are generally commercial **uses**, varying in size, providing daily or regularly scheduled entertainment-oriented activities. **Facilities** vary greatly in sizes depending upon **uses**, from small **bars** or **taverns** to large indoor athletic **facilities**. This category also includes **public parks** and **open space**.

6.6.2. Examples

Examples include **public parks**; publicly-owned golf courses; cemeteries; public squares; plazas; public swimming **pools**; public tennis courts; recreational trails, botanical gardens and nature preserves, athletic **facilities**; commercial amusements; private **entertainment facilities**; **horse stables**; privately-owned golf courses, golf driving ranges; miniature golf **facilities**; **private country club**; privately-owned tennis **facilities**; skateboard **park**; water slide; privately-owned active sports **facilities** such as ballfields and basketball courts; **bar**, night club and **tavern**; indoor entertainment activities such as bowling alleys, game arcades, pool halls, dance halls, indoor firing ranges, **theaters**; membership clubs.

6.6.3. Exceptions

- A. Banquet halls that are part of **hotels** or **restaurants** are accessory to those **uses**.
- B. Publicly-owned golf courses are classified as **parks** and open areas.
- C. Civic, service, **fraternal clubs**, **lodges** and similar **uses** are defined in the Civic and Institutional Category.

6.6.4. Specific Uses

- A. Other Recreational and Entertainment **Uses** Not Listed
 1. Defined

Other recreational or entertainment **uses** not listed below, but sharing similar characteristics as outlined above.
 2. **Use Standards**

(None)
- B. **Bar, Nightclub, Tavern**
 1. Defined

A **use** or **facility** engaged primarily in the preparation and **retail** sale of alcoholic beverages for consumption on the premises. This **use** is also known as **tavern**, **bar**, **nightclub** or similar **use**; but does not include **restaurant** or alcohol **sales** for off-premises consumption.
 2. **Use Standards**

- a. In the CMX, LI and HI districts, a **bar, nightclub or tavern** shall not be permitted within 500 feet of any residential **use** or residential district.
 - b. In the TBD district, a **bar, nightclub or tavern** shall have a minimum of 250 square feet devoted to food preparation (kitchen, food refrigeration/freezers, etc.)
 - c. In the TBD district, a **bar, nightclub or tavern** shall be open no later than 1:00am.
- C. Golf Course or **Country Club**, Private
1. Defined
A **facility** providing a golf recreation area designed for executive or regulation play along with accessory support **facilities**, excluding miniature golf.
 2. **Use Standards**
(None)
- D. **Horse Stables** and Related **Facilities**
1. Defined
A **facility** containing indoor and outdoor spaces for the breeding, boarding, training, or raising, or care of horses owned by the occupants or owners of the premises.
 2. **Use Standards**
(None)
- E. **Indoor Athletic or Entertainment Facility**
1. Defined
A business enterprise, as a principal **use** or as an **accessory use** where persons utilize more than six electronic machines, including, but not limited to: computers and gaming terminals; to conduct games including but not limited to: sweepstakes, lotteries games and/or games of chance; and where cash, merchandise or items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite **pool** of winners. The term includes, but is not limited to: internet sweepstakes, video sweepstakes or cybercafes. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina or arcade games of skill.
 2. **Use Standards**
(None)

F. **Electronic Gaming Centers**

1. Defined

A business enterprise, as a principal **use** or as an **accessory use** where persons utilize more than six electronic machines, including, but not limited to: computers and gaming terminals; to conduct games including but not limited to: sweepstakes, lotteries games, and/ or games of chance; and where cash, merchandise, or items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite **pool** of winners. The term includes, but is not limited to: internet sweepstakes, video sweepstakes, or cybercafes. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina or arcade games of skill.

2. **Use Standards**

No **electronic gaming center** shall be located within one quarter of a mile of another **electronic gaming center**. The distance shall be measured from the closest point on the perimeter of the parcel on which the described establishments are located.

G. **Outdoor Athletic or Entertainment Facility**

1. Defined

Amusement activities where any portion of the activity takes place outside or in the open. Typical **uses** include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, **drive-in theater**, outdoor skating rink and miniature golf courses. This **use** does not include recreation centers or **public parks**.

2. **Use Standards**

(None)

H. **Theater**

1. Defined

An establishment for the performing arts with open-air or cinema with seating for audiences. Such establishments may include related customary **uses** such as food and beverage **sales** and other concessions.

2. **Use Standards**

(None)

I. **Other Parks and Open Spaces Not Listed**

1. Defined

Any outdoor space with few **structures** intended for active or passive recreation.

2. **Use Standards**
(None)

J. **Public Park, Passive Open Space, Nature Park**

1. **Defined**
A designated outdoor space for recreation that consists mostly of passive recreation and outdoor recreation. May contain some supporting **structures**.
2. **Use Standards**
(None)

K. **Sexually Oriented Business**

1. **Defined**
An adult bookstore, adult motion picture **theater**, adult mini-motion picture **theater**, cabaret or other adult entertainment business or massage business as defined in G.S. § 14-202.10.
2. **Use Standards**
 - a. No adult cabaret or adult establishment shall be located closer than a distance of 1,000 feet from a **religious institution**, school, **park**, residential zoning district or other adult cabaret or adult establishment. The 1,000-foot distance shall be measured from the closest point on the perimeter of the **lot** on which the described establishment is located to the nearest point on the **lot** on which the church, school, **park**, residentially zoned district, adult cabaret or adult establishment is located.
 - b. Except as permitted in **Article 12.**, no **signs, logos**, promotional materials or other distinctive decorations or markings shall be placed on the exterior of the establishment or shall be visible to the public from **streets** or highways, pedestrian sidewalks or adjacent properties.

L. **Theater, Drive-in**

1. **Defined**
An open **lot** devoted primarily to showing motion pictures to patrons seated in vehicles.
2. **Use Standards**
(None)

6.7. OVERNIGHT ACCOMMODATION USE CATEGORY

6.7.1. Characteristics

Dwelling units arranged for short term stays of less than 30 days for rent or lease.

6.7.2. Examples

Examples include bed and breakfast establishments, **hotels**, **motels**, inns, and extended stay **facilities**.

6.7.3. Exceptions

(None)

6.7.4. Specific Uses

A. Other Overnight Accommodations Not Listed Below

1. Defined

Other overnight accommodations not defined herein.

2. **Use Standards**

(None)

B. **Bed and Breakfast Home and Inn**

1. Defined

a. **Bed and Breakfast Home**

A business in a single-family **structure** of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that meets all of the following criteria:

- i. Does not serve food or drink to the general public for pay.
- ii. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home.
- iii. Is the permanent residence of the owner or the manager of the business.
- iv. Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay.

b. **Bed and Breakfast Inn**

A business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period

of less than one week, and that meets all of the following requirements:

- i. Does not serve food or drink to the general public for pay.
- ii. Serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business.
- iii. Includes the price of breakfast in the room rate. The price of additional meals served shall be listed as separate charge on the overnight guest's bill at the conclusion of the guest's stay.

2. **Use Standards**

In the TBD and AC districts, the **use** shall not be located on the ground floor except for a lobby (if applicable) and any nonresidential **uses** that are otherwise accessible to the general public.

C. **Hotel/Motel**

1. **Defined**

A **facility** that contains rooms for overnight guests containing registration **facilities**, on-site management, cleaning services, and combined utilities. May include food service **facilities**.

2. **Use Standards**

- a. In the AC district, the **use** shall not be located on the ground floor except for a small lobby (if applicable) and any nonresidential **uses** that are otherwise accessible to the general public.
- b. All guest rooms shall be accessible from an interior hallway.
- c. No guest rooms shall be accessible without passing through a secured area.
- d. Staff or management shall be on duty 24 hours per day, seven days per week.
- e. Each guest room shall have a minimum of 280 square feet.
- f. No outside storage or permanent parking of equipment or vehicles shall be permitted.
- g. No **buildings** constructed under this Section may be converted to or used as apartments or condominiums.

6.8. COMMERCIAL, OFFICE, RETAIL, SERVICE USE CATEGORY

6.8.1. Characteristics

- A. Office **uses** are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services. No wholesale or external **retail sales** activity is included.
- B. **Restaurants** are establishments that sell food for on- or off- premise consumption.
- C. **Retail Sales** and Service firms are involved in the sale, lease, or rent of new or used products to the general public. They may also provide **personal services**, or provide product repair or services for consumer and business goods.
- D. Day care **uses** provide care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.

6.8.2. Examples

- A. Offices and services include **professional services** such as lawyers, accountants, engineers, or architects; **banks; financial institutions** such as lenders or brokerage houses; insurance agents or real estate agents; **administrative** offices; data processing; **sales** offices; radio and television stations/studios; and individual medical and dental offices.
- B. **Restaurants** include drive-ins, drive-throughs, fast food establishments, yogurt or ice cream shops and pizza delivery **facilities**.
- C. **Retail sales** include stores selling, leasing or renting, consumer, home, and business goods.
- D. Service-Oriented **facilities** include dry cleaners/laundries; emergency medical care offices; funeral home; **household** equipment rental; photographic studios; printing services; hair, tanning and personal care services; health clubs and **gyms**; office equipment rental; travel agencies; animal **hospital/grooming**; repair services; and tailors.

6.8.3. Exceptions

- A. Offices that are part of and located with a principal **use** in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to another principal **use**, are considered part of the other **use**.
- B. Contractors and others who perform services off-site are included in the office category if equipment and materials are not stored outside and fabrication, services, or similar work is not carried on at the site.
- C. Laundry and dry-cleaning plants are considered **light industrial** services.

- D. Lumber yards and other **building** material **sales** that sell primarily to contractors and do not have a **retail** orientation are classified as **wholesale sales**.
- E. Taxicab and limousine operations or **facilities** are classified under Transportation and Terminals.
- F. Day care does not include public or private schools or **facilities** operated in connection with an employment **use**, **shopping center**, **religious institution**, or other principal **use**, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

6.8.4. Specific Uses

A. Other Office **Uses** Not Listed

1. Defined

An establishment primarily engaged in providing internal office administration services as opposed to customer service in a single **building** or a campus setting. The majority of the traffic generated from offices comes from employees and not the general public.

2. **Use** Standards

- a. In the NMX district, the footprint may not exceed 7,000 square feet.
- b. Prohibited on the ground floor in the TBD and AC districts.

B. **Medical Office**

1. Defined

A **facility** providing medical care to patients, typically on an appointment, out-patient basis, but that does not provide overnight care.

2. **Use** standards

- a. In the NMX district, the footprint may not exceed 5,000 square feet.
- b. Prohibited on the ground floor in the TBD and AC districts.

C. Other **Restaurant** and Food Service **Uses** Not Listed

1. Defined

Restaurant and food preparation or food services other than those listed below.

2. **Use** Standards

(None)

D. **Restaurant**, Sit-down Establishment

1. Defined

An establishment providing food and food service, whereby at least 51 percent of the establishment's revenue is derived from such food **sales** and does not contain a drive through window. Pickup, curbside, and to-go food **sales** are allowed.

2. **Use Standards**

- a. In the NMX district, the **use** may not exceed 5,000 square feet in **gross floor area**.

E. **Restaurant with Drive-Through Window or Outdoor Curb Service**

1. **Defined**

A **restaurant** devoted to the preparation and offering of food and beverage for sale to the public for consumption either on or off the premises. Food ordering and delivery can occur prior to arrival, at a counter, drive-through window, or take-out window.

2. **Use Standards**

- a. In the NMX district, the **use** may not exceed 5,000 square feet in **gross floor area**.

F. **Convenience Store**

1. **Defined**

A store selling a limited selection of daily essentials which may or may not include fuel **retail sales** to the public.

2. **Use Standards**

- a. In the NMX and TBD districts, the **use** may not exceed 5,000 square feet in **gross floor area**.
- b. Canopy/gas island operational vehicular areas shall be screened from all public **streets** to a minimum height of three feet. Where abutting a residential district or **use** the screening shall be increased to a minimum of six feet tall.

G. **In-Home Family Child Care Home (up to three nonresident children as a Home Occupation)**

1. **Defined**

Per G.S. § 110-86, an arrangement where, at any one time, not more than three children who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

2. **Use Standards**

- a. At least 100 square feet of outdoor play area shall be provided for each child. The outdoor play area shall be enclosed by a

Commentary: The State of North Carolina requires a license for the care of three or more persons (G.S. § 110-86).

- fence** having a minimum height of four feet, which shall be maintained in good condition.
- b. An off-street drop-off and **loading area** shall be provided.
 - c. Family child day care shall only be permitted to operate between the hours of 6:00 a.m. and 10:00 p.m.
 - d. A 10-foot wide **buffer** with a 50 percent visual screen to a minimum height of six feet is required around the outdoor play area adjacent to any residentially-zoned or residentially-used property.
- H. Child Care Center
1. Defined.

Per G.S. § 110-86, an arrangement where, at any one time, children who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.
 2. **Use Standards**
 - a. At least 100 square feet of outdoor play area shall be provided for each child. The outdoor play area shall be located at least 50 feet from the **lot** line of any residential property, and enclosed by a **fence** having a minimum height of four feet, which shall be maintained in good condition.
 - b. An off-street drop-off and **loading area** shall be provided.
 - c. Child day care is licensed by the North Carolina Department of Health and Human Services.
 - d. Day care shall only be permitted to operate between the hours of 6:00 a.m. and 10:00 p.m.
 - e. A 50 percent visual screen to a minimum height of six feet is required adjacent to any residentially-zoned property.
- I. **Gym, Spa, or Pool, Private**
1. Defined

See sections **13.2.7.,13.2.19., 13.2.16.**
 2. **Use Standards**
 - a. In the NMX district, a private **gym, spa**, indoor tennis court or **pool** may not exceed 5,000 square feet in **gross floor area**.
 - b. In the NMX district, the hours of operation are restricted to between 6:00 a.m. and 10:00 p.m.
- J. Funeral Home

1. Defined
An establishment for the arrangement and management of funerals and preparation of the human deceased for burial.

2. **Use Standards**
(None)

K. **Crematorium**

1. Defined
A place used and dedicated to the cremation of human remains or pet animal remains.
2. **Use Standards**
 - a. All **crematorium** operations must be conducted entirely within a **structure**; **outdoor storage** is prohibited.
 - b. All **crematorium** operations must provide certification from the N.C. Division of Air Quality that a permit is or is not required.
 - c. **Warehouses**, storage or maintenance **buildings**, shall be located not less than 150 feet from the nearest residential district.

L. Personal or **Professional Services**

1. Defined
A **facility** involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. **Professional services** shall include the following **personal services**: beauty, hair, nail or tanning salon; massage therapy; pack-and-ship **facility**; animal grooming; photography, blueprint or quick-**sign** service; psychic or medium; security service; taxidermist; catering service or any similar **use**. **Professional services** shall also include the repair services for bicycles and mopeds, canvas products, clocks, computers, jewelry, musical instruments, office equipment, radios, shoes, televisions, furniture, watches, or any similar product. Also includes tailors, milliners, upholsterers, or locksmiths. Includes the instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classrooms; music studios or classrooms; dance studios or classrooms; martial arts instruction; or similar **uses**. This definition does not include any adult-oriented business or adult entertainment establishment.
2. **Use Standards**
 - a. In the NMX district, a repair-oriented **use** may not exceed 5,000 square feet in **gross floor area**.
 - b. In the NMX district, no **outdoor storage** at a repair-oriented **use** shall be permitted.

M. Banks or Financial Institutions

1. Defined

A **building use** or **facility** providing **banking**, savings and loan, credit union, or mortgage services. May include an ATM as a customary **accessory use**.

2. **Use Standards**

- a. Within the TBD and AC districts, no ground floor operations are permitted, with the exception of a lobby or **banking** kiosk of 1,000 square feet or less or an ATM.
- b. In the NMX district, a **bank**, credit union, or other **financial institution** shall:
 - i. provide only indoor transactions (no external automated teller machine, drive-through windows, or night drop windows shall be permitted); and
 - ii. be limited to hours of operation between 6:00 a.m. and 10:00 p.m.

N. Sales / Retail

1. Defined

The wholesale or **retail** sale, lease or rental of new or used products. Sale or rental of items with incidental service of rented items is allowed but excludes those services and **sales** classified more specifically by another category.

2. **Use Standards**

- a. Outside display of goods for sale and/or outside storage areas with direct frontage along **street** rights-of-way must be screened to a minimum height of two and one-half feet planted every five feet on center at installation.
- b. For new **development**:
 - i. A maximum of 50 percent of the total property frontage may be devoted to outside display or storage of goods when vehicular parking areas (excludes vehicular loading/service areas) are located in the **street** yard area.
 - ii. A maximum of 66 percent of the total property frontage may be devoted to outside display or storage areas when vehicular parking/service areas are located in side or **rear yards**.
- c. For new **development**, all outside displays of goods for sale or **outdoor storage** areas shall have a minimum setback distance of 15 feet from the **street** right-of-way.

O. Parking Lot, Commercial

1. Defined

- a. Commercial parking **facilities** that provide parking that is not accessory to a specific **use**. A fee may or may not be charged. A **facility** that provides both accessory parking for a specific **use** and regular fee parking for people not connected to the **use** is also classified as a commercial parking **facility**.
- b. Parking **facilities** that are accessory to a principal **use**, but that charge the public to **park** for occasional events nearby, are not considered commercial parking **facilities**.
- c. Parking **facilities** that are accessory to a principal **use** are not considered commercial parking **uses**, even if the operator leases the **facility** to the principal **use** or charges a fee to the individuals who **park** in the **facility**.
- d. Public transit **park-and-ride facilities** are classified accessory to those **uses**.
- e. **Open air market** is defined as an area, open or partially enclosed, at which vendors gather to sell personal property.

2. Use Standards

- a. In the TBD and AC districts, commercial parking **uses** shall not be permitted to front public **streets** on the ground floor; **structures** must offer an active **use** on the ground floor perimeter adjacent to public **streets**.

P. Self-Storage, Mini Storage

1. Defined

- a. Self-service storage **uses** provide separate indoor storage areas for individual or business **uses**. The storage areas are designed to allow private access by the tenant for storing or removing personal property. May or may not have an outdoor **vehicle storage** component that is not greater than 25 percent of the enclosed floorspace of the **facility**.
- b. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is defined as “**warehouse** and freight movement”.

2. Use Standards

- a. **Accessory uses** may include living quarters for a resident manager, security and leasing offices, and outside storage of boats and campers.
- b. **Use** of the storage areas for **sales**, service and repair operations, or **manufacturing** is not considered accessory to the self-service storage **use**.

- c. The rental of trucks or equipment is also not considered accessory to a self-service storage **use**.

Q. Manufactured Home Sales Lots

1. Defined

A site devoted to the display and sale of **manufactured homes**. May include several models for display and a unit to house **administrative** and office functions.

2. **Use Standards**

- a. Model display units only are allowed in front areas (measured 100 feet from the right-of-way line) directly visible to the **street**.
- b. All display model units must have foundation planting and underskirting material matching the unit.
- c. All storage units must be located in the rear of display model area and have appropriate screening if visible from the **street**.

R. Veterinarian / Kennel

1. Defined

- a. **Veterinarian**
- b. A commercial operation that provides medical care for animals.
- c. **Kennel**
- d. A commercial operation that provides food, shelter, and care for animals. A **kennel** may: (i) be run by or associated with a **veterinarian**; or (ii) engage in the breeding of animals for sale.

2. **Use Standards**

- a. No **veterinarian** or **kennel** with outdoor operations shall be located within 500 feet of any residential district.
- b. A pet walking area up to 25 percent of the floor area of the indoor operations may be considered accessory, so long as animals are not housed in this area or left there unsupervised.
- c. In the NMX and TBD districts, no **veterinarian** or **kennel** shall exceed 5,000 square feet **gross floor area**.
- d. In the NMX and TBD districts, all activity associated with the operation shall take place within a completely enclosed **building**.

S. Vehicle Sales, Rental, Repair, and Service

1. Defined

Vehicle sales, rental, service, and repair **uses** provide direct services to motor vehicles. They may include firms that rent or service passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles. Also includes establishments primarily engaged in the repair or maintenance of motor vehicles

(inclusive of paint, body, fender), and major engine and engine part overhaul. Typical **uses** include auto and truck rental, lease and **sales**; boat rental and **sales**; mobile home and **recreational vehicle sales**; construction equipment rental yards; moving trailer rental, and large implement **sales** or rental. Examples also include automobile rental; automobile **sales**; car washes; quick lubrication services; **vehicle repair**, transmission or muffler shop; towing service; auto body shop; alignment shop; auto upholstery shop; auto detailing; and tire **sales** and mounting.

2. Use Standards

- a. Except in the CMX and LI districts, no overnight **outdoor storage** is permitted.
- b. **Outdoor storage** is restricted to the rear of a **building** and must be 100 percent screened from all **street** views.
- c. No vehicles shall be stored for more than 30 days.
- d. All service bay areas shall be oriented so as not to directly face U.S. 70 or U.S. 401.
- e. All service bay areas shall have a 100 percent screen to a minimum height of three and one-half feet if such areas are visible from a public **street**. Such screening height must be achieved within two years.
- f. Two elevated display racks are permitted per motor **vehicle sales lot** and shall not exceed five feet in height.
- g. All vehicle display areas with frontage along a public right-of-way shall be screened to a minimum height of two and one-half feet.

T. Vehicle Towing, Storage

1. Defined

A **facility** for the impoundment and temporary storage of vehicles that is operated by someone engaged in the wrecking or towing business.

2. Use Standards

- a. No **vehicle towing** or storage **facility** shall be located within 500 feet of any residential **use** or district.
- b. All overnight storage of vehicles shall be completely screened from view from the public right-of-way and adjacent properties by a six-foot **fence** or other methods that achieve the 100 percent opaque, year round screening objective.

6.9. INDUSTRIAL, MANUFACTURING, WAREHOUSING, WASTE SERVICES, AND TRANSPORTATION USE CATEGORY

6.9.1. Characteristics

Industrial service firms are engaged in the repair or servicing of **industrial**, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate **retail** outlets. Contractors and **building** maintenance services and similar **uses** perform services off-site. Few customers, especially the general public, come to the site. The **uses** may have indoor or outdoor operations.

6.9.2. Examples

Examples include **manufacturing facilities**, **industrial** plants and campuses, **warehouses** and logistics **facilities**, **junkyards**, recycling yards, transfer stations, solid waste **facilities** airports, bus passenger terminals, taxicab and limousine operations and **facilities**, and helicopter landing **facilities**.

6.9.3. Exceptions

- A. Contractors and others who perform services off-site are included in the office category, if major equipment and materials are not stored on-site and fabrication or similar work is not carried on at the site.
- B. Private helicopter landing **facilities** that are accessory to another **use**.
- C. **Manufacturing** of goods to be sold primarily on-site and to the general public are classified as **retail sales** and service.
- D. Manufacture and **production** of goods from composting organic material is classified as waste related service.
- E. Bus passenger stations for local service such as mass transit stops and **park-and-ride facilities** are classified as **minor utilities**.
- F. **Uses** that involve the transfer or storage of solid or liquid wastes are classified as waste related service.
- G. **Flex space** is classified as **light industrial** service.

6.9.4. Standards for All Industrial, Manufacturing, Warehousing, Waste Services, and Transportation

- A. Smoke
 1. To determine the density of equivalent opacity of smoke, the Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Info. Circular 8333, May 1967, shall be used. The Ringlemann numbers cited refer to the area of the Ringlemann Chart that coincides most nearly with the visual equivalent opacity of the smoke emission observed.

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2. All measurements shall be taken at the point of emission of the smoke.
3. In the NMX, CMX, TBD, and AC districts, no **industrial use** classification **use** may emit from a vent, stack, chimney, or combustion process any smoke that is visible to the naked eye.
4. In the LI district, no **industrial use** classification **use** may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent opacity of Ringlemann No. 1, except one emission not exceeding an equivalent of Ringlemann No. 2 is permissible for a duration of not more than four minutes during any eight hour period if the emission source is not within 250 feet of a residential district.
5. In the HI district, no **industrial use** classification **use** may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent opacity of Ringlemann No. 2, except that an emission not exceeding an equivalent of Ringlemann No. 3 is permissible for a duration not more than four minutes during any eight hour period if the source of emission is not located within 500 feet of a residential district.

B. Noise

1. The following definitions shall apply in this Section. All definitions shall be in conformance with those contained in **ANSI/ASA S1.1-2013, Acoustical Terminology**.
2. With respect to the standards established in the Table of Maximum Permitted **Sound Level, dB(A)** are expressed in terms of the **tenth percentile sound level (L10)**, which must be calculated by taking 100 instantaneous A-weighted **sound levels** at ten second intervals and computing the (L10).
3. No person may operate or cause or permit the operation of any stationary source of sound that exceeds the limits set forth herein for the following receiving land **use** districts when measured at the boundary or at any point within the property affected by the noise:

Figure 6.9-A: Table of Maximum Permitted Sound Level [dB(A)]

RECEIVING USE DISTRICTS	DAY (7:00 A.M.—10:00 P.M.)	NIGHT (10:00 P.M.—7:00 A.M.)
Residential, Mixed Use , or with residential component	60	55
Commercial and non- industrial / nonresidential	65	60
Industrial	75	75

4. When a noise source can be identified and its noise measured in more than one land **use** category, the limits of the most restrictive

use shall apply at the boundaries between different land **use** categories.

5. For any stationary source of sound which emits a **pure tone**, cyclically varying sound or repetitive **impulsive sound**, the standards defined herein shall be reduced by five **dB(A)**.
6. The standards set forth in this Section shall not apply to the following sources:
 - a. Emergency warning devices and emergency equipment including medical transport helicopters;
 - b. Lawn care equipment used during daytime hours; or
 - c. Equipment being used for construction.
7. Notwithstanding any other nonconformity provisions in this UDO, any person who operates or permits to be operated any new stationary noise source after October 1, 2003, shall comply with the standards defined herein.
8. Measurement techniques to determine compliance with this Section are set forth in **ANSI/ASA S1.13 - 2020**.

C. Vibration

1. No **industrial, manufacturing, warehousing**, waste services, and/or transportation **use** classification may generate any ground-transmitted vibration perceptible to the human sense of touch measured at either:
 - a. The outside boundary of the space leased, rented or occupied by the enterprise generating the vibration if the enterprise is one of several located on a **lot**; or
 - b. The **lot** line if the enterprise generating the vibration is the only enterprise located on a **lot**.
2. In the NMX, CMX, TBD, AC, LI and HI districts, no **industrial use** classification **use** may generate any ground transmitted vibration in excess of the limits set forth below. Vibration shall be measured at any adjacent **lot** line or residential district line as indicated in the table set forth below.
3. The instrument used to measure vibrations shall be a three component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions.
4. The vibration maximum set forth below are stated in terms of particle velocity, which may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$P.V. = 6.28 F \times D$$

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P.V. = Particle velocity, inches per second

F = Vibration frequency, cycles per second

D = Single amplitude displacement of the vibration, inches

The maximum velocity shall be the vector sum of the three components recorded.

Figure 6.9-B: Table of Maximum Ground Transmitted Vibration

ZONING DISTRICT	ADJACENT LOT LINES	RESIDENTIAL DISTRICT
NMX, CMX, TBD, and AC	0.10	0.02
LI	0.10	0.02
HI	0.20	0.02

5. The values stated above may be multiplied by two for impact vibrations, i.e., discrete vibration pulsations not exceeding one second between pulses.
6. Vibrations resulting from temporary construction activity that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this Section.

D. Odors

1. For purposes of this Section, the odor threshold is defined as the minimum concentration in air of a gas, vapor, or particulate matter than can be detected by the olfactory systems of a panel of healthy observers.
2. No **industrial use** classification in any district may generate any odor that reaches the odor threshold, measured at
 - a. The outside boundary of the space leased, rented or occupied by the enterprise generating the odor; or
 - b. The **lot** line if the enterprise generating the odor is the only enterprise located on a **lot**.

E. Air Pollution

1. Any **industrial use** classification that emits any air contaminant (as defined in G.S. § 143-213) shall comply with applicable state standards concerning air pollution, as set forth in Article 21B of G.S. § 143.
2. No **development** approvals or permits may be issued with respect to any **development** covered above until the State Division of Environmental Management has certified to the permit-issuing authority that the appropriate state permits have been received by the **developer** (as provided in G.S. § 143-215.108) or that the **developer** will be eligible to receive such permits, and that

the **development** is otherwise in compliance with applicable air pollution laws.

F. Disposal of Liquid Wastes

1. No **industrial use** classification in any district may discharge any waste contrary to the provisions of G.S. § 143-214.2.
2. No **industrial use** classification in any district may discharge into the City of Raleigh's sewage treatment **facilities** any waste that cannot be adequately treated by biological means or otherwise violates applicable City of Raleigh requirements or standards.

G. Water Consumption

No **industrial use** classification that requires for its operations a one and one-half inch or larger meter is permissible in any district unless specifically approved to do so by the Town Council.

H. Electrical Disturbance or Interference

No **industrial use** classification may:

1. Create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance; or
2. Otherwise cause, create, or contribute to the interference with electronic signals (including television, and radio broadcasting transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

6.9.5. Specific Uses

A. **Flex Space**, Other **Light Industrial, Manufacturing, or Warehousing Uses** Not Listed

1. Defined

a. **Flex Space**

The sale, lease, or rental of space within a **structure** or multiple **structures** that will allow a combination of non-residential **uses**.

b. Other **Light Industrial**

Research and **development** activities, the **manufacturing**, compounding, processing, packaging, storage, **assembly**, and/or treatment of finished or semifinished products from previously prepared material, which activities are conducted wholly within an enclosed **building**.

c. **Manufacturing**

The mechanical or chemical transformation of materials or substances into new products, including the assembling of

component parts, the creation of products and the blending of materials including but not limited to oils, plastics, resins, etc.

d. **Warehousing**

Facilities characterized by extensive, frequent heavy trucking activity, open storage of material or **nuisances** such as dust, noise and odors, but not involved in **manufacturing** or **production**.

2. **Use Standards**

- a. Changes in products, services, and square footage of the permitted **uses** within a flex-space **structure** do not require approval of the Town.
- b. Any portion of the **gross floor area** in each **flex space structure** may be commercial space provided sufficient off-street parking is available on-site.

B. **Microbrewery / Microdistillery**

1. Defined

A **facility** for the **production** and packaging of beer, liquor, hard cider, and other malt beverages for distribution, **retail**, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, **retail** sale, or tasting are included in this definition as incidental to the **primary use** of producing beverages.

2. **Use Standards**

(None)

C. **Wholesale Sales**

1. Defined

- a. Examples include sale or rental of machinery, equipment, heavy trucks, **building** materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, **restaurant** equipment and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, **building** hardware.
- b. Firms that engage primarily in **sales** to the general public or on a membership basis are classified as **retail sales** and service.
- c. Firms that are primarily storing goods with little on-site business activity are classified as **warehouse** and freight movement.

2. **Use Standards**

(None)

D. **Industrial, Manufacturing, or Production**

1. Defined

Manufacturing and **production** firms are involved in the **manufacturing**, processing, fabrication, packaging or **assembly** of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a **subordinate** part of **sales**. Relatively few customers come to the **manufacturing** site.

2. **Use Standards**

- a. No vibration shall be produced which is transmitted through the ground (and is discernible without the aid of instruments) at or at any point beyond the **lot** line.
- b. All noise shall be muffled so as to not be objectionable.
- c. Visible emissions of air pollutants of any kind at ground level, past the **lot** line of the **lot** on which the source of emissions is located, are prohibited.
- d. No person shall cause or permit any materials to be handled, transported, or stored in such a manner which allows or may allow particulate matter to become airborne.
- e. No direct glare from high temperature processes such as combustion or welding, which is visible at the **lot** line, shall be permitted.
- f. There shall be no emission or transmission of heat or heated air so as to be discernible from the **lot** line.
- g. Any condition or operation which results in the creation of odors of such intensity or character as to unreasonably interfere with the comfort of the public shall be removed, stopped, or modified so as to remove the odor.
- h. **Manufacturing** and **production uses** shall not be a permissible **use** within existing commercial **buildings** in downtown Garner located along Main Street between Montague Street and Griffin Street, and zoned TBD.

E. **Outdoor Storage**

1. **Defined**

An area used for intended for the storage of materials, property, refuse, or vehicles and equipments not in service.

2. **Use Standards**

- a. All **outdoor storage** areas shall be screened from view from any public right-of-way or adjacent property with a minimum six-foot tall opaque **fence**, wall, or other methods that achieve the year-round screening requirement.

- b. Where **outdoor storage** exceeds 10 feet above grade or is adjacent to residential **uses** of two stories or greater, there shall be a minimum 12-foot tall opaque **fence**, wall, or other methods that achieve the year-round screening requirement and a minimum 20-foot wide landscaping **buffer**.

F. Resource Extraction

1. Defined

Resource extraction **uses** include those **uses** that rely on mining, quarrying, or other similar activity to extract resources from the ground. Examples include mines, borrow pits, and quarries.

2. **Use Standards**

Operations must be a minimum of 100 feet from neighboring non-**industrially**-zoned properties with 100 percent opaque, year-round, visual screening up to a height of 12 feet.

G. Passenger Terminals

1. Defined

Passenger terminal also includes passenger terminals for bus service and taxicab or limousine operations or **facilities**.

2. **Use Standards**

(None)

H. **Truck Terminal, Fueling Terminal**

1. Defined

The premises used for loading and unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point and which is designed to accommodate the simultaneous loading or unloading of five or more trucks.

2. **Use Standards**

(None)

I. **Aviation Service and Freight**

1. Defined

Aviation service firms engaged in storage, repair, and/or servicing of airplanes, helicopters, and aviation equipment; charter aviation services; flying-related education; and/or **warehousing** related to air shipping.

2. **Use Standards**

(None)

J. Warehouse and Freight Movement

1. Defined

Warehouse and freight movement firms are involved in the storage or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site **sales** activity with the customer present. May include recycling of materials, offices, and repackaging and transshipment of by-products.

2. **Use Standards**

(None)

K. Other Waste Related Services

1. Defined

Waste related services are characterized by **uses** that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, **uses** that collect sanitary wastes, or **uses** that manufacture or produce goods or energy from the composting of organic material.

2. **Use Standards**

- a. Waste and recyclable materials shall be stored within a weather-tight container or a durable material container. An individual container shall not exceed a height of eight feet. The **use** of containers with self-closing doors is strongly encouraged.
- b. Storage of waste and recyclable materials may be located inside or outside of an enclosed **building**. If located outside of an enclosed **building**, recyclable materials shall be stored within a trailer that is drawn by motor power and bears a valid and current state license. Or, such material located outside an enclosed **building** may be stored within weather tight metal containers which do not exceed a height of eight feet.
- c. Waste and **recyclable material collection centers** outside of an enclosed **building** should be located on a site to avoid direct **street** view, such as but not limited to being located in the rear of existing **building(s)**. Direct **street** view of outside collection centers is permissible only when a 100 percent screen on all sides of the receptacle is completed by the **developer** according to the standards outlined below prior to the start of collection operations. Plans detailing how an outside collection center is to be screened shall be submitted as part of the site or plan application.
- d. Where an outside collection receptacle is a trailer, screening shall be accomplished by solid **fencing** sufficient to screen tires of all trailer wheels and shall be located a maximum of six feet

Section 6.9: Industrial, Manufacturing, Warehousing, Waste Services, and Transportation Use Category

from the designated trailer location closest to **street** view. A minimum of 50 percent of the solid **fence** shall be softened with vegetation consisting of a combination of shrubs and trees and shall extend 15 feet on either end of said **fencing**.

- e. Where an outside collection receptacle is a weather tight metal container, a 100 percent solid screen shall be provided on all sides with a direct **street** view. Screening shall be accomplished by solid **fencing** to a minimum height of eight feet; located a maximum of four feet from the container. A minimum of 50 percent of the **fence** shall be softened with vegetation consisting of a combination of shrubs and trees.
- f. Processing equipment, such as but not limited to crushers and sorting equipment, shall not be part of an outside collection operation.
- g. Collection containers shall be located a minimum of 50 feet from any property line adjoining a residence or residential district. A Type A **buffer (Section 10.6.7.)** shall be required along such property lines.
- h. Waste and **recyclable material collection center** sites shall be kept clean and free of materials, rubbish, or debris. The exterior of outside collection containers shall be kept clean and kept in a good state of repair at all times. The **Planning Director** shall have the authority to order painting, repair, alteration, or removal of receptacles and the cleaning of collection sites which constitutes by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, a **public nuisance** or hazard to public health, safety, or welfare.
- i. All applicable setback requirements of **Article 5.** shall apply to situations where all collection and storage operations are conducted inside a completely enclosed **building**.
- j. In situations where collection and storage operations occur outside of an enclosed **building** the following setbacks shall apply:

Figure 6.9-C: Outside Collection/Storage Setbacks

	ADJACENT TO OR ACROSS FROM NONRESIDENTIAL USE OR DISTRICT	ADJACENT TO OR ACROSS FROM RESIDENTIAL USE OR DISTRICT
Front	50 feet	75 feet
Interior side	25 feet	50 feet
Corner side	50 feet	75 feet
Rear side	25 feet (50 feet if site abuts a street)	50 feet (75 feet if site abuts a street)

- k. A minimum of five **parking spaces** per waste and **recyclable material collection center** site or two **parking spaces** for each receptacle, whichever is greater, shall be required.
 - l. Signage for waste and **recyclable material collection centers** shall be subject to the **sign** regulations set forth in **Article 12**.
 - m. Waste and **recyclable material collection centers** with outside operations shall not be located on a **lot** which abuts U.S. 401, U.S. 70, N.C. 50, or Mechanical Boulevard.
- L. **Recycling Materials Collection Center**
- 1. **Defined**
A permanent **facility** designed and used for receiving, separating, storing, converting, baling or processing of non-hazardous recyclable materials that are not intended for disposal. The **use** may include construction debris recycling or other intensive recycling processes such as composting, chipping, and mulching.
 - 2. **Use Standards**
Same as **Section 6.9.5.K.2**.
- M. **Recycling Collection Point**
- 1. **Defined**
An incidental **use** that is considered an **accessory use** to only the principal **uses**. **Recycling collection points** serve as a neighborhood drop-off point outside of a fully enclosed **building** for temporary storage of small amounts of recyclable materials. Does not include donation drop-off points.
 - 2. **Use Standards**
 - a. **Recycling collection points** shall be limited to one operation per principle **use** (i.e., one per **shopping center**, or office complex or **building**).
 - b. **Recycling collection points** shall present an appropriate appearance in the community. This objective may be accomplished by the **use** of containers which are uniform in size, color and shape, or by the **use** of sufficient measures to screen **recycling collection points** from external views.
 - c. Materials collected at **recycling collection points** shall be limited to aluminum, plastic, glass, or paper materials which may be recycled for re-manufacture or reuse.
 - d. Outside **recycling collection points** should be located on a site so as to avoid direct **street** view such as side or rear areas of existing **building**. The location of a **recycling collection point** shall be situated on a site so as not to create unsafe or hazardous traffic movements on or off the site.

- e. Processing equipment shall not be a part of a **recycling collection point**.
- f. The area immediately surrounding **recycling collection points** shall be kept clean and in a good state of repair at all times. The **Planning Director** shall have the authority to order, at the owner's expense, painting, repair, alteration, screening or removal of containers or receptacles and the cleaning of **recycling collection point** areas which constitute by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, a **public nuisance** or hazard to public health, safety or welfare. Failure to comply with the provisions of this Section shall result in enforcement action according to the requirements of **Article 7. Enforcement**.
- g. The setback requirements that apply to the principal **use** of property where a **recycling collection point** is located shall also apply to individual recycling collection containers.
- h. Signage for **recycling collection points** shall be subject to the **sign** regulations set forth in **Article 12**. The **use** of the recycling symbol as the only **signage** for recycling collections points is required.
- i. A minimum of five **parking spaces** per **recycling collection point** or one **parking space** for each receptacle, whichever is greater, shall be required.

N. Sanitary Landfill, Junk Yard, Salvage Yard

1. Defined

A **facility** for the disposal of solid waste on land in a sanitary manner in accordance with Article 9 of G.S. § 130A, or a **lot**, land, or **structure**, or part thereof, used for the collection, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage, salvaging, or sale of parts or machinery or vehicles not in running condition.

2. Use Standards

Same as **Section 6.9.5.K.2**.

6.10. UTILITIES USE CATEGORY

6.10.1. Characteristics

Major utilities are infrastructure services providing Town-wide service. **Minor utilities** are infrastructure services that need to be located in or near the area where the service is provided. Utility **uses** generally do not regularly have employees at the site. Services may be publicly or privately provided.

6.10.2. Examples

- A. Examples of major utilities include water **towers**; radio and television broadcast **towers**; telecommunication **towers**; **solar farms**; water plants; wastewater plants; and **electrical substations**.
- B. Examples of **minor utilities** include water and sewage **pump stations**; **stormwater** retention and **detention facilities**; bus stops; and telephone exchanges.

6.10.3. Exceptions

- A. Maintenance yards and **buildings**, or other **facilities** with **outdoor storage** are classified as government.
- B. Utility offices are classified as offices.

6.10.4. Specific Uses

- A. Other Utilities **Uses** Not Listed
 - 1. Defined
 - Public and private utilities other than those listed in this subsection. Includes Water and Wastewater **Treatment** Plants. Also includes Electric and **Natural Gas** Substations, although any of these **facilities** less than one-half acre in size are considered **Minor Utilities**.
 - 2. **Use Standards**
 - Mechanical equipment shall be screened from view from public rights of way and ground floor residences.
- B. **Water Treatment, Wastewater Treatment, Natural Gas, Electric Substation**
 - 1. Defined
 - a. **Water Treatment**
 - Any **facility** or **facilities** used or available for **use** in the collection, treatment, testing, storage, pumping, or distribution of water for a **public water system**.
 - b. **Wastewater Treatment**
 - A **facility** or group of units used for the treatment of **industrial** or domestic wastewater for sewer systems and for the reduction

and handling of solids and gases removed from such wastes, whether or not such **facility** or group of units is discharging into state waters.

c. **Natural Gas**

A **facility** with the respect to **natural gas** distribution, including distribution pipelines and metering-regulating stations that are operated by a local distribution company.

d. **Electrical Substation**

A subsidiary station of electricity generation, transmission, and distribution system where high voltage is transformed from high to low or the reverse using transformers.

2. **Use Standards**

(None)

C. **Minor Utility, Elevated Water Storage Tank**

1. **Defined**

Public **facilities** in the form of: (a) **structures** (e.g., poles, lines, pipes); (b) minor sewer, water, and storm drainage **structures** and collection system improvements (e.g., **pump stations**, lines, manholes, valves, hydrants, drains, on-site **detention facilities**); (c) new or extended public **streets** (including lane additions); and (d) minor improvements to existing **streets** (e.g., overlays, catch basins, **signs**, control devices, widening, curbs, gutters, sidewalks). Includes:

- a. Electric power, telephone, cable televisions, gas, water, and sewer lines, wires or pipes, together with supporting poles or **structures**, located within a public right-of-way;
- b. **Neighborhood utility facilities** located within a public right-of-way with the permission of the owner (state or Town) of the right-of-way;
- c. Wells, pumping stations, or other similar **facilities** that are owned or operated by the City of Raleigh as part of the public water and sewer system;
- d. On-site water or wastewater **treatment facilities** that are authorized pursuant to an approved permit for a **development project**; provided such **facilities** are designed and constructed to primarily serve said **development**; and
- e. Electric or **natural gas** substations less than one-half acre in size.

2. **Use Standards**

- a. Mechanical equipment on the ground shall be shall be screened from view from public rights-of-way and ground floor residences.

- b. Where ground-mounted or underground mechanical equipment exists, at least one **parking space** shall be provided for maintenance.

D. Solar Farms

1. Defined

An entire tract or portion of a tract that contains a collection of ground-mounted solar panels and related equipment designed to convert sunlight into electrical power for direct on-site consumption or for interconnection with the power grid system for off-site consumption; the size of a **solar farm** may vary.

2. Use Standards

- a. The maximum height for all solar panels, mounts and related equipment or **structures** shall not exceed 15 feet. This includes solar panels at maximum tilt.
- b. The **solar farm** area shall be enclosed with a minimum six-foot tall security **fence** along its entire perimeter. Gates shall be locked and secured.
- c. The minimum front and corner side setback is 30 feet from the right-of-way of a public or private road, or private road easement.
- d. In the case of a public road that is designated by the current Town of Garner Transportation Plan as a minor or **major thoroughfare**, freeway or interstate, the minimum setback from the right-of-way of said designated road shall be 50 feet.
- e. The minimum interior side and rear setbacks shall be equal to the applicable **buffer** width specified in **Section 10.6.7**.
- f. With the exception of the perimeter security **fence** required in subsection (b), all other **solar farm structures**; including but not limited to: mechanical equipment, panels and mounts; and materials shall be set back a minimum of 100 feet from footprint of any existing residential **dwelling**.
- g. **Solar farms** shall meet the screening of objectionable views requirements of **Section 10.10.5. Solar Farms**.
- h. **Solar farms** shall meet the **industrial** performance standards of **Section B. Noise**.
- i. Solar panels shall not create a traffic or safety hazard; solar panels shall be arranged, angled or sited to minimize glare or reflection onto adjoining properties and rights-of-way. Panels shall have a textured or anti-reflective surface or coating. Mirrors or mirrored panels are prohibited.
- j. Decommissioning Plan: A Decommissioning Plan shall be approved and recorded as a condition of the SUP. At a

minimum, the Decommissioning Plan shall address the following requirements:

- i. Responsible parties.
- ii. Timeline for the completion of all decommissioning plan activities within 6 months of power ceasing to be provided to the recipient client.
- iii. Removal and disposal of all equipment and materials; including but not limited to: panels, mounts, **structures**, pads, foundations, underground wiring, and **fencing**.
- iv. Site reclamation and surface restoration; including but not limited to: retention of installed landscaping, putting down new topsoil, re-grading, and re-seeding.
- v. An “Estimated Net Cost of Decommissioning” prepared by a licensed engineer, inclusive of salvage proceeds; and a mechanism to annually report to the Town of Garner Planning Department a “Revised Estimate of the Net Cost of Decommissioning” that accounts for items such as, but not limited to, inflation, deflation, and depreciation.
- k. Decommissioning Surety: Prior to the issuance of any **building** permits, a surety acceptable to the Town Attorney of the Town of Garner naming the Town of Garner as beneficiary shall be posted for 125 percent of the Estimated Net Cost of Decommissioning established within the approved Decommissioning Plan or \$25,000, whichever is greater.
- l. If at any time, the Revised Estimate of the Net Cost of Decommissioning exceeds 90 percent of the value of the posted surety, a new or amended surety shall be posted in the amount of 125 percent of the newly Revised Net Cost of Decommissioning.

E. Telecommunication Facility

1. Defined
 - a. Any **structure** that is designed and constructed primarily for the purpose of supporting one or more personal wireless service **facility antennas**.
 - b. Does not include small cell **facilities** up to 35 feet tall.
2. Use Standards
 - a. A setback radius as measured from the center of the **tower** base shall be required as follows for all cell **towers**

Figure 6.10-A: Setback Radii from Cell Towers

ADJACENT LOT TYPE	SETBACK	NOTES
Developed Residential District	200' from property line	
Undeveloped Residential District	100 percent Tower Height	
Non-Residential Districts	60 percent Tower Height or 110 percent BMD*	110 percent BMD may not be less than the minimum side or rear yard zoning district setbacks
* Breakpoint Minimum Distance (BMD) is the distance from the top of the structure to the breakpoint level of the structure .		

- b. The Town Council may allow the setback adjacent to undeveloped residential districts to be reduced to a minimum of 60 percent of the **tower** height based on competent engineering evidence provided by the applicant certifying that the structural integrity of the **tower** is designed to collapse completely within the reduced setback distance and that affected owners of record adjacent to the reduced setback distance provide written documentation (which must be recorded with the Wake County Register of Deeds) that they do not object to such setback reduction.
- c. Breakpoint design technology is defined as: The engineering design of a **tower** wherein a specified point on the **tower** is designed such that in the event of a structural failure, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the **tower**. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.
- d. The Town Council encourages the co-location of **antennas** on existing **towers** in the Towns **planning jurisdiction** where possible in order to reduce the amount of visual clutter that new **towers** create in the community.
- e. The applicant shall attend a pre-application meeting with the Planning Department. The applicant shall provide information regarding the proposed **facility's** service area requirements, co-location opportunities and review a checklist of information required for the formal application. Additional information necessary to review the impact of the proposed **facility** on surrounding properties may be required at the time of pre-application meeting.

- f. Telecommunication **tower facilities** shall be built in accordance with all Fire Code requirements for turnarounds in **driveways** of a certain length.
- g. The applicant shall provide competent evidence to the Town Council that all reasonable efforts have been made to co-locate on an existing **tower, building, or structure** or that no existing **tower, building or structure** will technically satisfy the applicant's needs.
- h. The applicant shall certify to the Town Council that a new **tower** location will be constructed for co-location of future users and that radio, television or similar reception for adjoining properties will not be disturbed or diminished.
- i. Advertising copy or any **logo** which constitutes a **sign** is prohibited on any **tower** and **antenna** or satellite dish **antenna** in any zoning district.
- j. The proposed **tower** location must be in conformity with the Comprehensive Growth Plan, the Transportation Plan and other plans officially adopted by the Town Council and applicable zoning overlay districts.
- k. To assure that the proposed **tower** will be in conformity with the adopted plans and policies of the Town, the Town Council may require a specific type of **tower** construction. Monopole **towers** shall be required for sites that fall within a conservation or transportation overlay district. The Council may require specific **tower** construction types in other areas of the Town, based on site specific needs and characteristics of the surrounding neighborhood.
- l. A setback radius (a circle whose center is the **tower** base) shall be required as follows for all **towers** that are permissible in districts except where stricter standards are required in the RA district (see subsection (v.) below).
- m. Where any side of a **tower** site adjoins undeveloped property zoned residential, the required setback distance from the **tower** to any property line shall be equal to at least 100 percent of the **tower** height. The Town Council may allow this setback requirement to be reduced to a minimum of 60 percent of the **tower** height based on competent evidence provided by the applicant clearly showing that the structural integrity of the **tower** is designed to collapse within the reduced setback distance and that affected owners of record adjacent to the reduced setback distance provide written documentation that they do not object to such setback reduction.
- n. The Town Council may require that a **tower** setback radius area not contain any **buildings, structures** or land **uses** if the Council

- concludes that such **buildings, structures** or land **uses** could be impacted by the structural failure of the **tower**.
- o. Landscaping.
 - i. The **buffer** design requirements of **Section 10.6.7**. shall apply between a **tower** and all adjacent land **uses** with the exception of **manufacturing**, airport, armory and **crematorium uses**.
 - ii. The required landscape **buffer** shall be required between the base of a **tower** and any **street** right-of- way from which the **tower** is visible.
 - iii. When the site conditions are such that **tower** base location will create a more effective visual screen from the adjacent property line or **street** right-of-way, the landscape **buffer** may be provided adjacent to the **fencing** surrounding the **tower** base rather than at the property line.
 - p. The Town Council may require the applicant to apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than the red and white marking pattern, when such marking pattern is determined to be aesthetically blighting due to the location of surrounding land **uses** or the visibility of the **tower**.
 - q. When **tower** lighting is proposed, the applicant shall certify as part of the conditional or **special use permit** application, that the lighting planned for the **tower** does not exceed the minimum standards of the FAA, as amended.
 - r. The exterior appearance of all **buildings** associated with a telecommunications **tower** located adjacent to any residential zoning district may be required by the Town Council to resemble a residential **dwelling**, including a pitched roof(s), and frame or brick veneer construction.
 - s. The exterior appearance of all **buildings** associated with a telecommunications **tower** located in a residential or non residential zoning district, which is visible from a public right-of-way, may be required by the Town Council to have architectural enhancements, such as, siding, split face block or brick veneer on all facades visible from the public right-of-way.
 - t. A **tower** that has been abandoned or has not been actively used for a period of six consecutive months shall be removed by the **tower** user that currently owns or leases the **facility** upon notice from the Town of Garner, unless the Town Council grants a time extension at the owner's request, for a period not to exceed one year from the date of official notice.

- u. The **tower** shall be a tapered monopole construction unless otherwise approved by the Town Council. The **tower** shall not exceed a height of 200 feet (measured from the finish grade elevation to the top of the **tower**). However, the Town Council may require a **tower** be of a certain height, not to exceed the maximum permitted, if it finds that such a requirement is necessary to support the design for co-location of additional users or is needed to address the impact of the **tower** on adjacent properties and **uses**.
- v. In the RA district, telecommunication **towers** shall also meet the following:
 - i. There shall be a minimum setback from all sides of a **tower** equal to two-and-one-half times the **tower** height measured in a straight line to an existing residence, excluding the applicant's residence.
 - ii. **Towers** located in RA district greater than 75 feet in height shall not be located closer than 2,500 feet to another **tower** greater than 75 feet in height. This separation provision applies only to communication **towers** which transmit or receive telephone, telecommunication, radio, or TV signals and does not include amateur or ham radio **towers** and **antennas**.
 - iii. Associated **buildings** used in connection with a **tower** located in RA districts may not be used as an employment center for any worker. This provision does not prohibit periodic maintenance and monitoring of equipment and instruments.
 - iv. The applicant shall apply stealth technologies for **towers** located in the RA district where practical. However, all **antennas** on **towers** in the RA district shall employ a type of stealth application that visually screens **antennas** from any off-site location in a manner approved by the Town Council.
 - v. The base of the **tower**, including associated **structures** and **fences**, shall be surrounded by a 75-foot landscaped **buffer** providing a 100 percent screen to at least eight feet in height. Existing vegetation may be used to reduce the **buffer** width requirement if the screening standard can be met.
 - vi. Landscaped berms may be allowed in lieu of the required landscaping provided the berm is appropriate for the **tower** location and it achieves the required screening standards outlined above.

F. **Concealed Telecommunication Facility**

1. Defined

Any **structure** designed and constructed primarily for the purpose of supporting one or more personal wireless service **facility antennas**, which is housed within a framework design to resemble another **structure**, or is attached to a primary **structure**.

2. **Use Standards**

- a. All telecommunication standards listed in Subsection E.
- b. Telecommunication **structure** shall not protrude more than five feet from the surrounding **structure**.
- c. The **facility** shall be 100 percent screened from public rights-of-way and adjacent properties through landscape screening or **fencing**.

6.11. AGRICULTURAL AND MISCELLANEOUS USE CATEGORY

6.11.1. Characteristics

Cultivation of plants or animals for consumption or **use**.

6.11.2. Examples

Examples include breeding or raising of fowl or other animals; barn/stable for private animal **livestock**; catfish farm; riding academies; crop **production**; farming; pasturage; community garden; truck gardening; and wholesale plant **nurseries** or **greenhouses**.

6.11.3. Exceptions

- A. Processing of animal or plant products are classified as **manufacturing** and **production**.
- B. Plant **nurseries** or **greenhouses** that are oriented to **retail sales** to the general public are classified as **retail sales** and service.

6.11.4. Specific Uses

- A. Other Agricultural **Uses** Not Listed
 1. Defined

N.C. bona-fide farms, agri-tourism, community garden, and agricultural **uses** other than those listed below.
 2. **Use** Standards
 - a. **Structures** for keeping and raising of **livestock** and poultry shall be separated from residentially-zoned property by 300 feet, except those in locations exempted by G.S. § 160D-903.
- B. **Agriculture** or **Silviculture**
 1. Defined

Activities that primarily involve raising, producing, or keeping plants or animals, forest management, tree farms, and timber areas. Also includes direct **sales** of such products at wholesale. Also, see definition of "**bona fide farm purposes**", **Article 13**.
 2. **Use** Standards
 - a. **Structures** for keeping and raising of **livestock** and poultry shall be separated from residentially-zoned property by 300 feet.
 - b. To account for future perimeter **buffers** and **street tree** areas, no timbering or clearing of trees or understory vegetation will be permitted within 65 feet of any adjoining parcel or **street** right-of-way, except for any road/**driveway** necessary to serve the

property. Future site or **subdivision** plans may be denied by the permit issuing authority for a period of three to five years based on the willfulness of any timbering or clearing of the areas herein.

C. **Greenhouse, Nursery** (Commercial)

1. Defined

A **use** involving the sale and/or growth of horticultural and floricultural specialties both in open and enclosed **structures** and may include the sale of mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

2. **Use Standards**

- a. In the NMX district, total **building footprint** is limited to 7,000 square feet.

6.12. ACCESSORY USES AND STRUCTURES

6.12.1. Applicability

Whenever a **use** is conducted in conjunction with another principal **use**, and the first **use** (1) constitutes only an incidental or insubstantial part of the total activity on a **lot**; or (2) is commonly associated with the principal **use** and integrally related to it, then the first **use** may be regarded as accessory and may be carried on under the umbrella of the permit issued for the principal **use**.

6.12.2. General

A. Fences and Walls

Fences and walls are permitted in any yard or along the edge of any yard and to such heights as follows, provided the vision necessary for safe vehicular and pedestrian movement on **driveways** and **streets** is not impeded:

1. All Residential, CMX districts

Open and solid **fences** to four feet in front and corner **side yards**; solid **fences** to six feet in side and **rear yards**; open **fences** to any structurally-sound height in side and **rear yards**; solid rear and **side yard fences** to eight feet as a **variance** if granted by the Board of Adjustment.

2. **Industrial** Districts (LI, HI)

Solid and open **fences** to any structurally-sound height.

3. Salvage Operations

Solid **fences** not less than eight feet in height must be provided to enclose any salvage, scrap or reclamation operation.

4. Swimming **Pools**

Swimming **pools** shall be completely isolated from adjacent properties and from **streets** by a **fence** or wall having a minimum height of four feet, and a maximum height as provided above, constructed so as to prevent the passage of small children.

B. **Towers, Antennas,** and Satellite Dishes

1. 35 feet tall or less.

Towers and **antennas** or satellite dishes 35 feet tall or less, mounted on the ground are considered **accessory uses** and **structures** in all zones provided they meet the following criteria:

- a. **Towers** and **antennas** or satellite dish **antennas** shall not be located in a public right-of-way or public easement.

- b. **Towers** and **antennas** or satellite dish **antennas** shall be prohibited in front and corner-side **street** yards in all residential districts.
 - c. **Towers** and **antennas** or satellite dish **antennas** shall meet the applicable rear or interior **side yard** setback requirement in all residential zoning districts.
 - d. Satellite dish **antennas** in all residential zoning districts shall not exceed a height of 20 feet and 12 feet in diameter and shall be limited to one device per **lot**. A satellite dish that exceeds four feet in diameter shall be constructed of black mesh material.
 - e. **Towers** and **antennas** or satellite dish **antennas** shall meet the applicable yard setback requirement in all nonresidential districts.
 - f. In addition, the following criteria must be met:
 - i. The owner of a **tower** and **antenna** or satellite dish shall certify that radio, television or similar reception for adjoining properties will not be disturbed or diminished.
 - ii. Advertising copy or any **logo** which constitutes a **sign** are prohibited on any **tower** and **antenna** or satellite dish **antenna** in any zoning district.
 - iii. A satellite dish **antenna** located in a residential zoning district shall be screened from all **street** views. The screen shall be made of plant materials enclosed **fences** or walls, earthen beams or any combination thereof which is immediately adjacent to the dish **antenna**. Such screening shall be a height of six feet above ground elevation.
2. 20 feet tall or less

Towers and **antennas** or satellite dishes, 20 feet tall or less, mounted on the roof of a **building** or **structure** are considered **accessory uses** in all zones provided they meet the following criteria:

- a. The applicant shall submit a **site plan** and roof plan showing the exact location of the satellite dish **antenna** and how its location and/or architectural enhancements will provide a 50 percent screen of the **structure** from all **street** views for dish **antennas** located in nonresidential districts and a 75 percent screen from all **street** views in residential districts.
- b. The applicant shall certify that radio or television or similar reception for adjoining properties will not be disturbed or diminished by a satellite dish.

- c. Advertising copy or **logos** which meets the definition of a **sign** shall not be permitted on any **tower** and **antenna** or satellite dish **antenna** in any zoning district.
- d. A roof mounted satellite dish **antenna** in a residential district that exceeds four feet in diameter shall be constructed of black mesh material.
- e. The Board of Adjustment may grant an exception to these requirements regarding the location, height and setback requirements provided the Board concludes the following conditions have been satisfied.
 - i. The applicant provides acceptable evidence that literal compliance with the required locational or dimensional standards will result in the obstruction of the **antenna** or satellite dish's reception and will not permit the normal **use** of the **antenna** or satellite dish.
 - ii. The applicant provides acceptable evidence to the Board of Adjustment that the granting of the exception is the minimum necessary to operate the **antenna** or satellite dish in a normal manner according to the manufacturer's specifications.
 - iii. In addition to the above required findings, in order to grant an exception the Board of Adjustment must find the following:
 - (A) That the request will be in general harmony with adjoining properties;
 - (B) That the request will not endanger the **public safety** or welfare; and
- f. That the request does not violate any other local, state or federal laws or regulations.

C. Accessory solar energy systems

- 1. **Accessory solar energy systems** are allowed in all zoning districts.
- 2. Solar panels shall not create a traffic or safety hazard.
- 3. Solar panels shall be arranged, angled or sited to minimize glare or reflection onto adjoining properties and rights-of-way.
- 4. Mirrors or mirrored panels are prohibited.
- 5. In nonresidential and mixed **use** zoning districts:
 - a. The maximum height for all ground-mounted solar panels and related equipment shall not exceed 15 feet. This includes solar panels at maximum tilt.

- b. The area for ground-mounted panels and equipment shall be no more than 25 percent of the **principal building's** footprint, unless in an approved **Solar Farm**.
 - c. Ground-mounted panels are restricted to the interior side and **rear yards** only, and shall not be located within any perimeter **buffer** required by **Article 10**.
 - d. Flush-mounted roof panels are exempt from the screening of objectionable views requirements of **Article 10**.
 - e. Minimum setbacks shall meet those specified for **accessory structures**; however, the area shall not count towards any **accessory structure** allowances.
 - f. Any roof panel not installed flush to the roof surface shall be 100 percent screened from view in accordance with the screening of objectionable views requirements of **Article 10**.
6. TBD and all residential zoning districts and in multifamily and **townhome developments**: Only flush-mounted solar roof panels or solar shingles are permitted.

D. Prohibited **Uses**

The following activities shall not be regarded as accessory to any principal **use** and are prohibited in all districts, except as a principal **use** as described in this Article.

1. Junked or **abandoned** vehicles
 - a. Abandoned and junked motor vehicles are defined as follows:
 - i. An abandoned motor vehicle is a self-propelled, land operated vehicle (e.g., truck, car, tractor, etc.) that:
 - ii. Has been left upon a **street** or highway in **violation** of a law or ordinance prohibiting parking; or
 - iii. Is left on property owned or operated by the Town for longer than 24 hours; or
 - iv. Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
 - v. Is left on any public **street** or highway for longer than seven days.
 - b. A junked motor vehicle is an abandoned motor vehicle that also:
 - i. Is partially dismantled or wrecked; or
 - ii. Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
 - iii. Is more than five years old and worth less than \$100; or
 - iv. Does not display a current license plate.

E. Design Standards

1. **Accessory uses** shall be **subordinate** to the **primary use**, including but not limited to **lot** coverage, **gross floor area**, or **structure** height and size, except for barns and other agricultural-related **structures** in the RA district, or as otherwise expressly permitted herein

6.12.3. In Residential Districts

A. Permitted Uses

The following are specifically regarded as accessory to residential principal **uses** so long as they satisfy other criteria of this Section:

1. Offices or studios within an enclosed **building** and used by an occupant of a residence located on the same **lot** to carry on **administrative** or artistic activities, so long as such activities do not fall within the definition of a **home occupation**.
2. Hobbies or recreational activities of a non-commercial nature.
3. The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate **dwelling unit**) to persons who are not part of the family that resides in the **single-family dwelling**.
4. Daycare for up to five days a week of up to three non-related individuals for less than four hours per day.

B. Restricted Use – Accessory Dwelling Units (ADUs)

1. Districts

Subject to approval of a **Zoning Compliance Permit** per Article 3, ADUs are permitted in the specified districts as follows:

- a. In the RA district, one ADU is allowed per a **lot**;
- b. In the R2 district, one ADU is allowed per **lot** provided that the resulting density of the parcel is not greater than 175 percent of the district standard; and
- c. In the R4 district, one ADU is allowed per **lot** provided that the resulting density of the parcel is not greater than 150 percent of the district standard.

2. Specific **Use** and Design Standards

- a. ADUs are only permitted to be used for residential purposes or for purposes accessory to the principal **dwelling**;
- b. ADUs shall have permanent access to utilities;
- c. ADUs must be on a permanent foundation;
- d. Square footage is less than 50 percent of the square footage of the principal **dwelling**, with a maximum size of 800 square feet;

- e. The ADU may not be taller than the principal **dwelling** when measured at the highest point, unless the ADU is located on an upper floor attached to the primary **structure**;
- f. Two additional off-street **parking spaces** are required per ADU in addition to the parking required for the principal **dwelling**;
- g. The ADU must be accessible from an existing **driveway**;
- h. An ADU may not be sold separately from its principal **dwelling unit**;
- i. Any accommodations for an extra public utility meter or meter billing service for the ADU is the responsibility of the property owner and shall be registered in their name; and

C. **Prohibited Uses**

The following activities shall not be regarded as accessory to a residential principal **use** and are prohibited in residential districts:

1. Storage or parking of any vehicle or trailer overnight or for a longer period of time, if said vehicle or trailer is licensed or regularly used for commercial or **industrial** purposes, and meets any of the following criteria:
 - a. A vehicle for which a commercial driver's license is required by state law;
 - b. A vehicle or trailer with more than two axles;
 - c. Any trailer bearing commercial **signage, logo**, or actually carrying commercial or **industrial** equipment or materials; or
 - d. A vehicle or trailer having a height in excess of 90 inches stored or parked in any required **front yard**.
2. The UDO shall not prohibit the overnight parking or storage of pickup trucks or of trailers used exclusively for non-commercial or non-**industrial** purposes.
3. Automotive repair, including engine, body or other repair or repainting of any vehicle owned by a person not residing at that address, notwithstanding whether compensation was paid for said service.
4. Skateboard ramps, except as follows:
 - a. Ramps that do not exceed four feet in height off a horizontal plane at the highest point of ground where the **structure** is immediately erected; and
 - b. That meet all side and **rear yard** setback requirements.

D. **Development Standards**

1. Residential **accessory structures**, on **lots** of record prior to March 1, 1984, may **encroach** into designated CBAs as provided in **Section 5.13.1**.

E. Design Standards

1. Number

- a. Only two **accessory structures** are allowed per **lot**.
- b. **Pools** and associated mechanical equipment, restroom **facilities**, and shade **structures** are counted as one **structure**.

2. Height

- a. The maximum height of a garage shall not exceed the height of the principal **structure**.
- b. The maximum height of an **accessory structure** other than a garage shall be 20 feet.

3. Setbacks

- a. The minimum setback from a side **lot** line is ten feet;
- b. The minimum setback from a rear **lot** line is five feet;
- c. If an easement exists along such **lot** line, the minimum setback will be coincident with the easement line if the easement is greater than the applicable minimum stated above.

4. Floor area

The floor area of the total number of **accessory structures** shall not exceed one-half of the heated square footage of the **principal building** served, except in the RA district. This does not apply to in-ground swimming **pools**.

6.12.4. In Nonresidential or Mixed-Use Districts

A. Restricted **Uses**

1. Automatic One-Bay (Non-Wand) Car Wash **Facility**.

A one-bay automatic (non-wand) car wash **facility** that is completely enclosed except for openings necessary to allow entry and exit of vehicles is permissible, provided:

- a. The **facility** serves as an **accessory use** to the principal **use** of a **convenience store** only;
- b. The car wash **building** or **structure** cannot exceed a height of 20 feet or exceed an overall **building** dimension of 25 feet in width and 50 feet in length;
- c. The car wash accessory **building** shall have the same architectural character as the onsite **principal building** and shall house car wash related storage and/or rest rooms only.

- The doors of the car wash **building** shall be architecturally compatible with the car wash **building**. The doors of the car wash accessory **building** shall be closed when the **facility** is not in operation;
- d. The car wash **building** and storage of auxiliary equipment related to the car wash **facility** shall be located behind the rear **building** line of the principal **use building**;
 - e. The orientation of a one-bay automatic car wash **structure** shall be sited so as to discourage direct **street** view of the **facility**. Direct **street** access of a one-bay automatic car wash **structure** and related auxiliary equipment is permissible only when appropriate **landscaped areas** such as, but not limited to, planter islands or other landscaped features are used to provide a 50 percent screen of the **facility** and related equipment from **street** view;
 - f. All one-bay (non-wand) automatic car wash **structures** shall meet the applicable setback standards of **Article 6**. The **use** shall be subject to the noise standards;
 - g. In addition to meeting the screening standards outlined above, the provisions of **Article 10.**, regarding **buffer/screen** requirements shall apply to a one-bay automatic car wash **facility**;
 - h. The property on which an accessory automatic non-wand car wash is located shall abut the **major thoroughfares**, U.S. 401 and U.S. 70 and N.C. 50, as designated on the adopted greater Capital Area Metropolitan Planning Organization Transportation Plan; and
 - i. All car wash **facilities** shall be equipped with a water recycling system that meets all applicable standards and regulations of the Town, City of Raleigh, Wake County, and State, or connect to the Town of Garner Sewer System upon the approval of the Town Engineer.
2. **Automatic Car Wash Facility**
- An automatic (non-wand) car wash **facility** that is completely enclosed except for openings necessary to allow entry and exit of vehicles is permissible as an **accessory use** to the principal **use** of a **vehicle sales**, rental, repair, and service **facility** provided the following standards are met:
- a. The number of car wash bays shall be limited to a maximum of two, provided the number of car wash bays does not exceed more than one-third of the total number of bays contained in the entire **building**.

- b. The car wash bays shall be architecturally integrated into the overall **building** to present a unified **building** design in a manner that utilizes the same **building** materials and colors as the other portions of the **building**.
- c. Hours of operation for the automatic car wash shall be limited to between 6:00 a.m. and 11:00 p.m. each day.
- d. Appearance and Landscaping
 - i. The orientation of the automatic car wash bays shall be sited so as to discourage direct **street** views of the **facility** where practical.
 - ii. **Vehicle sales**, rental, repair, and service **facilities** with automatic car wash bays as an **accessory use** not located within a special overlay district shall provide a 100 percent screen of the **facility** and related equipment from **street** views to a minimum height of four feet within two years of initial planting.
- e. All car wash **facilities** shall be equipped with a water recycling system that meets all applicable standards and regulations of the Town, City of Raleigh, Wake County, and State, or connect to the Town of Garner Sewer System upon the approval of the Town Engineer.

B. Design Standards

- 1. Except in the HI district, all **accessory structures** in nonresidential and mixed-use districts, **industrial** districts, and multifamily and **townhome developments** shall be consistent (in materials and design) with the primary **structure**, including but not limited to external materials and roof type (in the case of pitched roofs).
- 2. **Retail sales**, offices, and other permissible **uses** with outside display or storage of goods for sale shall meet the following standards:
 - a. Outside display of goods for sale with direct frontage along or visibility from **street** rights-of-way must be screened to a minimum height of two and one-half feet;
 - b. Outside storage areas with direct frontage along or visibility from **street** rights-of-way must be screened to a minimum height of eight feet; and
 - c. All outside displays of goods for sale or **outdoor storage** areas shall have a minimum setback distance of 15 feet from the **street** right-of-way.

6.13. HOME OCCUPATIONS IN RESIDENTIAL ZONING DISTRICTS

6.13.1. Characteristics

A **home occupation** in a residential zoning district is defined as commercial activity in any residential district that:

- A. Is conducted by a person on the same **lot** where such person resides;
and
- B. Is not so insubstantial or incidental or is not so commonly associated with the residential **use** as to be regarded as an **accessory use**, but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

6.13.2. Exclusions

- A. A **use** shall be regarded as having a significant adverse impact on the surrounding neighborhood if:
 1. The **home occupation** changes the outside appearance of the **dwelling**.
 2. Goods, stock in trade, or other commodities are displayed.
 3. It results in the outside storage or display of anything.
 4. Any on-premises **retail sales** occur.
 5. More than one person not a resident on the premises is employed in connection with the occupation.
 6. It generates traffic, parking, sewerage, or water **use** in excess of what is normal in the residential neighborhood.
 7. It results in the off-street or on-street parking of more than two vehicles at any one time not owned by members of the occupant **household**.
 8. It creates a hazard to persons or property.
 9. It is a **nuisance**.
 10. It creates objectionable traffic, noise, fumes, odor, dust, or electrical interference.
 11. More than 25 percent of the total **gross floor area** of the residential **building** plus other **buildings** used for the occupation, or more than 500 square feet of **gross floor area**, whichever is less, is used for **home occupation** purposes.
- B. The following are expressly prohibited as **home occupations**:
 1. Animal **hospitals**, stables, or **kennel**.
 2. **Barber**, beauty, and other **personal service** shops.
 3. Mortuaries.

4. Private clubs.
5. Repair shops.
6. **Restaurants.**
7. Automobile paint or repair shops.
8. Doctor, dentist, **veterinarian**, or other medically related office.

6.13.3. Standards

- A. The residential character of the **lot** and **dwelling** shall be maintained. Neither the interior nor the exterior of the **dwelling** shall be structurally altered so as to require compliance with nonresidential construction codes to accommodate the **home occupation**.
- B. See **Article 12** for **home occupation signage** regulations.
- C. No additional **buildings** or **structures** shall be added on the property to accommodate the **home occupation**.
- D. **Outdoor storage** is prohibited.
- E. Instruction in music, dancing, and similar subjects shall be limited to two students at a time.
- F. Any activities involving outside visitors or clients shall be limited to the hours between 8:00 a.m. and 8:00 p.m.

6.14. HOME OCCUPATIONS IN THE NEIGHBORHOOD COMMERCIAL ZONING DISTRICT

6.14.1. Characteristics

A commercial activity in a **single-family dwelling** located in the Neighborhood Commercial district that:

- A. Is conducted by a person on the same **lot** where such person resides;
and
- B. Is not so insubstantial or incidental or is not so commonly associated with the residential **use** as to be regarded as an **accessory use**, but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

6.14.2. Exclusions

- A. A **home occupation use** is not allowed if:
 1. The **home occupation** changes the outside appearance of the **dwelling**;
 2. Goods, stock in trade, or other commodities are displayed;
 3. It results in the outside storage or display of anything;
 4. Any on-premises **retail sales** occur;
 5. More than six people that are not residents on the premises are employed in connection with the occupation;
 6. It generates traffic, parking, sewerage, or water **use** in excess of what is normal in the residential neighborhood;
 7. It results in any on-street parking of vehicles;
 8. Creates a hazard to persons or property;
 9. Is a **nuisance**;
 10. It creates objectionable traffic, noise, fumes, odor, dust, or electrical interference; or
 11. More than 50 percent of the total **gross floor area** of the residential **building** plus other **buildings** used for the occupation, or more than 700 square feet of **gross floor area**, whichever is less, is used for **home occupation** purposes.
- B. The following are expressly prohibited as **home occupations**:
 1. Animal **hospitals**, stables, or **kennels**.
 2. Mortuaries.
 3. Private clubs.
 4. Repair shops.
 5. **Restaurants**.

6. Automobile paint or repair shops.
7. Doctor, dentist, **veterinarian**, or other medically related office.

6.14.3. Standards

- A. The residential character of the **lot** and **dwelling** shall be maintained. The **dwelling** must comply with all applicable NMX **Building** Codes necessary to accommodate the **home occupation**.
- B. A **sign** up to four square feet in area and four feet in height may be allowed as noted in **Article 12**. provided a **sign permit** is obtained.
- C. No additional **buildings** or **structures** shall be added on the property to accommodate the **home occupation**.
- D. No **outdoor storage** or separate entrance shall be permitted.
- E. Instruction in music, dancing, and similar subjects shall be limited to two students at a time.
- F. Any activities involving outside visitors or clients shall be limited to the hours between 8:00 a.m. and 8:00 p.m.
- G. Off-**street** parking shall be provided in the amount of one **parking space** per employee in addition to required parking for the residential **use** of the **dwelling**. All parking must be designed to meet the requirements of **Article 10**.
- H. Commercial vehicles as defined in **Section 6.12.3.C**. are prohibited as part of the **home occupation**.

6.15. TEMPORARY USES

6.15.1. Permit Required

A **temporary use** or **structure** for one or more of the following described **uses** below shall be permitted in any district. All **temporary uses** and **structures** shall obtain a **temporary use** permit pursuant to the procedures set forth in **Article 4**.

6.15.2. General Regulations

The general regulations of this Section shall apply to all allowed **temporary uses** unless otherwise expressly stated.

- A. Permanent Changes Prohibited.
Permanent changes to the site of a **temporary use** are prohibited.
- B. Accessory Signage
 - 1. Permanent **signs** accessory to **temporary uses** are prohibited;
 - 2. **Signs** accessory to **temporary uses** shall be limited to the premises of the **temporary use** except as specifically permitted under **Article 12**;
 - 3. Not more than one double-faced, non-illuminated **sign** shall be permitted;
 - 4. Said **sign** shall not exceed 32 square feet in area nor eight feet in height and shall be set back not less than five feet from the front and/or side property line;
 - 5. **Signs** accessory to **temporary uses** require a permit; and
 - 6. All **signs** accessory to **temporary uses** shall be removed when the activity ends.
- C. **Temporary uses** shall not violate any applicable conditions of approval that apply to the principal **use** on the site.
- D. The operator must obtain all other required permits applicable to the activity, such as health department permits.
- E. All temporary **structures** shall be erected in a safe manner in accordance with any applicable Town codes, ordinances, or standards, including the following:
 - 1. No **temporary use** shall be placed on any public sidewalk, public **street**, or other public property except as provided in the Town of Garner Code of Ordinances; and
 - 2. Electrical and utility connections, if applicable, shall be approved by the Town.

6.15.3. Prohibited Temporary Uses

- A. **Sales** or raffles of firearms.
- B. **Sales** of any materials characterized by an emphasis on specified anatomical areas or specified sexual activities.

6.15.4. Permitted Temporary Uses

Temporary uses shall be allowed in accordance with the standards of this Section. The **Planning Director** may approve **temporary uses** and activities or special events including specific time limits, other than those specifically listed herein, if it is determined that such **uses** would not jeopardize the public health, safety, or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

Figure 6.15-A: Table of Permitted Temporary Uses

ALLOWABLE TEMPORARY USE	RA, R2, R4, R8	RMH, MF-A, MF-B	NMX, TBD	CMX, AC	LI, HI
Carnivals, Fairs, Circuses, Concerts and Similar Uses ; 6.15.5.	Permit Required; Rodeos in RA or R-22 require all activities being located a minimum of 100 feet from any lot line zoned residential or used as a residence.	Not Allowed;	Permit Required	Permit Required	Permit Required
Natural Disasters and Emergencies Offices; 6.15.6.	Allowed	Allowed	Allowed	Allowed	Allowed
Parking Lot Sales ; 6.15.7.	Not Allowed	Not Allowed	Not Allowed	Permit Required	Permit Required
Seasonal Outdoor Sales ; 6.15.8.	Not Allowed	Not Allowed	Permit Required	Permit Required	Permit Required
Temporary Construction, Security, Real Estate Sales Offices; 6.15.9.	Permit Required	Permit Required	Permit Required	Permit Required	Permit Required
Yard or Garage Sales ; 6.15.10.	Allowed	Allowed	Not Allowed	Not Allowed	Not Allowed
Temporary Storage Container; 6.15.11.	Registration Required	Registration Required	Registration Required; Permit Required after 15 days	Registration Required; Permit Required after 15 days	Registration Required; Permit Required after 15 days

6.15.5. Carnivals, Fairs, Circuses, Concerts, and Other Public Entertainment

Such temporary, outdoor events shall be governed by the provisions of the Town of Garner Code of Ordinances. No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated **assembly** of 500 or more people which continues or can reasonably be expected to continue for 18 or more consecutive hours, whether on public or private property, unless the standards of this Section are met.

A. Exclusions

1. This section shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of **assembly** for **assemblies** that do not exceed by more than 250 people the maximum seating capacity of the **structure** where the **assembly** is held.
2. This section shall not apply to government-sponsored fairs held on regularly established fairgrounds nor to **assemblies** required to be licensed by other ordinances and regulations of the Town.

B. Required **Facilities**

Prior to commencement of the **assembly**, the organizer shall provide the following **facilities** to ensure the **assembly** causes as little disruption and inconvenience as possible to adjacent properties, neighborhoods and traffic patterns:

1. A **fence** completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the **assembly** grounds, which shall have at least four gates, at least one at or near four opposite points of the compass;
2. Potable water meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day;
3. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide **facilities** for the maximum number of people to be assembled at the rate of at least one toilet for every 200 females and at least one toilet for every 300 males, together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations;

4. A sanitary method of disposing of solid waste in compliance with state and local laws and regulations, sufficient to dispose of the solid waste **production** of the maximum number of people to be assembled at the rate of at least two and one-half pounds of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the **assembly** and sufficient trash cans with V-lids and personnel to perform the task;
5. EMS personnel and at least one emergency ambulance must be available for **use** at all times;
6. If the **assembly** is to continue during hours of darkness, illumination sufficient to light the entire area of the **assembly** at the rate of at least five foot-candles, but not to shine unreasonably beyond the boundary enclosed location of the **assembly**;
7. Security guards, either regularly employed, duly sworn, off-duty North Carolina peace officers or private security guards licensed in North Carolina, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 750 people;
8. Fire protection, including alarms, extinguishing devices, and fire lanes and escapes, sufficient to meet all state and local standards for the location of the **assembly** as set forth in the North Carolina **Administrative** Code and ordinances of the Town, and sufficient emergency personnel to efficiently operate the required equipment;
9. All reasonably necessary precautions to ensure that the sound of the **assembly** will not carry unreasonably beyond the enclosed boundaries of the location of the **assembly**; and
10. Traffic control plan that is acceptable to the Planning, Engineering, and Police Departments.

6.15.6. Natural Disasters and Emergencies

Temporary uses and **structures** needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency, but shall be coordinated with the Town Manager's office.

6.15.7. Parking Lot Sales

Temporary outdoor **retail sales** on private property are permitted subject to the following:

- A. Temporary outdoor **retail sales** are only allowed on property – inclusive of **outparcels** in a commercial **subdivision** - with an already operating, permitted, and licensed (if applicable) commercial or **industrial** principal **use**. Locating on vacant property or on property with a vacant

or **abandoned use** is not permitted, except on qualifying **outparcels** as noted herein.

- B. Temporary outdoor **retail sales** refers to the sale of goods or merchandise that are not generally sold as part of the principal **use's** inventory. **Sales** for the temporary outdoor **retail** operation shall be separate and apart from **sales** for the principal **use**.
- C. The proposed temporary outdoor **use** shall not conflict with principal activities conducted on the site.
- D. The **sales** and display area of the temporary outdoor **retail use** shall not exceed ten percent of the **gross floor area** of the **principal building** on the premises.
- E. Only one temporary outdoor **retail use** is allowed per site at a time. The **use** shall last no longer than three consecutive days. Permits for no more than three such temporary outdoor **retail sales** shall be issued for a given location within a single calendar year.
- F. The temporary **retail use** shall operate only when the principal **use** is operating.
- G. No **sales** shall be conducted from a truck or other vehicle.
- H. It shall be unlawful to conduct business within 500 feet of the entrance of any place of business that sells the same commodity.
- I. Items allowed for sale may include food, but may not include potentially hazardous food (such as uncooked and unprepared fish and seafood products).
- J. Second-hand goods may not be sold under this paragraph.

6.15.8. Seasonal Outdoor Sales

Seasonal outdoor sales for Christmas trees or Halloween pumpkins are allowed at a **religious institution** or school regardless of zoning classification. Each seasonal **sales** activity is limited to a maximum of 45 consecutive days. Not more than three events per site are allowed per calendar year subject to the following provisions:

- A. Permits for Christmas tree **sales** shall expire on December 26th. The **lot**, and any abutting private or public property, shall be cleaned and any remaining trees shall be disposed of by an approved method on or before December 31st of the year of issue of said permit.
- B. The applicant is required to deposit such sum as specified in the schedule of fees to guarantee the proper cleaning of the site and proper disposal of any remaining materials.
- C. Any temporary **outdoor storage** shall be subject to the landscaping requirements of **Article 10**. for **outdoor storage** and display.
- D. A **temporary use** permit shall not be required for **seasonal outdoor sales** when such **sales** are part of the inventory of an established business holding a valid **building** permit.

6.15.9. Temporary Construction, Security, Real Estate Sales Offices

The applicant for a **temporary use** permit for such temporary office shall comply with all conditions imposed by the **Planning Director**, which conditions may include **fencing**, surfacing, setbacks, etc., as deemed necessary to ensure no undue interference with the **use** and enjoyment of neighboring property. Such office shall be located within 1,000 feet of the primary **development** or improvement.

- A. The owner of a construction **project** may place on the construction site and utilize a trailer coach as a temporary office for **use** by construction, security, and real estate **sales** personnel.
- B. The temporary office shall be located on the **lot** on which construction or **development** is occurring and shall not be located within 25 feet of any abutting residential **use**.
- C. The office shall be removed within ten days after final inspection of the permanent **structure** or expiration of the corresponding **building** permit, whichever event occurs first. In the case of residential **development projects**, the office must be removed within ten days of sale or lease of all **dwelling units**.
- D. The owner of a permitted business who requires security protection during hours of closure may maintain a **travel trailer** for that purpose until a permanent **facility** can be constructed. In no case shall the **use** of such security trailer be for longer than a six month period.

6.15.10. Yard or Garage Sales Accessory To a Dwelling

No **temporary use** permit is required for a yard or garage sale accessory to a residential **dwelling, religious institution**, or school, subject to the following conditions.

- A. All yard and garage **sales** shall be conducted so that no goods offered for sale are located on any public **street** or sidewalk, and so that vehicle and pedestrian traffic on public **streets** and sidewalks is not obstructed.
- B. No **sign** advertising a yard or garage sale may be posted on any public property.
- C. Only goods of the property owner or tenant shall be sold.

6.15.11. Temporary Storage Container

A transportable unit designed and used primarily for temporary storage of **household** goods, commodities, **building** materials and other items on a limited basis.

- A. Residential **Use** or District
 - 1. Temporary storage containers in residential zoning districts or **use** must be registered by the service provider or property owner with

the Town of Garner Planning Department. Storage containers are permitted for a total of 60 consecutive days.

2. If placement of a storage container is in conjunction with an active construction permit for renovation, the container is permitted for the duration of the construction permit.
 3. Placement of unit is restricted to the **driveway** or designated parking area with a minimum distance of ten feet from the existing **structure**. If, because of **lot** size or obstructions the portable storage unit cannot be located in a **driveway** or designated parking area, then the placement of the unit shall be contiguous to the parking area and maintain a five foot setback from side and rear property lines.
 4. Temporary storage containers for any residential housing type other than **single-family detached residences** shall be located in an onsite vehicular **use** area and shall not obstruct any drive aisle or block any required **parking space**.
 5. Temporary storage containers shall not be located in the **street** or in such a manner to impair a motor vehicle operator, bicyclist, or pedestrian's view, upon entering or exiting the **street**, or obstruct the flow of vehicular or pedestrian traffic.
 6. Temporary storage containers shall be no greater than eight feet six inches in height, eight feet in width, and 20 feet in length.
 7. A maximum of two temporary storage containers may be placed on a property at any one time.
 8. Temporary storage containers may be placed on property for a maximum of two times per year.
 9. Temporary storage containers shall be in good condition; i.e., no rust, primer patches, etc. Signage may identify the owner or provider of the storage container only and shall not include the advertisement of any other product or service.
 10. All temporary storage containers must comply with this Section.
 11. Temporary storage containers may not be used as permanent accessory **buildings**.
 12. Storage containers used for **new construction** shall comply with the requirements outlined for temporary construction offices.
- B. Nonresidential **Use** or District
1. A temporary storage unit in nonresidential zoning districts or **uses**, for 15 days or less must be registered with the Town of Garner Planning Department by the storage unit provider or business owner.
 2. A **temporary use** permit is required for temporary storage containers in nonresidential zoning districts or **use** for more than 15

days. Applications for the **temporary use** permits shall include a **site plan**, showing the proposed location of the container on the site in relation to the **building, street, driveway**, and parking area; such other information as may be required to determine full compliance with this and other applicable ordinances of the Town; contact information for the leasing company or owner of the storage container.

3. Temporary storage containers may be placed on property for a maximum of 90 consecutive days. Placement for greater than 90 days shall be considered permanent and requires **site plan** approval and compliance with applicable ordinances of the Town.
4. If placement of a temporary storage container is in conjunction with an active construction permit for renovations, the container is permitted for the duration of the construction permit.
5. Placement of temporary storage containers for nonresidential zoning districts and **uses** shall meet all of the following provisions:
 - a. The container shall be placed to minimize visibility from adjacent properties and rights-of-way; in the **rear yard** when possible.
 - b. The container shall meet **building** setbacks.
 - c. Placement is limited to areas that are surfaced with asphalt, concrete, gravel or other materials equal in quality.
 - d. Placement of the storage container in an existing parking area may not reduce the amount of available parking below the required minimum.
 - e. The storage container must be a minimum of ten feet from the primary **structure**.
6. Temporary storage containers shall be no greater than eight feet six inches in height, eight feet in width, and 40 feet in length.
7. A maximum of two temporary storage containers may be placed on a property at any one time.
8. Temporary storage containers shall be in good condition; i.e., no rust, primer patches, etc. Signage may identify the owner or provider of the storage container only and shall not include the advertisement of any other product or service.
9. All temporary storage containers must comply with this Section and secure a **temporary use** permit for the unit.
10. Storage containers used for **new construction** shall comply with the requirements outlined for temporary construction offices.

ARTICLE 7. ENFORCEMENT

7.1. VIOLATIONS

Pursuant to G.S. § 160D-404, any **violation** of the standards, procedures, and regulations of this UDO shall be subject to the enforcement remedies and penalties provided by this Article and by state law. The following are **violations** of this UDO, including but not limited to:

7.1.1. Development without Permit

To engage in any **development, use**, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this UDO without all required permits, certificates, or other forms of authorization as set forth in this UDO.

7.1.2. Development Inconsistent with Permit

To engage in any **development, use**, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.

7.1.3. Violation by Act or Omission

To violate, by act or omission, any term, **variance**, modification, condition, or qualification of any required permit, certificate, or other form of authorization for the **use, development**, or other activity upon land or improvements thereon.

7.1.4. Use in Violation

To erect, construct, reconstruct, alter, repair, convert, maintain, or **use** any **building** or **structure** or to **use** any land in **violation** or contravention of this UDO or any other regulation made under the authority conferred thereby.

7.1.5. Subdivide in Violation

To subdivide land in **violation** of this UDO or transfer or sell land by reference to, exhibition of, or any other **use** of a **plat** or map showing a **subdivision** of the land before the **plat** or map has been properly approved under this UDO and recorded in the office of the county register of deeds. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from **violation** of this UDO.

7.1.6. Continue a Violation

Each day's continuation of any of the above **violations** is a separate and distinct offense.

7.2. ENFORCEMENT BY PLANNING DIRECTOR

The **Planning Director** is responsible for investigating, inspecting, and enforcing the standards of this UDO.

7.2.1. Complaints Regarding Violations

- A. Whenever the **Planning Director** receives a written complaint alleging a **violation** of this UDO, he/she shall investigate the complaint, take such action as is warranted, and inform the complainant in writing what actions have been or will be taken.
- B. The **Planning Director** may investigate **violations** of this UDO on their own initiative or upon receipt of complaints (oral, written, or otherwise).

7.2.2. Procedures upon Discovery of Violations

- A. If any provision of this UDO is being violated, a written notice of **violation** shall be issued, pursuant to G.S. § 160D-404, indicating the nature of the **violation**, ordering the action necessary to correct it, and associated deadlines and penalties.
- B. The final written notice of **violation** (and the initial written notice may be the final notice) shall state what action is intended if the **violation** is not corrected and shall advise that the order may be **appealed** to the BOA, pursuant to G.S. § 160D-405. A civil penalty may not be **appealed** to the BOA if the offender was sent a final notice and did not take an **appeal** to the BOA within the prescribed time.
- C. If the owner or occupant of a property does not **appeal** and fails to correct the **violation** or if the owner or occupant of a property fails to correct the **violation** after a final BOA decision upholding the **administrative** action, the owner or occupant shall be subject to such remedies and penalties as authorized in **Section 7.3**.
- D. Notwithstanding the foregoing, in cases where delay would seriously threaten the effective enforcement of this UDO or pose a danger to the public health, safety, or welfare, the **Planning Director** may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in **Section 7.3**.

7.3. PENALTIES FOR VIOLATION

7.3.1. Persons Liable

The owner, tenant, or occupant of any **building**, land, or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation contrary to the requirements of this UDO may be held responsible for the **violation**, suffer the penalties, and be subject to the remedies herein provided.

7.3.2. Penalties and Remedies for Violation

- A. A **violation** or failure to comply with any of the provisions or requirements of the UDO, including a **violation** of any of the conditions and safeguards established in connection with grants of **variances** or **special use permits**, shall not constitute a misdemeanor punishable as provided in G.S. § 14-4, except as specifically authorized by G.S. § 160D, other State statute or local act.
- B. **Violation** or failure to comply with any of the provisions or requirements of this UDO, including a **violation** of any conditions and safeguards established in connection with the grants of **variances** or **special use permits**, shall also subject the offender to a civil penalty of \$50.00 for the first **violation**. If the offender fails to pay this penalty within 10 days after being cited for a **violation**, the penalty may be recovered by the Town in a civil action in the nature of debt.
- C. Each day a **violation** continues after notification by the **Planning Director** that such **violation** exists shall be considered a separate offense for purposes of the penalties and remedies specified in this Article.
- D. If a civil penalty is assessed after January 1, 2003, for an offense or series of related offenses as described above, and the property is brought into compliance with this UDO, but the same person, firm, or corporation repeats the offending activity, the civil penalty shall be increased to \$100.00 for the second **violation**, \$200.00 for the third **violation**, and \$500.00 for the fourth and each succeeding **violation**.
- E. This UDO may also be enforced by any appropriate equitable action. Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this UDO. To the extent that North Carolina law may limit the availability of a particular **remedy** set forth herein for a certain **violation** or a part thereof, such **remedy** shall remain available for other **violations** or other parts of the same **violation**.

7.3.3. Permit Revocation

- A. A permit issued under this UDO shall be revoked if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this UDO, or any additional requirements lawfully imposed by the permit-issuing authority.
- B. Before a permit may be revoked, all of the notice, hearing, and other requirements of **Article 4.**, shall be met. The notice shall inform the permit recipient of the alleged grounds for the revocation.
- C. The burden of presenting evidence sufficient to allow the permit-issuing authority to conclude that a permit should be revoked shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
- D. A motion to revoke a permit shall cite, insofar as practical, the specific reasons or findings of fact that support the motion. Such motion is adopted if passed by a majority vote, a quorum being present.
- E. No person may continue to make **use** of land or **buildings** in the manner authorized by any permit authorized by this UDO after such permit has been revoked.

7.3.4. Stop Work Order

Whenever there is a **land disturbing activity** and/or a **building, structure, sign**, or part thereof is being constructed, reconstructed, altered, or repaired in **violation** of this UDO, the **Planning Director** may order the specific part of the work in **violation** of this UDO to be immediately stopped. See G.S. § 160D-404(b) for full procedures regarding stop work orders.

- A. A stop work order issued under this Section shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefore, and the conditions under which the work may be resumed. A copy of the stop work order shall also be sent forthwith to the owner of the property where the work is taking place and the **developer**, if different from the owner.
- B. Any person aggrieved by the issuance of a stop work order may **appeal** the issuance of the order to the BOA pursuant to **Article 4**. However, an **appeal** shall not stay the operation of the stop work order except as provided in the following paragraph of this Section.
- C. The BOA shall meet and act upon the **appeal** within 15 working days after the receipt of the **appeal** notice. If the Board fails to comply with this requirement, the stop work order shall be stayed automatically beginning on the day following the expiration of the 15- working-day period, and the stay shall remain in effect until the BOA meets and acts on the **appeal**.
- D. The notice of hearing requirements set forth in **Article 4**. shall not apply to **appeals** of stop work orders. However, the staff shall notify the applicant of the date, time and place of the hearing as soon as it has been scheduled and shall send to the appellant a written confirmation of this notice as soon as possible.
- E. Neither the person whom a stop work order is served nor an owner or **developer** served with a copy under paragraph A above, may thereafter cause, suffer, or permit a **violation** of the order while it remains in effect, except during a period in which the operation of the order is stayed under paragraph C above.

7.4. SPECIAL ENFORCEMENT OF LANDSCAPING REGULATIONS

7.4.1. Completion of Work Prior to Certificate of Occupancy Required

Prior to issuance of a certificate of zoning compliance or a certificate of occupancy, all required landscape plantings and site elements must be installed and related work completed as indicated on the final, approved landscape and/or **site plan** or a performance guarantee shall be provided pursuant to G.S. § 160D-804.1. In periods of adverse weather conditions, a performance guarantee for 125 percent of the cost of installation of landscaping and other uncompleted site work or site elements, determined by the executed contract, will be accepted to allow the certificate of zoning compliance to be issued. Completion of the work must be completed by a prescribed time or the performance guarantee shall be called and the work completed by the Town of Garner or by a designated contractor. This optional means of temporary compliance shall not be available if the site is substandard in terms of any life safety, **emergency services**, or fire safety concerns or does not have adequate parking or pedestrian ingress/egress.

7.4.2. Procedures and Penalties Regarding Replacing Dead Plant Material

- A. Upon notice by certified mail from the Planning Department regarding replacement of dead plant material, an offender shall have 10 business days to respond with a plan of action that includes a replacement planting plan designating the numbers, types, sizes, and locations of replacement plants; an estimated date of completion of plant installation; and an agreed-upon date for a site inspection of the completed work.
- B. Failure by the offender to respond to the written notice from the Town within the aforementioned 10-day period may result in a civil penalty of \$100.00 per tree and \$50.00 per shrub per day of **violation** commencing on the eleventh day.
- C. Replacement plantings shall be inch for inch replacement with the smallest tree allowable being two-and-one-half-inch **diameter at breast height (DBH)**. If there is not enough land area available without destroying or endangering existing healthy and savable plants or if there is not a suitable location on site which can be agreed upon by the Town and the offender, then a payment in lieu may be made by the offender. This payment will be based upon current market price for materials installed and warranted as determined by the Town of Garner.
- D. Replacement vegetation as required by this UDO shall be installed by the offender within 30 days after the date the replacement planting plan is approved by the Planning Department. Failure to comply with this requirement subjects the offender to these penalty provisions. If

the 30-day period falls between May 15 and October 1, the offender may be allowed to delay replanting to the next acceptable planting season. Such an arrangement must have prior written approval by the Planning Department. Failure to comply with this alternative planting time arrangement subjects the offender to these penalty provisions retroactively back to the original **violation** date.

- E. A civil penalty of \$250.00 per **caliper** inch for each tree removed in **violation** of an approved tree protection zone or **buffer** protection zone may be assessed.
- F. The violator shall be required to install replacement trees at a rate of one **caliper** inch for every three **DBH** inches of tree removed. For trees removed that are greater than 30 **DBH** inches, the replacement rate shall be at one **caliper** inch per every five **DBH** inches.

7.5. SPECIAL ENFORCEMENT OF ELECTRONIC SIGNAGE DISPLAY REGULATIONS

7.5.1. Penalties

Violation of the electronic display ordinance, *Section 12.3.4.C.*, shall be punishable as follows:

- A. A civil penalty of \$100.00 for each day of the first **violation** and \$500.00 each day for subsequent **violations**.
- B. Injunctive relief.
- C. Upon issuance of a **violation** notice, the electronic **sign** must be turned off and remain turned off until the civil penalty has been paid.
- D. Upon issuance of a second or subsequent **violation**, citation or notice, the **sign permit** shall be automatically terminated.
- E. Any illumination of the **sign** following permit termination shall be punishable by a fine of \$1,000.00 per day.

ARTICLE 8. SUBDIVISIONS: STREETS, OPEN SPACE, AND UTILITIES

8.1. SUBDIVISION DEDICATION

8.1.1. Purpose

In order to promote orderly land **development** patterns, the Town regulates the **subdivision** of land, the subsequent installation of infrastructure, and other features necessary to ensure adequate provision of public and private services. These regulations help ensure harmonious **developments** that are connected, attractive, and well-served by infrastructure.

8.1.2. Applicability

- A. No land within the Town's **planning jurisdiction** shall be subdivided except in accordance with the standards of this UDO.
- B. These standards apply to all **development** within the Town's **planning jurisdiction**, unless otherwise expressly exempted by this UDO or state law.
- C. Prior to approval of a **final plat** for the **subdivision** of land, the applicant shall have installed improvements required by this UDO or guaranteed their installation.

8.1.3. Street Names, Street Markers, and House Numbers

- A. **Street** names shall be assigned by the **developer** subject to the approval of the permit-issuing authority.
- B. Proposed **streets** that are obviously in alignment with existing **streets** shall be given the same name.
- C. Newly created **streets** shall be given names that neither duplicate nor are phonetically similar to other **streets** within Wake County.
- D. The **developer** shall bear the costs of the fabrication and installation of **street** markers on all **streets** within or intersecting the **development** in accordance with the standards of the Town.
- E. **Building** numbers shall be assigned by the Town.
- F. All **street** markers shall be in accordance with the Town of Garner standard **street** number installation. The **use** of alternative **street** markers is subject to the approval of the Town Engineer, and all such markers shall be maintained by the **development's** owners or owners' association.

8.1.4. Acceptance of Dedication Offers

- A. The Town Council may accept dedication of public **facilities** to the Town of Garner by either:
 - 1. Approving a formal resolution; or
 - 2. Assuming responsibility for management and maintenance of the **facility**.

- B. Neither preliminary **plat** nor **final plat** approval shall constitute acceptance of any public **facilities** shown on a **plat**.

8.1.5. Maintenance

Owners shall be responsible for all **facilities** and improvements offered for dedication until the appropriate public authority accepts the offer. This may include an extended warranty, inspection, or certification period, depending on the **facility**.

8.1.6. Performance Guarantees

- A. Pursuant to G.S. § 160D-804.1, if weather conditions or extenuating circumstances (excluding financial hardship) delay a permit recipient's ability to comply with the requirements of this Ordinance in a reasonable timeframe, the Town of Garner may authorize permit recipients to occupy, **use**, or sell the property prior to full compliance. To receive authorization, a permit recipient shall furnish all of the following:
 - 1. A performance guarantee equal to 125 percent of the reasonably estimated remaining cost of completing the required improvements at the time the performance guarantee is issued. The Town may determine the amount of the performance guarantee or **use** a cost estimate determined by the **developer**. The term performance guarantee means any of the following forms of guarantee:
 - a. Surety bond issued by any company authorized to do business in North Carolina.
 - b. Letter of credit issued by any **financial institution** licensed to do business in North Carolina.
 - c. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
 - 2. Written assurance that all outstanding work shall be completed within 12 months.
- B. If the Town of Garner imposes requirements beyond those established in this Ordinance or the permit recipient offers extra amenities, the Town of Garner may authorize the occupancy, **use**, or sale of the property prior to completion. To receive authorization, a permit recipient must meet the following requirements:
 - 1. Establish a date or schedule for completion.
 - 2. Fulfill at least one of the following provisions:
 - a. Provide a performance guarantee; and/or
 - b. Agree to an automatic permit expiration date with the Town, at which time the Town will review **project** progress, and require permit renewal for the outstanding work.

- C. In **addition**, where the enforcement provisions of this Ordinance sufficiently assure completion, the Town may choose not to require additional protection measures.
- D. In **subdivisions** where a permit recipient is selling only undeveloped **lots**, the **Planning Director** may approve the **final plat** prior to the fulfillment of all UDO obligations. To receive authorization, the permit recipient must provide a performance guarantee to ensure that outstanding work will be completed within 12 months after **final plat** approval.

8.1.7. Streets Proposed for NCDOT Dedication

All **streets** offered for acceptance by NCDOT shall meet the following requirements:

- A. No more than 25 percent of **lots** in a **subdivision** phase under construction shall be permitted prior to the **developer's** procurement of an **encroachment** agreement with NCDOT for all utilities.
- B. The Town of Garner shall not issue a **building** permit for more than 70 percent of the **lots** in a **subdivision** phase under construction until NCDOT has accepted the **street**.
- C. See **Section 8.3.6.** for sight triangle requirements.

8.1.8. Major or Minor Thoroughfare Dedication

- A. Proposed public right-of-way shall be dedicated in accordance with the CAMPO Transportation Plan or Garner Transportation Plan, along with construction easements anticipated for full build-out of the final cross-section. The **developer** shall construct within such right-of-way a **street** meeting the specifications set forth in this Section for a minor **collector street**. Engineering drawings may be required to determine the extent of public improvements and easements.
- B. Whenever a **subdivision** or new **development** fronts along an existing **major or minor thoroughfare**, the **development** shall dedicate one-half of the right-of-way required for the appropriate **street** type and build at least one-half of the recommended cross-section as shown in the CAMPO Transportation Plan or the Garner Transportation Plan unless the **subdivision** or **development** does not propose **street** or **driveway** access to said thoroughfare. When the total peak hour trip generation according to the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual does not exceed a total of 50 trips for a **project**, the permit issuing authority may require only that a deceleration lane without curb-and-gutter construction be installed in lieu of full widening.

8.1.9. As-Built Construction Surveys and Engineer's Certifications

Projects involving the construction of infrastructure or **stormwater** control measures (SCM) shall require as-built surveys and engineer's certification of the improvements. See Town of Garner Engineering Manual for required schedule of certifications.

8.1.10. Protection against Defects

Where the Town of Garner authorizes occupancy, **use**, or sale prior to completion of all publicly-dedicated **facilities** and improvements, the **developer** shall post a performance guarantee, pursuant to **Section 8.1.1.**, guaranteeing that the **developer** shall correct any defects appearing within one year of the initial date of occupancy, **use**, or sale. For details see Town of Garner Engineering Manual.

8.2. OPEN SPACE AND RECREATIONAL FACILITIES

8.2.1. Purpose

- A. Residential **development** best promotes the public health, safety, and welfare if a portion of the land remains as common **open space** for purposes including recreational enjoyment, community character, environmental conservation, and aesthetics.
- B. The regulations in this Section seek to benefit the general public by:
 - 1. Preserving open vistas;
 - 2. Providing relief from an urban landscape;
 - 3. Preserving environmentally sensitive lands vulnerable to **encroaching development**;
 - 4. Preserving wildlife habitats;
 - 5. Preserving historically or archaeologically significant areas; and
 - 6. Providing areas for active and passive recreation.

8.2.2. Applicability

- A. For purposes of this Section, “**open space**” refers to an area or areas that meets all of the following requirements:
 - 1. Is not encumbered with any substantial **structure**;
 - 2. Is not exclusively devoted to **use** as a roadway, parking area, or sidewalk;
 - 3. Is not part of any privately owned **lot** that is used or intended for **use** for residential purposes;
 - 4. If private, is legally and practicably accessible to the residents of the **subdivision** and/or **development** it is designed to serve; and
 - 5. If publicly dedicated, is legally and practicably accessible to the general public.
- B. Narrow strips of common area that separate **lots** within a **development** from other **lots**, **streets**, or adjoining tracts shall generally not be regarded as **open space**, unless these areas meet one of the following requirements:
 - 1. Are at least 50 feet in width and are capable of functioning as a substantial visual **buffer** meeting or exceeding the requirements of a Type A **buffer** as described in **Article 10. Lighting and Landscaping**.
 - 2. Are configured and improved in ways conducive to actual **use** for passive recreational purposes (e.g., walking, jogging, gathering, pet exercise) by the residents of the **development**.
- C. The following areas shall be regarded as **open space** where such areas satisfy the criteria in this Section:

1. Utility easements located outside of **street** rights-of-way;
 2. **Cemeteries** located on a tract prior to its **development**;
 3. Areas used for the growing of crops and under the control of a homeowners association; and
 4. Golf courses as private **open space**.
- D. The term “**primary conservation areas**” shall mean any of the following:
1. Areas shown as greenways on the adopted Garner **Open Space** and Greenways Plan or other applicable policies or plans;
 2. Neuse River **buffers**; or
 3. Areas containing slopes greater than 25 percent.
- E. The term “**secondary conservation areas**” shall mean any of the following:
1. Lakes and ponds;
 2. Wetlands as defined pursuant to Section 404 of the Clean Water Act;
 3. Areas containing slopes greater than 15 percent but not more than 25 percent;
 4. Other areas containing unique vistas or unusual natural features (such as major rock formations); or
 5. Other unique areas of documented environmental, historical, or archaeological significance.
- F. Except as otherwise provided herein, every proposed residential land **use** or **development** with residential **uses** shall be developed so that at least 10 percent of the total area of the **development** remains permanently as **open space**.
1. Smaller **developments** may need less **open space**. Therefore, **developments** of less than one acre shall be exempt from the **open space** provisions of this Section.
 2. For purposes of this Section, the term “**development**” refers to the entire **project** developed on a single tract or multiple, contiguous tracts under common ownership or control, regardless of whether the **development** is phased or subdivided.
- G. If a tract where a residential land **use** or residentially zoned **development** is proposed and contains any areas defined above as primary or **secondary conservation areas**, then such areas shall be designated as **open space**, subject to the following:
1. In no case shall the **developer** be required to set aside more than the minimum required percentage of **open space** specified herein;
 2. If the tract contains primary or **secondary conservation areas**, then the specific areas to be set aside as **open space** shall be determined

by the permit issuing authority, with priority given to **primary conservation areas** over **secondary conservation areas**; and

3. If the total of primary and **secondary conservation areas** on a **development** tract is less than the minimum required percentage of **open space** specified, then the choice of additional **open space** areas to be set aside to satisfy this minimum percentage shall remain with the **developer**, provided the location is acceptable to the permit-issuing authority.

- H. Notwithstanding the other provisions of this Section, where a **developer** agrees to dedicate land to the Town that is intended to be used by the Town for **open space** purposes such dedication shall be credited to the **developer** in satisfaction of the **open space** requirements.

8.2.3. Private Open Space Structure

Provided private **open space** shall meet the following requirements for passive and active space:

- A. Required tree preservation and/or conservation **buffers** area may account for up to 30 percent of a **development's** required **open space** and shall be considered **passive open space**.

B. Passive Open Space

Up to 75 percent of the required **open space** shall be provided for passive recreation purposes such as walking, jogging, relaxation, etc. Preservation of cultural or natural resources such as steep slopes, rock outcroppings, mature woodlands, or water resources may also be counted towards passive recreation provided there is access for the public to these resources.

C. Active Space

At least 25 percent of the required **open space** shall be provided as improved **park** space. Improved **park** space must be primarily grassed and properly maintained, and contain the minimum amenities described below. Additionally, one-third of the required active space must be completely designed for active recreation purposes such as playgrounds, tennis courts, ball fields, volleyball courts, etc. Constructed private multi-**use** paths (paved and 8 feet wide) which could reasonably connect to a planned public greenway shown in an adopted plan, while passive in nature, shall be credited as active recreational **open space** for an area equivalent to a 20-foot corridor along the path. Indoor recreational **facilities**, including but not limited to indoor **pools** and fitness centers, as well as permitted rooftop amenities may also count towards active space requirements.

- D. Supplemental active space requirements include:

1. Public Seating

Provide seating areas appropriate to the intended **use** of the space (e.g., **park** benches and durable theft/vandalism-resistant chairs in formal/active spaces and garden wall seats in informal spaces). Seating must be provided at a minimum rate of one seating area per 10,000 square feet.

2. Tree Requirement

A minimum of one tree (two-inch **caliper** minimum) or one preserved existing canopy tree a minimum of 12 inches **DBH** for every 2,500 square feet of required **park** space.

3. Trash Receptacles

Garbage receptacles and recycling receptacles shall be required for each **park** space at a minimum rate of one per 20,000 square feet of space. Receptacles shall **use** a metal, decorative design and shall be placed in close proximity to gathering spaces. **Park** spaces less than 10,000 square feet, where no more than two public seating areas are provided, are exempt from this requirement.

4. Bicycle Parking

At least two bicycle **parking spaces** shall be required for every one-quarter acre of **park** space (minimum 0.25 acre).

5. Paved Walkways

All **park** spaces shall incorporate hard-surface (non-gravel), 6-foot-wide walkways into the overall design so that they are accessible from adjacent sidewalks, **streets**, and parkings areas.

8.2.4. Private Ownership and Maintenance

- A. Private recreational **facilities** or **open space** shall remain under the ownership and control of the **developer**, their successor, or a homeowners' association or similar organization.
- B. Recreational **facilities** and **open space** shall be available to all residents of the **development**. The responsible party shall establish reasonable rules and regulations to govern the **use** of **facilities** and **open space** by the residents. There shall be no separate fees or optional fees for **use**, other than homeowners' association membership fees.
- C. Persons not residing in the **development** may be allowed access to the **facilities** and **open space** on a limited basis, as long as this practice does not render the **facility** or **open space** a principal **use**. Access fees may be instituted.
- D. Maintenance of the **facilities** and **open space** shall be the owner's responsibility.

- E. Homeowners' associations or similar legal entities responsible for the maintenance and control of common areas shall be established as follows:
 - 1. The association or similar legal entity shall be established prior to the sale or occupancy of any **lot** or **building** in the **development**.
 - 2. The association or similar legal entity shall have the authority to compel residents to contribute funds to cover their shares of costs associated with the maintenance and upkeep.
 - 3. The association shall establish a capital fund for the maintenance and upkeep of common areas and devise a funding method to spread maintenance and upkeep costs to the residents over a number of years.

8.2.5. Public Park Land Dedication and Fee-in-lieu Requirements

- A. Purpose
 - 1. New residential land **use** or residentially zoned **development** increases demand for Town **park** and recreation **facilities** and leads to the need for new **facilities** and **facility** expansion.
 - 2. This demand is directly related to the number of persons expected to reside in a new **development** and the availability of private amenities in the new **development**.
 - 3. It is appropriate for new **developments** to contribute to the cost of new **facilities** and expansions in a manner roughly proportional to the need generated by new **developments** through public dedication of land or by payment of fees-in-lieu.
- B. **Use** of Fees
 - 1. The Town Council hereby establishes a **park** and recreational **facilities** capital improvement fund that is distinct from the Town's general fund to accumulate the fees generated by this Section.
 - 2. The **park** and recreational **facilities** capital improvement fund shall contain only those funds collected pursuant to this Section and any interest which may accrue.
 - 3. The capital improvement fund monies shall be used solely for acquisition of **park** land or for construction of new recreational **facilities** in areas benefiting the residents of the contributing **development**. The Town Council may grant a credit against required fee-in-lieu of parkland dedication if a **developer** constructs and dedicates public recreation **facilities** as part of an approved residential **development**, provided such **facilities** comply with the standards of this Ordinance.

4. The Town Council may establish more than one fund and divide the Town into districts served by separate funds.

8.2.6. Dedication or Fee-in-lieu

The procedure for determining if a **subdivider** is to dedicate **park** land or pay a fee in-lieu of dedication shall be as follows:

A. Subdivider

With the **subdivision** plan submittal, the **subdivider** shall indicate whether the **subdivider** desires to dedicate **park** land or pay a fee-in-lieu. If proposing to dedicate **park** land, the **subdivider** shall indicate all areas proposed for dedication on the **subdivision** plan.

B. Action of Town

Regardless of **subdivider** desire, the **Parks, Recreation and Cultural Resources Advisory Committee (PRCRAC)**, during **subdivision** plan review, shall make a recommendation regarding dedication, acceptance of fee-in-lieu or combination thereof. Should the **subdivider** and PRCRAC be in disagreement, and the **subdivision** is not otherwise required to be approved by **Special Use Permit**, the preliminary **subdivision** plan shall be elevated to the Town Council as such and subject to the review process of **4.7.4. Special Use Permit**.

- C. Where required, parties responsible for residential **developments** shall pay a fee-in-lieu to the Town in an amount equal to that amount indicated in the Town’s fee schedule, to be calculated and collected at the time of **building** permit issuance.

8.2.7. Public Park Land Dedication

A. Amount

The amount of any requisite public dedicated **park** land shall be as follows:

HOUSING TYPE	ACRES/UNIT
Single-family detached	0.0354
All other residential	0.0287

B. Review

The PRCRAC shall have the opportunity to review the proposed **public park** land dedication and make recommendations regarding consistency with adopted Town plans and acceptability as an alternative to fee-in-lieu as outlined in **Section 8.2.6**.

C. Standards

All **park** land proposed for dedication to the public shall meet the following criteria:

1. Unity

The dedicated **park** land shall be comprised of a single parcel of land unless the Town Council finds that two parcels or more would better serve the public welfare. Where two or more parcels exist, any connecting path or strip of land shall not be less than 50 feet in width.

2. Shape

The shape of the dedicated parcel of land shall be sufficient for recreational activities.

3. Location

The dedicated **park** land shall be located in a manner that reasonably serves the needs of the **development** and surrounding area.

4. Access

Public access to the dedicated **park** land shall be provided either by adjoining **street** frontage or public easement at least 30 feet in width.

5. Topography

Slope on areas dedicated for **parks** shall not exceed five percent.

6. Utility

- a. The dedicated land shall be suitable for active recreation or suitable for future improvements not exceeding the amount of the fee-in-lieu.
- b. When the dedicated land exceeds one acre in size, at least 10 percent of the land shall be dedicated to active recreation, which includes playgrounds, sport courts, disc golf, and similar **facilities**.
- c. Dog **parks** do not count as active recreation.

7. Consistency with Adopted Plans

The dedicated **park** land shall comply with all officially adopted Town plans and policies.

8.2.8. Prerequisites for Approval of Final Plats

- A. When **park** land dedication is required, the dedication shall be delineated on the final **subdivision plat**.
- B. When a fee-in-lieu is required, the applicant shall furnish the funds, and the Town shall deposit the funds prior to the issuance of each **building** permit.

- C. Covenants for private **open space** areas shall be submitted to the Town Attorney prior to final **subdivision plat** approval and shall be recorded with the final **subdivision plat**.

8.3. STREETS

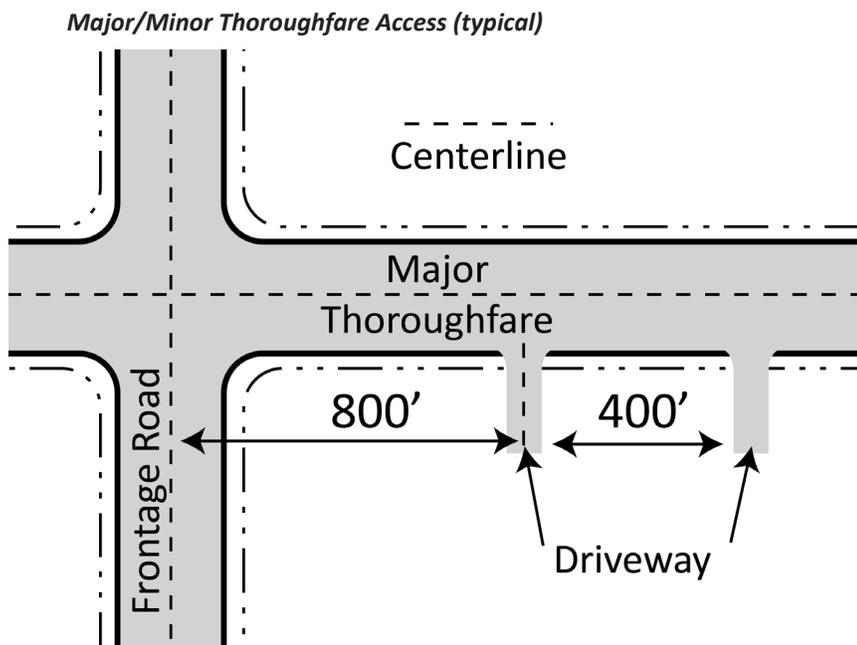
8.3.1. Street Classification

- A. In all new **subdivisions**, **streets** that are dedicated to public **use** shall be classified according to the Town of Garner Engineering Manual's Section 1.2.: Street Classifications/Types, generally as follows:
 - 1. **Street** classification shall be determined by projected traffic volume, number of trips per day, or number of peak hour trips.
 - 2. Calculations may incorporate the proposed number of **dwelling units** to be served by the **street**, but this alone will not determine the projected traffic volume.
 - 3. If a proposed-**subdivision street** continues an existing **street** or is anticipated to continue beyond the **subdivision** in the future, the classification of the **street** will be based upon the **street** in its entirety within and outside of the **subdivision**.
- B. **Street** Classification/Types Defined
See Section 1.2. of the Town of Garner Engineering Manual.

8.3.2. Access and Driveway Standards

- A. In General
 - 1. Access refers to vehicular entrances to a property. Frontage refers to the portion of the **lot** line that runs along a public right-of-way.
 - 2. Every **lot** shall have either direct or indirect access to a public **street**.
 - a. Direct Access
A **lot** has direct access to a public **street** if a sufficient portion of a boundary of the **lot** abuts the public **street** right-of-way so that an access, as defined herein, can be established.
 - b. Indirect Access
A **lot** has indirect access if it connects to a public **street** by means of one or more private drives that are of sufficient size to meet the criteria for a public **access easement**. A sufficient portion of a boundary is 20 feet; however, this is a presumptive standard, and greater or lesser frontage may be necessary to meet the criteria of specified in subsection **B.** below and the entirety of this Ordinance.
 - 3. Access must provide a reasonable means of ingress and egress for emergency vehicles and anyone likely to need access to the property for its intended **use**.
 - 4. **Driveways** must meet fire code access standards, including utility **uses** such as cell **towers**.
- B. Access to **Major and Minor Thoroughfares**

1. Where **subdivisions** contain an existing or proposed **street** bordering on an existing or proposed **major or minor thoroughfare**, direct **driveway** access shall not be provided from **lots** within the **subdivision** onto the existing or proposed thoroughfare.
2. When a **lot** or **development** borders on or contains an existing or proposed **major or minor thoroughfare**, as delineated by the Transportation Plan, access to the thoroughfare may be limited by one of the following means:
 - a. **Driveway** access between the **lot** and the **major or minor thoroughfare** shall not be located closer than 400 feet to the nearest centerline of any other proposed or existing **driveway** access along the same side of the thoroughfare.
 - b. **Lots** shall be subdivided to provide access onto a **frontage road**. The centerline of the **frontage road** where it intersects the **major thoroughfare** shall be no closer than 800 feet to the centerline of the nearest proposed or existing **driveway** access or road.



- c. Approval of **driveway** access between a **lot** and the **major or minor thoroughfare** at an interval less than those specified herein may be granted only by review and recommendation of the Town Engineer and/or the Division of Highways of the NCDOT as applicable.
- d. **Driveway** access closure may be required for any change in **use** of a **lot** based upon review and recommendation of the Town Engineer and/or the Division of Highways of the North Carolina Department of Transportation as applicable.

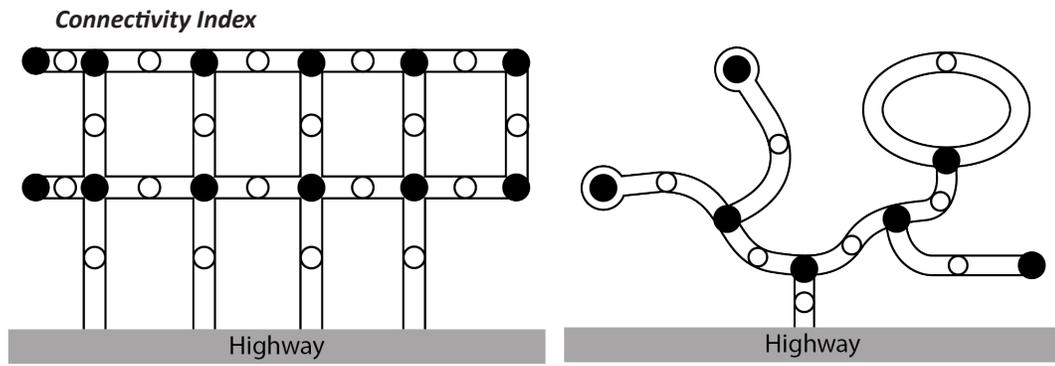
- e. Road widening and right-of-way dedication shall be required to be consistent with the recommendations of the adopted plans.
- f. Notwithstanding any other provisions of this Section, the **driveway** access provisions shall not be applicable to any **subdivision lot** where either:
 - i. The effect of such application would be to deprive the **lot** of reasonable access.
 - ii. The size of the tract being subdivided, or lack of frontage on the thoroughfare makes the alternatives above not feasible.
3. No **building** permit shall be issued until submitted site **development** plans have met the **major and minor thoroughfare** access requirements of this Ordinance and have been approved.
4. No certificate of compliance may be issued until the **major and minor thoroughfare** access requirements of this Ordinance have been met.

8.3.3. Layout and Coordination

A. Layout

1. **Cul-de-sac streets** shall be laid out only in limited instances where they are required to provide access to land which cannot be served by a loop or other **street** design solution.
2. Traffic calming measures, including improved **street** network design and other technical solutions such as traffic circles and other natural calming measures, may be used to limit cut-through traffic if approved by the Town Engineer and Fire Code Official. See Garner Traffic Calming Program.
3. To the extent practical, **driveway** access to **collector streets** shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.
4. Half **streets** (i.e., **streets** of less than the full required right-of-way and pavement width) shall not be permitted on **streets** that do not have medians.
 - a. Half **streets** having a minimum right-of-way or easement width of one-half of the required design width may be permitted when placed adjacent to adjoining property so long as there is no physical obstruction or **development** constraint prohibiting the completion of the road on such adjoining property; and provided further, that no more than five actual parcels or units may be served by a half-width public **street**.
 - b. Half **streets** shall not be permitted as the primary access to a **development**.

- c. Collector and arterial half-**streets** must be flared at all arterial **street** intersections to provide one lane in each direction and a left-turn lane. The in-bound lane on a half-**street**, at an arterial or **collector street** intersections should be a minimum of 18 feet in width.
 - d. A culvert provided in conjunction with half-**street** construction must extend beyond the edge of the traveled way a minimum of 10 feet into the area where the other half of the **street** will be constructed in the future. The 10-foot distance is measured perpendicular to the **street** alignment. The culvert capacity, flow line slope, and alignment must be based upon the ultimate design requirements for the culvert if it were to be built under the full cross-section where it could be considerably longer.
5. **Streets** shall intersect as nearly as possible at right angles, and no two **streets** may intersect at an angle of less than 80 degrees. Not more than two **streets** shall intersect at any one point, unless the permit-issuing authority concludes, based on engineering review, that such an intersection can be constructed with no extraordinary danger to **public safety**.
 6. Whenever possible, proposed intersections along one side of a **street** shall coincide with existing or proposed intersections on the opposite side of such **street**. Where a centerline offset (jog) is unavoidable at an intersection, the distance between centerlines of the intersecting **streets** shall be not less than 150 feet unless the Town Engineer concludes that a shorter distance will not adversely affect **public safety**.
 7. No two **streets** may intersect with any other **street** on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting **street**. When the intersected **street** is a **major thoroughfare**, the distance between intersecting **streets** shall be at least 1,000 feet wherever practicable.
 8. If uncertainty exists, the Town shall be the final authority in the **determination** of **street** design.
- B. Connectivity Index
1. A connectivity index shall be used to determine the **street** layout adequacy. The connectivity index shall be calculated as the ratio of **street** links to **street** nodes.
 2. For purposes of this Section, the following definitions shall apply:
 - a. Links are defined as road sections between intersections, **street** stub-outs, and **cul-de-sac** heads.
 - b. Nodes are defined as intersections and **cul-de-sac** heads.



The graphic above illustrates a high-connectivity grid (left) with a connectivity index of approximately 1.6 and a low-connectivity curvilinear layout (right) of approximately 1.1. A perfect grid network has a connectivity index of 2.0.

3. **Developments** shall be required to achieve the following minimum connectivity indices based on their zoning district classifications.

DISTRICT	RA, R2, RMH, HI	NMX, MF-A, R4, LI	CMX, TBD, MF-B, R8	AC
Minimum Connectivity Index required	1.2	1.3	1.4	1.5

4. **Administrative Modifications**
 - a. If more than 60 percent of any side of a **development** faces impracticalities for connectivity to adjacent properties due to the presence of controlled-access highways, railroad rights-of-way, water bodies or wetlands (not including riparian **buffers**) greater than 30 feet wide, or existing **developments** that have not provided appropriate stubouts; the **Planning Director** may reduce the required minimum connectivity index by 0.1.
 - b. If the **development** provides pedestrian greenway links between two or more **cul-de-sacs** or between **cul-de-sacs** and other **streets** in the **development**, the **Planning Director** may reduce the required minimum connectivity index by 0.05 for each pedestrian green way link.

8.3.4. Coordination with Surrounding Streets

- A. Purpose and Intent
 1. The **street** system of a **subdivision** shall be coordinated with existing, proposed, and anticipated **streets** outside the **subdivision** (surrounding **streets**) as provided in this Section.
 2. **Collector streets** shall intersect with surrounding collector or thoroughfare **streets** at safe and convenient locations, per the Town’s Engineering Manual.
- B. Construction Standards and Specifications

1. Construction standards and specifications shall be determined by the Town Engineer. The geometric layout of all **streets** shall meet or exceed NCDOT requirements.
2. In order to accommodate emergency and service vehicles, the following standards shall apply:
 - a. Any **subdivision** of greater than 75 **lots** shall include at least two points of access to the collector and thoroughfare network via public or private rights-of-way improved to public **street** standards.
 - b. No more than 75 certificates of occupancy may be issued within the **subdivision** until the required secondary access has been constructed or bonded for construction.
 - c. **Subdivisions** of 200 or more **lots** shall provide three separate points of access. Where three or more points of access are required, the Town Engineer may waive the requirement for immediate construction of more than two points of access, provided that **subdivision** phasing and design illustrates the additional required connections, or that temporary emergency access is provided until the additional connections are constructed.
 - d. An additional point of access is required for every 200 **lots** after the first 200. Notwithstanding other requirements of this Section, no more than half may be stub-outs intended for future connection.
 - e. For those **subdivisions** large enough to require more than two points of access, a stub-out **street** may be credited as a required access if the two functioning access roads are both connected to a collector road or a higher classification.
 - f. Extension of and connection to stub-out **streets** on adjacent tracts is required unless otherwise exempted by adopted Town policy. This includes expected connection beyond the immediate property line and directly adjacent parcels.
 - g. With approval from the Town of Garner Fire Official, access points on private drives may be gated.
 - h. A temporary modification of these standards is allowed during approval of the preliminary **subdivision plat** or **site plan** only in extreme cases where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections and there is no substantial impact noted regarding **emergency service** delivery (as determined by the **emergency services** providers). At such point in the future where this temporary modification can be rectified, it shall be. To that purpose, if temporary modification requires a stub **street** connection or other connection to be completed at a future

Commentary:
Connections shall be designed to avoid the use of such **streets** by substantial through traffic.

date, the applicant shall provide fee-in-lieu for their portion of the improvement, as determined by an engineer's estimate, reviewed by the Town Engineer.

3. Local residential **streets** shall connect with surrounding **streets** where necessary to permit the convenient movement of traffic, or to facilitate access to neighborhoods by **emergency service** vehicles or for other sufficient reasons.
4. Whenever connections to anticipated or proposed surrounding **streets** are required by this Section, the right-of-way shall be extended and the **street** constructed to the property line of the subdivided property or to the edge of the remaining undeveloped portion of a single tract, including any adjacent **open space**, at the point where the connection to the anticipated or proposed **street** is expected.
 - a. The permit-issuing authority may also require temporary turn-arounds to be constructed at the end of such **streets** pending their extension when such turn-arounds appear necessary to facilitate the flow of traffic or accommodate emergency or service vehicles.
 - b. A **sign** at the end of the **street** stub describing the **street** extension and Type III barriers may be required by the Town Engineer. See typical in the Town's Street and **Stormwater** Design Manual.
5. Notwithstanding the other provisions of this subsection, no temporary dead-end **street** in excess of 1,000 feet may be created.

C. Industrial Subdivision

The **street** system of the **industrial subdivision** shall be designed to connect into existing, proposed, or anticipated **streets** outside the **subdivision**. In cases where the connections to an anticipated or proposed surrounding **street** are required, but the **streets** are not designated for immediate construction, then the right-of-way shall be extended to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of the tract) at the point where the connection to the anticipated or proposed **street** is expected. In lieu of the actual construction of the connection **street**, the **Planning Director** may require temporary turn-arounds to be constructed at a location which facilitates the flow of traffic inside the **subdivision** and accommodates emergency and service vehicles. No temporary dead-end **streets** in excess of 1,000 feet may be created unless no other practical alternative is available.

D. Local Streets

1. **Local streets** shall be designed to provide parking unless an alley is provided. See Town's Engineering Manual.

2. **Streets** in the following districts shall adhere to the following block length maximums. These maximum block lengths refer to the length of the **street** segment that the majority of **lots** front on.

ZONING DISTRICT	BLOCK LENGTH MAXIMUM (AKA MAX. DISTANCE FROM OR BETWEEN INTERSECTION)
HI	1,500 feet
LI, RA, RMH	1,000 feet
MF-A, R2	800 feet
NMX, R4	600 feet
CMX, MF-B, R8, TBD	500 feet
AC	400 feet

8.3.5. Cul-de-sac Streets

- A. All permanent dead-end **streets** shall be developed as **cul-de-sac** in accordance with the standards set forth in the table below.
- B. The permit-issuing authority may require a pedestrian or bikeway connection through a **cul-de-sac** when the **cul-de-sac** helps provide a connection to a pedestrian traffic generator such as a school, **public park** or **open space**, **library** or recreation **facility**, a **shopping center**, office, or governmental **facility**.
- C. Pedestrian walkways may be used to meet block standards in the AC district. Such walkways must be at least 30 feet wide and conform to pedestrian lighting requirements.
- D. **Cul-de-sac** requirements are set forth in the following table. The permit-issuing authority may allow **cul-de-sac** lengths in residential **developments** to exceed the maximum length allowable, when there is no other practical alternative available due to steep slopes or other environmental restrictions (**floodplains**, **buffer** areas, etc.). In no case shall the length exceed 500 feet.
- E. **Cul-de-sacs** or **streets** with only one entrance shall not serve more than 100 **dwelling units**.

TYPE SUB-DIVISION	TYPE STREET	MAX. LENGTH CUL-DE-SAC	R/W WIDTH TURN-AROUND	PAVEMENT WIDTH	CURB TYPE
Industrial	Curb & Gutter	500 feet	100 feet	80 feet back to back	90 degrees
	Ditch Section		120 feet		8-foot shoulders & swales
Conventional	Curb & Gutter	200 feet	100 feet	80 feet back to back	90 degrees
	Ditch Section		120 feet		8-foot shoulders & swales

TYPE SUB-DIVISION	TYPE STREET	MAX. LENGTH CUL-DE-SAC	R/W WIDTH TURN-AROUND	PAVEMENT WIDTH	CURB TYPE
Lake Benson Conservation Overlay	Curb & Gutter	200 feet	100 feet	80 feet back to back	8-foot shoulders & swales
	Ditch Section		120 feet		

8.3.6. Street Construction Details

- A. Right-of-way standards can be found in the Town of Garner Engineering Manual.
- B. **Access Easement** Standards
A recorded **access easement** option is available for existing landlocked **lots** only. Easement design standards can be found in the Town of Garner Engineering Manual.
- C. Curb-and-gutter
 - 1. All public **streets** within the Town or its **ETJ** shall be constructed with curb-and-gutter section as provided for in this Ordinance and the Town of Garner Engineering Manual.
 - 2. The Town Council may allow non-curb-and-gutter **street** construction in **single-family residential projects** developed at rural densities of one **dwelling unit** per acre or greater without the provision of sidewalks or in non-residential **projects** under the conditions outlined in the Town of Garner Engineering Manual.
- D. Sight Triangles
 - 1. Sight triangles must be established at intersections per the Town of Garner Engineering Manual.
 - 2. These sight triangles shall be kept clear of any such visual obstructions between 2.5 feet and 10 feet in height and are limited to one canopy tree within the triangle.

8.3.7. Sidewalks

- A. The **developer** of any **subdivision** with frontage on any **street** identified as meeting the criteria set in this Section shall provide for the construction of public sidewalks in accordance with the Town standards across the entirety of such frontages. Fee-in-lieu may be substituted for actual construction. **Subdivision** exemptions are excluded from this requirement.
- B. Sidewalk criteria can be found in the Town of Garner Engineering Manual.
- C. Fee-in-lieu of Sidewalk Construction

For **streets** requiring sidewalks, the **developer** may propose to pay a fee-in-lieu of sidewalk construction, per Town Charter Section 6.7, if a particular **street** frontage qualifies under one or more of the following:

1. Extenuating circumstances, documented by the **developer** and mutually acceptable to the Town which makes sidewalk construction along a particular frontage impractical or unreasonable at the time of the **development's** construction;
2. A capital improvements program schedule that calls for the installation of sidewalk improvements by the Town along a particular frontage; or
3. The Town Council has made a decision that sidewalks are only to be provided along the opposite side of the **street**. Such fees shall be held by the Town in a restricted sidewalk construction account.

D. Existing Sidewalks

Where the sidewalk which a **developer** would otherwise be required to construct, or pay a fee-in-lieu of constructing pursuant to other sections in this UDO, has previously been constructed by the Town, the permitting authority shall determine during **site plan** review whether the **developer's** compliance with this subsection shall be accomplished by a re-design and reconstruction of said sidewalk, or by the payment of a fee-in-lieu in accordance with the then current Town schedule of fees.

8.3.8. Road and Sidewalk Requirements in Unsubdivided Developments

Within unsubdivided **developments**, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of vehicular and pedestrian traffic. See Town of Garner Engineering Manual for additional requirements. Where the Manual does not specify, the following may be relied upon:

- A. Whenever a **development** fronts along an existing **major or minor thoroughfare**, the **development** shall dedicate half of the right-of-way required for the appropriate **street** type and build at least half of the recommended cross-section as shown in the CAMPO Transportation Plan or the Garner Transportation Plan unless the **development** does not possess **street** or **driveway** access to said thoroughfare.
- B. The **developer** of any land in a location which meets the criteria established in this Section shall provide for the construction of sidewalks or, pay a fee in lieu of construction, in accordance with Town standards across the entirety of such frontages and along any new **streets** within the **development**. The residential **development** of one **duplex** or **single-family dwelling** on an existing **lot** is excluded from this requirement, unless sidewalks abut the property line, in which case, sidewalks shall be required.

- C. In all unsubdivided **multifamily residential developments**, private walkways shall be provided linking **dwelling units** with other **dwelling units** with the public **street** frontage and with on-site activity centers such as parking areas, laundry **facilities**, and recreational areas and **facilities**. Such walkways shall not be required for **developments** of 25 or fewer units in which all units have direct access to an interior private drive or public **street**.
- D. Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from an unsubdivided **development** to schools, **parks**, playgrounds, or other **facilities** or roads and that such access is not conveniently provided by sidewalks adjacent to the roads, the **developer** shall be required to provide an unobstructed easement of at least 10 feet to provide such access.

8.3.9. Exceptions to Street Standards

In age-restricted **developments** (age 55 and older communities), roll curb is permitted.

8.3.10. Private Drives and Rights-of-Way

- A. Except as provided below, all **streets** in **subdivisions** shall be constructed according to Town of Garner public **street** standards and shall be offered as a public **street** dedication to the Town. Unless the recorded **plat** of a **subdivision** clearly indicates a **street** to be private, the recording of such **plat** shall constitute an offer of dedication of such **streets**.
- B. Vehicle access paths built within an **access easement** shall be considered private drives.
- C. A private drive may be used to serve three or fewer **lots** in a new **subdivision**. A **private street** serving greater than three **lots** shall be built within a private right-of-way in accordance with public **street** standards. The Town shall have the discretion to require a public **street** connection for safety or access purposes.
- D. No **final plat** that shows **lots** served by private drives may be recorded unless the **final plat** contains the following notation:
 - “Further **subdivision** of any **lot** shown on this **plat** as served by a private drive may be prohibited by the Town of Garner UDO.”
- E. The recorded **plat** of any **subdivision** that includes a private drive or right-of-way shall clearly state that such drive or right-of-way is a **private street**. Further, the initial purchasers of a newly-created **lot** served by a private drive or right-of-way shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the drive or right-of-way, in accordance with the requirements set forth in G.S. § 136-102.6. The intention of this subsection is to afford the same protection to purchasers of **lots** on private drives or rights-of-way within

the Town as is provided to purchasers of **lots** outside the Town by G.S. § 136-102.6.

- F. Where private drives or rights-of-way are later made public through dedication to the Town, such **facilities** shall be brought up to public standards, including maintenance, prior to their acceptance by the Town.

8.3.11. Fee-in-lieu of Street Construction

In lieu of required **street** construction, a **developer** may be required to provide funds that the Town will **use** solely for the construction of roads to serve the occupants, residents, or invitees of the **subdivision** or **development** and these funds may be used for roads which serve more than one **subdivision** or **development** within the area. "Required **street** construction" as used in this Section means either **street** construction required by existing provisions of the UDO or improvements required by a TIA where a consensus between the **developer**, the **developer's** traffic consultant, and the Town Planning Department that said improvements are necessary to mitigate adverse traffic conditions resulting from the proposed **development** as reflected in a **development** agreement.

A. Capital Fund

The Town will establish a capital fund or funds dedicated to roadway improvements. All monies in said capital fund or funds shall be used only for the **development** of roads, including design, land acquisition, and construction, which serve the occupants, residents, or invitees of the **subdivision** or **development** being created by the entity providing the funds and/or for roads in the vicinity which serve more than one **subdivision** or **development** within the area.

1. All monies received by the Town pursuant to this subsection shall be deposited in the capital fund created herein.
2. All monies to be paid into the aforesaid capital fund shall be paid prior to issuance of **building** permits relating to the proposed **development**.
3. The Town may require a combination of partial payment of money and partial dedication of constructed **streets** when the Town Council determines that a combination is in the best interests of the citizens of the area to be served.

B. Fee Amount **Determination**

The amount of any fee-in-lieu shall be determined as follows:

1. The amount of any fee-in-lieu of completing roadway construction otherwise required by existing provisions of the UDO shall be established as a condition in the applicable permit. The **developer**

shall initially provide an engineering estimate for staff review and discussion with the **developer**.

2. Such engineering estimates shall at a minimum reflect the consideration of design and permitting costs, land acquisition costs, and construction costs.
3. The amount of any fee-in-lieu established in a **Development Agreement** shall be in an amount resulting from consensus involving the **developer**, the **developer's** traffic and other consultants, and the Town Engineering and Planning departments, and shall be reflected by an executed **Development Agreement** between the **developer** and the Town.
4. Any formula which may be adopted in a future ordinance to determine the amount of funds the **developer** should pay in lieu of required **street** construction shall be based on the trips generated from the **subdivision** or **development**.

C. **Use of Capital Funds**

The Town may undertake such design, land acquisition, and construction by itself or in conjunction with the NCDOT.

8.4. UTILITIES

8.4.1. Utility Ownership and Easement Rights

In any case in which a **developer** installs or causes the installation of water, sewer, electric power, telephone, internet, or cable television **facilities** and intends that such **facilities** shall be owned, operated, or maintained by a public utility or any entity other than the **developer**, the **developer** shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such **facilities**.

8.4.2. Public Utility Easements

- A. All public utility easements shall meet the requirements of the City of Raleigh as set forth in the Raleigh Water Public Utilities Handbook.
- B. The City of Raleigh may allow deviations from the standards outlined above that may be less or more restrictive whenever it finds that such deviations are more likely to satisfy the public utility needs of the Town of Garner.

8.4.3. Lots Served by Publicly-Owned Water and Sewer Lines

- A. Whenever a property is developed that is located within 300 feet of a publicly owned water or sewer line it shall provide a connection to such lines where legally possible through existing or new public utility easements.
- B. Water or sewer service shall not be provided to any property outside of the municipal limits of the Town, except upon condition that the property owners immediately petition for and obtain annexation of the property into the municipal limits of the Town. Any exceptions shall be at the discretion of the Town Council and the utility provider and shall be subject to higher utility rates.
- C. Connection is not legally possible if it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.
- D. A **lot** is served by public water or sewer system if connection is required by this Section.
- E. No requirements or provisions of this Section are intended to supersede the requirements for utility extensions for a new **development** as provided for in the Town of Garner Utility Extension Policy.

8.4.4. Certification Required Prior to Certificate of Occupancy

The **developer** shall provide a professional engineer’s certification to determine that the water and/or sewer system has been constructed according to plans and specifications approved by the Town or utility provider prior to receipt of any certificate of occupancy.

8.4.5. Sewage Disposal Facilities

Every principal **use** and every **lot** within a **subdivision** or **development** shall be served by a sewage **disposal** system that:

- A. Is adequate to accommodate the reasonable needs of such **use** or **lot**; and
- B. Complies with applicable health regulations.

8.4.6. Determining Compliance

- A. The primary responsibility for determining compliance with the applicable utility standards often lies with agencies other than the Town, and the **developer** must comply with the standards and specifications of such applicable agencies. These agencies are listed in the subsection below. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage **disposal** system, the Town may rely upon a preliminary review by such agency of the basic design elements of the proposed sewage **disposal** system to determine compliance with the standards below; however, construction of such system may not be commenced until the detailed plans and specifications provided in this ordinance have been reviewed and any appropriate permits issued or approvals given by such agency.
- B. In the following table, the column on the left describes the type of **development** and the column on the right indicates the agency that must certify to the permit-issuing authority whether the proposed sewage **disposal** system complies with the standard set forth above.

TYPE OF DEVELOPMENT	PERMIT-ISSUING AUTHORITY ACTION
(1) The use is located on a lot that is served by the public sewer system or a previously approved, privately owned package treatment plant, and the use can be served by a simple connection to the system (as in the case of a single-family dwelling) rather than the construction of an internal collection system (as in the case of a shopping center or multifamily development .)	No further certification is necessary.

TYPE OF DEVELOPMENT		PERMIT-ISSUING AUTHORITY ACTION
(2)	The development or use (other than a subdivision) is located on a lot that is served by the public sewer system but service to the development or use necessitates construction of an internal collection system (as in the case of a shopping center or multifamily development), and the internal collection system is to be transferred to and maintained by the public utility provider. The internal collection system is to be privately maintained.	The Town Engineer must determine that the proposed collection system is adequate and conforms to the Town of Garner Utility Extension Policy.
(3)	The development or use (other than a subdivision) is not served by the public system, but is to be served by a privately operated sewage treatment system (that has not previously been approved) with 3,000 gallons or less design capacity, effluent from which does not discharge into surface waters.	The applicable Wake County Departments must certify to the Town that the proposed system complies with all applicable state regulations. If the proposed use is a single-family dwelling other than a manufactured or mobile home, the developer must present to the Town a certificate of completion from the applicable Wake County Department.
(4)	The development or use (other than a subdivision) is to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity of more than 3,000 gallons or that discharges effluent into surface waters.	The City of Raleigh must certify to the Town that the proposed system complies with all applicable state regulations. A "Permit to Construct" and a "Permit to Discharge" must be obtained from the City of Raleigh. The Town Engineer must also approve the system for future addition to the public system.
(5)(a)	The proposed development is a subdivision , and lots within the subdivision are to be served by simple connection to existing public lines or lines of a previously approved private water supply system.	No further certification is necessary.
(5)(b)	Lots within the subdivision are to be served by the public system, but the developer will be responsible for installing the necessary additions to the public system.	The Town Engineer must determine that the proposed collection system is adequate and conforms to the Town of Garner Utility Extension Policy.
(5)(c)	Lots within the subdivision are to be served by a sewage treatment system that has not been approved that has a capacity of 3,000 gallons or less, and that does not discharge into surface waters.	The applicable Wake County Departments must certify that the proposed system complies with applicable state and local health regulations. If each lot within the subdivision is to be served by a separate on-site disposal system, the applicable Wake County Departments must certify that each lot shown on a major subdivision preliminary plat can be properly served, and each lot on a major or minor subdivision final plat can be served by an on-site disposal system.
(5)(d)	(Lots within the subdivision are to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity in excess of 3,000 gallons or that discharges effluent into surface waters.	The City of Raleigh must certify that proposed system complies with all applicable state regulations. A permit to Discharge must be obtained from the City of Raleigh. The Town Engineer must also approve the system for future addition to the Town system

8.4.7. Water Supply

Water supply system required. Every principal **development** or **use** and every **lot** within a **subdivision** shall be served by a water supply system that:

- A. Is adequate to accommodate the reasonable needs of such **development, use or lot**; and
- B. Complies with all applicable local, county, and state health regulations.

8.4.8. Determining Compliance

- A. The primary responsibility for determining compliance with the applicable utility standards above, often lies with agencies other than the Town, and the **developer** must comply with the standards and specifications of such applicable agencies. These agencies are listed in the table below. Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the Town may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance. However, construction of such system may not be commenced until the detailed plans and specifications provided in this ordinance have been reviewed and any appropriate permits issued by such agency.
- B. In the following table, the column on the left describes the type of **development** and the column on the right indicates the agency that must certify to the Town whether the proposed water supply system complies with the standard set forth above.

TYPE OF DEVELOPMENT	PERMIT-ISSUING AUTHORITY ACTION
(1) The use is located on a lot that is served by the public sewer system or a previously approved, privately owned package treatment plant, and the use can be served by a simple connection to the system (as in the case of a single-family dwelling) rather than the construction of an internal collection system (as in the case of a shopping center or multifamily development .)	No further certification is necessary.
(2) The development or use (other than a subdivision) is located on a lot that is served by the public sewer system but service to the development or use necessitates construction of an internal collection system (as in the case of a shopping center or multifamily development), and the internal collection system is to be transferred to and maintained by the public utility provider. The internal collection system is to be privately maintained.	The Town Engineer must determine that the proposed collection system is adequate and conforms to the Town of Garner Utility Extension Policy.
(3) The development or use (other than a subdivision) is not served by the public system, but is to be served by a privately operated sewage treatment system (that has not previously been approved) with 3,000 gallons or less design capacity, effluent from which does not discharge into surface waters.	The applicable Wake County Departments must certify to the Town that the proposed system complies with all applicable state regulations. If the proposed use is a single-family dwelling other than a manufactured or mobile home, the developer must present to the Town a certificate of completion from the applicable Wake County Department.

TYPE OF DEVELOPMENT	PERMIT-ISSUING AUTHORITY ACTION
(4) The development or use (other than a subdivision) is to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity of more than 3,000 gallons or that discharges effluent into surface waters.	The City of Raleigh must certify to the Town that the proposed system complies with all applicable state regulations. A "Permit to Construct" and a "Permit to Discharge" must be obtained from the City of Raleigh. The Town Engineer must also approve the system for future addition to the public system.
(5)(a) The proposed development is a subdivision , and lots within the subdivision are to be served by simple connection to existing public lines or lines of a previously approved private water supply system.	No further certification is necessary.
(5)(b) Lots within the subdivision are to be served by the public system, but the developer will be responsible for installing the necessary additions to the public system.	The Town Engineer must determine that the proposed collection system is adequate and conforms to the Town of Garner Utility Extension Policy.
(5)(c) Lots within the subdivision are to be served by a sewage treatment system that has not been approved that has a capacity of 3,000 gallons or less, and that does not discharge into surface waters.	The applicable Wake County Departments must certify that the proposed system complies with applicable state and local health regulations. If each lot within the subdivision is to be served by a separate on-site disposal system, the applicable Wake County Departments must certify that each lot shown on a major subdivision preliminary plat can be properly served, and each lot on a major or minor subdivision final plat can be served by an on-site disposal system.
(5)(d) Lots within the subdivision are to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity in excess of 3,000 gallons or that discharges effluent into surface waters.	The City of Raleigh must certify that proposed system complies with all applicable state regulations. A permit to Discharge must be obtained from the City of Raleigh. The Town Engineer must also approve the system for future addition to the Town system

8.4.9. Fire Hydrants

- A. All public or private hydrant and underground fire protection line installations shall be built in accordance with City of Raleigh design and installation standards.
- B. All private hydrants shall be painted red.

8.4.10. Electric Power

- A. Every principal **development** or **use** and every **lot** within a **subdivision** shall have available to it a source of electric power adequate to accommodate the reasonable needs of such **use** and every **lot** within such **development** or **subdivision**. Compliance with this requirement shall be determined as follows:
 - 1. If the **development** or **use** is not a **subdivision** and is located on a **lot** served by an existing power line, and the **development** or **use** can be served by a simple connection (as opposed to a more complex distribution system, such as would be required

in an apartment complex or **shopping center**), then no further certification is needed; and

2. If the **development** is for a **subdivision** or is not located on a **lot** served by an existing power line or a substantial internal distribution system, then the electric utility company must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed **use** and every **lot** within the proposed **subdivision**.

B. Site and Street Lighting Standards

See **Article 10. Lighting and Landscaping**.

8.4.11. Telephone Service

Every principal **use** and every **lot** within a **subdivision** must have available to it a telephone service cable adequate to accommodate the reasonable needs of such **use** or **lot**. Compliance with this requirement shall be determined as follows:

- A. If the **use** is not a **subdivision** and is located on a **lot** that is served by an existing telephone line and the **use** can be served by a simple connection to such line, then no further certification is necessary.
- B. If the **use** is a **subdivision**, or is not located on a **lot** served by an existing telephone line, or will require a substantial internal distribution system, then the telephone company must review the proposed plans and certify to the Town that it can provide service that is adequate to meet the needs of the proposed **use** and every **lot** within the proposed **subdivision**.

8.4.12. Underground Utilities

- A. All electric power lines, (not to include transformers or enclosures containing electrical equipment such as switches, meters, and capacitors, which may be pad mounted), telephone, gas distribution, and cable television lines in **subdivisions** developed after October 1, 2003, shall be placed underground in accordance with the specifications and policies of the respective utility companies and located in accordance with Town of Garner Standard Construction Details.
- B. Whenever a **development** is hereafter constructed on a **lot** that was undeveloped on October 1, 2003, then all electric power, telephone, gas distribution, and cable television lines shall run underground from the point of connection with the main lines to any **structures** on the **lot** served by those lines. Such lines shall be placed underground in accordance with the specifications and policies of the respective utility companies.

8.4.13. Utilities to be Consistent with Internal and External Development

- A. Whenever it can reasonably be anticipated that **utility facilities** constructed in one **development** will be extended to serve other adjacent or nearby **developments**, such **utility facilities** (e.g., water or sewer lines) shall be located and constructed so that extensions can be made conveniently and without undue expense or service duplication.
- B. All **utility facilities** shall be constructed in such a manner as to minimize interference with pedestrian or vehicle traffic and to facilitate maintenance without undue damage to improvements or **facilities** located within the **development**.

8.4.14. As-built Drawings Required

- A. Whenever a **developer** installs or causes to be installed a utility line in any public right-of-way or easement, the **developer** shall, as soon as practical after complete installation furnish the Town with a permanent copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by an appropriately licensed designer and shall bear a certificate on the drawing to that effect. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such **development**.

ARTICLE 9. BUILDING DESIGN AND PARKING

9.1. PURPOSE

If any utility line in any right-of-way is installed by a utility company, the company shall maintain accurate as-built drawings and shall make these available to the Town upon request. The Town will maintain as-bu Site Design Standards

9.1.1. Purpose

Site design standards focus on the site-level aspects of **development** that impact welfare, safety, walkability, and overall user experience. These requirements serve to:

- A. Control the flow and safety of traffic (pedestrian, automotive, and otherwise) in and around sites;
- B. Provide easily identifiable, safe, and accessible access to sites and **buildings** via a direct path;
- C. Reduce congestion on public **streets**;
- D. Reduce visual impact of unsightly exterior functions; and
- E. Promote context-sensitive site grading.

9.1.2. Access to Commercial Buildings

A. Applicability

The standards contained in this subsection apply to all commercial **structures**.

B. Pedestrian Access

1. **Street**-facing entrances and/or corner entrances are required to enhance accessibility and concentrate pedestrian activity along the **street** edge.
2. Direct pedestrian access via a path is required from the public sidewalk to the primary **street**-facing entrance of the **building** in all nonresidential and mixed-use districts.
3. Pedestrian access shall be provided through retaining walls in situations where a retaining wall is located between the **building** entrance and the sidewalk in the public right-of-way and there are no other pedestrian access points or a sidewalk along a **driveway** within 200 feet on each **street** frontage.
4. **Street**-facing entrances shall be counted per façade, per **building**.
5. A corner entrance shall be counted as one entrance for each adjoining side of the **building**.
6. In the TBD and AC districts, entrances shall be provided in the quantity of at least one per **building** or leasable unit, plus a minimum of one entrance every 125 feet along each public-facing

façade. If security is a concern, these entrances may be locked per the requirements of the tenant.

7. In the TBD and AC districts, an entrance is required within 25 feet along the façade from a corner where two public rights-of-way meet.

9.1.3. Lot Access

Single-family detached residential, duplexes, and townhomes with individual **driveways** shall not have **driveways** that directly access a **major or minor thoroughfare**.

9.1.4. Waste Collection Areas

Residential **uses** with more than four **dwelling units** per **structure** or nonresidential **uses** greater than 10,000 square feet shall provide a centralized waste collection area.

9.1.5. Site Grading

- A. Grading activities shall be staged; prior to proceeding to another stage, the **developer** shall stabilize the present stage with adequate ground cover sufficient to restrain erosion and have drinking water, sewer, and **stormwater** infrastructure installed.
- B. In no case shall mass grading exceed 20 acres per stage (aka phase or **project** site), including grading necessary for on-site infrastructure.
 1. In cases where a **single-structure project** occupies more than 20 acres, such as with very large **industrial** sites, this requirement may be exempted.
 2. In cases where the acreage of the entire **project** is 25 acres or less, the entire site may be graded as if it were one stage.
 3. In cases where the stage being graded is distant from existing infrastructure and needs grading to make a connection, those connecting areas are exempt from the 20-acre limit provided they do not extend more than 10 feet beyond the necessary right-of-way or path of the infrastructure.
- C. Graded acreage in **single-family residential subdivisions** must retain at least 80 percent of the pre-**development** drainage areas within their natural basins.
- D. Where a **single-family residential development** (or any portion of a **project** that is such) is three **dwelling units** per acre or less, grading shall be limited to areas where underground infrastructure is installed and individual **lots** shall remain undisturbed until after a **building** permit is issued for that **lot**, except for those portions of the **lot** used to install supporting infrastructure.

- E. Other exemptions:
1. Grading in emergency situations necessary to protect against immediate danger to life, property, or substantial fire hazard.
 2. Grading directly related to **bona fide farm** activities on a **bona fide farm** property.
 3. Grading in AC, TBD, and HI districts.

9.2. BUILDING DESIGN

9.2.1. Purpose Statement

Regulation of the following site design elements is necessary in order to encourage design excellence in **development**. These performance-based design standards influence the qualities of architecture, site design, and **open space**, and guide individual **projects** towards successful design outcomes. The requirements address the aspects of **building** and site design that most influence the public realm while still allowing for innovation and flexibility by the respective designers.

Building design standards help achieve the following goals for Garner’s public realm:

- A. New **development** that reflects and enhances Garner’s existing character, with consistent architectural styles throughout respective new **developments**.
- B. Inviting **streetscapes** that feature active facades and **buildings** that interact with the **street**.
- C. Walkable urban environments, in relevant zoning districts, with clear pedestrian entrances and direct access to **buildings**.
- D. A sense of scale and visual interest through massing, materials, and architectural elements.
- E. Defined, continuous **streetwalls** where **building** façade setbacks do not differ too greatly along a block.
- F. Meaningful, inviting public spaces that are accessible to all and incorporate elements such as native planting, shade, enclosure, seating, and lighting.

Commentary:

Streetwalls consist of combined facades of **buildings** generally built to the property line facing a **street** or common **open space** area. A continuous **streetwall** helps define the public realm of a **street** and is a large contributor to pedestrian comfort and city design.

9.2.2. Applicability

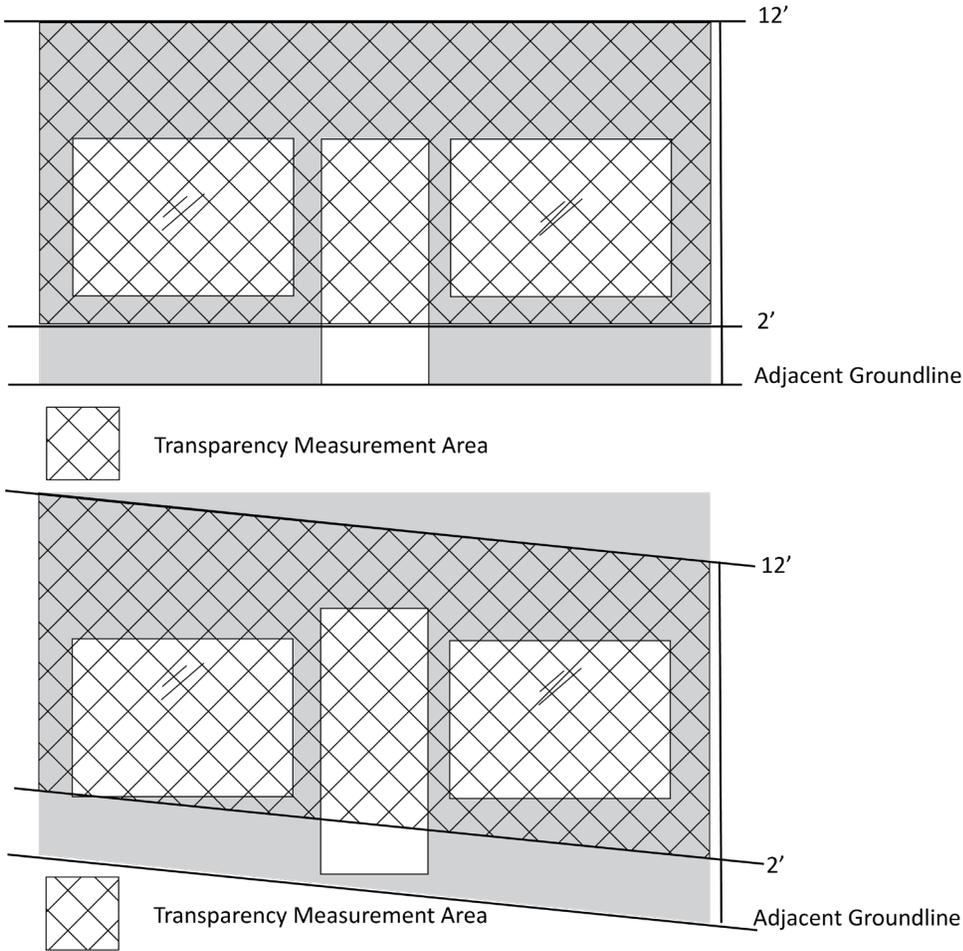
All multifamily **development** with three or more **dwelling units** and all nonresidential and mixed-use **development** and **structures** are subject to the following standards to the extent that these requirements do not conflict with G.S. § 160D-702(b). **Industrial uses** shall be exempted, except for office or general **sales** areas serving the general public. Other applicability specifications are stated where relevant.

9.2.3. Transparency

- A. To encourage active, engaging facades, **public safety** through “eyes on the **street**”, and a pedestrian-friendly environment, transparency standards shall apply to all facades that front public rights-of-way.
- B. Transparency is defined as any façade area containing glass windows, doors, or walls (areas of glass) where those areas:
 - 1. Are made of glass that has a transparency rate higher than 80 percent and a rate of external reflectance less than 15 percent;

- 2. Are free of opaque window treatments;
 - 3. Have visibility into the ground floor of the **building**, free of **building** materials, shelving, and other impediments, at a minimum depth of five feet; and
 - 4. Have lawfully-occurring **window** signage that does not detract from or count against meeting the transparency requirement.
- C. For ground floor transparency, transparency is measured along the entire length of a facade between two feet and 12 feet from the adjacent groundline.

Transparency measurement on level and sloped sites



The cross-hatched area represents the portion of the facade where the amount of transparency is measured.

- D. Transparency minimums shall apply to the **street-facing** frontages of **buildings**.
- 1. **Primary frontages** are defined as the **building** facade where the primary entrance and/or the most publicly-facing storefront facade is located. On a corner **building**, the facade facing the **street** with

storefront windows, the higher designation, or volume of traffic shall be considered the **primary frontage**.

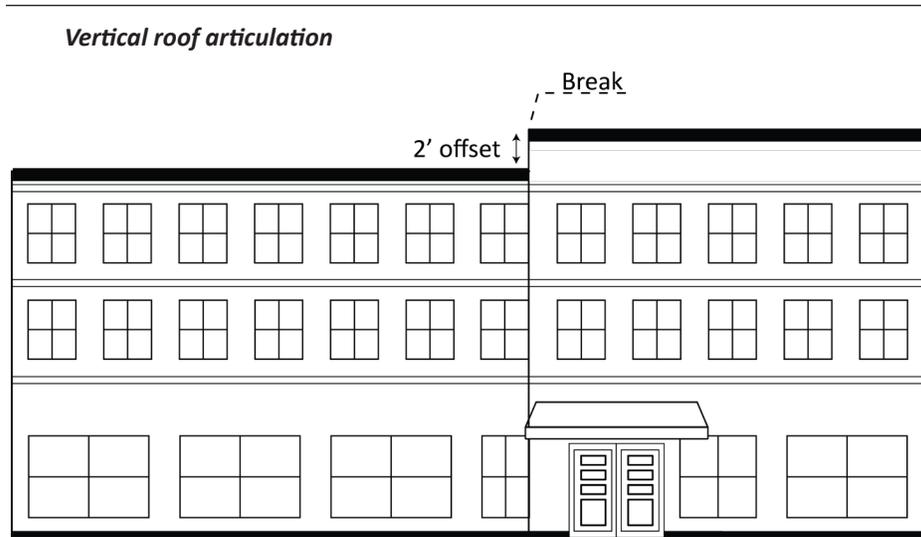
- 2. Residential **uses** are exempt from transparency minimums.
- 3. Standards in the LI district do not apply to portions of a **building** housing **industrial** or **manufacturing uses**.

	PRIMARY FRONTAGE, GROUND FLOOR	OTHER FRONTAGES, GROUND FLOOR	UPPER-STORY, ALL PUBLIC FRONTAGES
NMX	50 percent	33 percent	20 percent
CMX	33 percent	0 percent	10 percent (primary frontage only)
TBD	66 percent	66 percent	33 percent
AC	66 percent	66 percent	33 percent
LI	50 percent	33 percent	10 percent
Other districts	33 percent	33 percent	20 percent

- E. Upper-story transparency is measured per story on all floors above the ground floor.
 - 1. If a ground floor extends higher than 18 feet in height, upper-story standards shall apply for every 12-foot-high section, starting 18 feet from the groundline.
 - 2. When a one-story **building** is between 18 and 30 feet in height, the area between 18 and 30 feet from the adjacent groundline shall be counted as an upper story for purposes of transparency.
- F. The maximum horizontal width of a portion of the ground floor level **street wall** of the primary façade in the TBD and AC districts without transparency shall not exceed 10 feet.

9.2.4. Roof Articulation

- A. To avoid large, continuous **building** mass of uniform height, no portion of the roofline of may continue for more than 100 feet horizontally without a break.
- B. For these purposes a “break” is defined as a vertical offset of at least two feet in height and 10 feet in length, which can be achieved through a parapet or other variation in roofline.



9.2.5. Material Requirements

- A. No metal lap siding or vinyl siding on nonresidential **buildings** shall be permitted.
- B. At least 50 percent of the primary **building** materials shall consist of brick, stone, or decorative/scored concrete masonry units.
- C. **Buildings** shall be limited to a maximum of three types of materials and colors. This excludes decorative and functional elements such as fastenings and trim. No more than 10 percent of the **structure's** exterior materials may be metal. Metal fastenings and trim shall not count toward this standard.

9.2.6. Façade Requirements

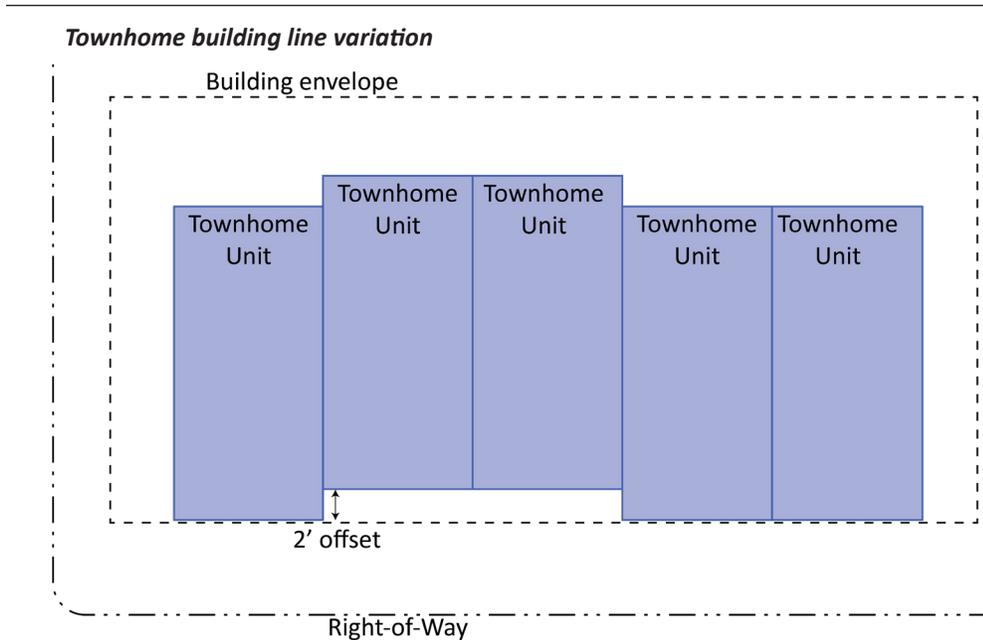
- A. **Structures** greater than four units with facades longer than 50 feet in must contain façade articulation in the following manner:
 - 1. Projections and/or recesses of the average wall plane of at least two feet in depth and eight feet in width.
 - 2. No wall plane shall extend for greater than 25 percent of the length of the entire façade.
- B. **Structures** with facades longer than 50 feet in length in the MF-B, TBD, and AC districts must contain at least four of the following **building** elements on public-facing facades. Elements shall be distributed such that there shall not be a horizontal distance of more than 12 feet without at least one of the following:
 - 1. A recessed or protruding porch or balcony at least six feet wide and two feet deep.
 - 2. A vertical articulation, such as a chimney or pilaster of at least 12 inches in depth.
 - 3. A pedestrian arcade.

4. A lighting feature.
5. An awning.
6. An alcove.
7. A recessed entry.
8. An ornamental cornice.
9. A change in material or massing (minimum two-foot change).

9.2.7. Townhomes

To the extent that it does not conflict with G.S. § 160D-702(b), the following standards apply:

- A. Vehicle access to **townhomes** shall be from the designated primary **street** or from a rear alley. **Driveways** shall not extend from the secondary **street**.
- B. **Townhomes** may have pedestrian side entrances on end units.
- C. At least 25 percent of **townhome** end units within a **development** shall have a porch or entrance on the side.
- D. A hipped roof is required for the side of the **structure** abutting a single-family detached or **duplex residential use**.
- E. When abutting a single-family or **duplex residential use**, new **structures** within 100 feet of the shared property line shall not be more than one story taller than the shortest primary **structure** on adjacent properties.
- F. **Townhome structures** shall incorporate roof articulation every two units in the following manner:
 1. A flat roof plane or parapet roof shall incorporate a break (as defined in **Section 9.3.4.**) at least every two **dwelling units**; and
 2. For peaked roofs, a dormer with window shall be incorporate at least every two **dwelling units**; and
- G. No more than two adjacent **townhome** units may share the same front facade line – the facades must be offset at least 2 feet in depth to be considered as having different front **building** lines.



9.2.8. Multifamily Requirements

To the extent that it does not conflict with G.S. § 160D-702(b), the following standards apply:

- A. All **structure** sides shall provide a minimum of one glazed window or transparent penetration per floor per **dwelling unit**.
- B. A hipped roof is required for the side of the **structure** abutting a single-family detached or **duplex residential use**.
- C. When abutting a single-family or **duplex residential use**, new **structures** within 100 feet of the shared property line shall not be more than one story taller than the shortest primary **structure** on adjacent properties.

9.2.9. Requirements for Large-scale Multifamily (Greater than 4 Dwelling Units per Structure) and Upper-story Residential

- A. On the second and third stories, usable balconies protruding at least 3 feet from the primary **building** face and at least 8 feet wide are required. The required balcony area must have railings that are mostly see-through.
- B. Above the third story, usable balconies protruding at least 2 feet from the primary **building** face and at least 8 feet wide are required. Alternatively, a minimum 3-foot deep by 8-foot wide balcony may be fully or partly recessed. There is no requirement for transparency in the balcony railing/wall.

9.3. PARKING AND LOADING REQUIREMENTS

9.3.1. Purpose and Intent

In the interest of the public health, safety, and welfare, the Town Council finds it prudent and necessary to:

- A. Allocate space to accommodate vehicle parking and loading in appropriate areas;
- B. Promote safety for motorists and pedestrians;
- C. Encourage efficiency in traffic operations;
- D. Ensure uniform **development** of parking and **loading areas**;
- E. Promote visual harmony of parking and **loading areas** with the environment;
- F. Reduce excess **parking spaces**; and
- G. Minimize the negative impacts of **impervious surface** on **stormwater** quantity and water quality.

9.3.2. Applicability

- A. The standards contained herein apply to all **uses** in the Town of Garner and its **ETJ**.
- B. The standards contained herein are the Town's minimum standards for approval.

9.3.3. Administrative Modifications

- A. Strict adherence to the parking standards contained herein may result in inadequate or excessive parking; therefore, the Administrator shall permit modifications from the requirements of up to 20 percent upon written request and a parking study certified by an engineer showing that:
 - 1. Any such modification shall not reduce the required number of accessible **parking spaces**.
 - 2. No reduction shall be granted for **uses** in the Residential **Use** Category as defined in **Article 6. Use Regulations**.
- B. Nonresidential **development** in the AC district shall be permitted a 25 percent reduction in off-street parking requirements.
- C. In the TBD District:
 - 1. Nonresidential **uses** shall be permitted a 20 percent reduction in off-street parking requirements.
 - 2. Parking on the **street** in front of property lines may be counted toward parking requirements. However, this parking is not proprietary to the establishment.

- D. All permitted or required modifications shall be noted on associated permits for the **development**.

9.3.4. Accessible Parking

Accessible parking shall be provided in accordance with the North Carolina General Statutes, the NCDOT Manual on Uniform Traffic Control Devices for Streets and Highways, and the North Carolina State **Building** Code.

9.3.5. Off-Street Parking Requirement

- A. The table below lists the recommended minimum number of spaces for each **use** listed in the ***Table of Permitted Uses in Article 6. Use Regulations***. It is recognized that many **uses** will desire to tailor the parking provided to their particular business model, often installing more than that listed in the table, and that these parking minimums serve as a floor and not a recommendation.
- B. If application of this table results in a fraction of a space, the number of required spaces shall be rounded up to the nearest whole number.
- C. For purposes of this Section, minimums based on capacity and occupancy rates shall be calculated using the latest formulas for **use** and occupancy classifications found in the North Carolina State **Building** Code, unless otherwise indicated.
- D. Property owners, **developers**, and operators shall be responsible for determining any parking and loading needs above the listed minimum requirements.
- E. Where a site includes a mix of **uses**, the parking requirement for each **use** shall be calculated independently and summed. No area shall be counted twice in the calculation.
- F. In single-family, **duplex**, **townhome**, and mobile home **uses**:
 1. The first **parking space** in a garage shall not count toward the off-street parking minimum.
 2. Required **parking spaces** shall not block the route from the garage to **street**.

TABLE OF PARKING REQUIREMENTS	
USE	MINIMUM NUMBER OF VEHICLE SPACES
RESIDENTIAL USE CATEGORY	
Single-Family Detached	2.0 spaces per dwelling unit plus 1.0 spaces per room after the first four bedrooms
Two-Family Dwelling (two dwelling units per structure , aka Duplex)	2.0 spaces per dwelling unit
Townhouse (three or four dwelling units per house-scaled structure)	2.0 spaces per dwelling unit plus 1.0 guest spaces for every eight units; individually-locked or leasable garage spaces only count as 0.5 parking spaces

TABLE OF PARKING REQUIREMENTS	
USE	MINIMUM NUMBER OF VEHICLE SPACES
Townhome (> four dwelling units per structure in development)	2.0 spaces per dwelling unit plus 1.0 guest spaces for every eight units; individually-locked or leasable garage spaces only count as 0.5 parking spaces ; Guest parking shall be distributed proportionately throughout the site and should be within 250 feet of the structure it serves
Multifamily (triplex or quadplex, up to 2,500 sq ft building footprint)	1.6 spaces per dwelling unit
Multifamily (> four units per structure or > 2,500 sq ft building footprint)	1.6 spaces per dwelling unit plus 1.0 spaces for every eight units; individually-locked or leasable garage spaces only count as 0.5 parking spaces ; Guest parking shall be distributed proportionately throughout the site and should be within 250 feet of the structure it serves
Upper-Story Residential	1.4 spaces for each one-bedroom unit and 1.6 spaces for each other dwelling unit ; plus 1.0 guest spaces per 10 dwelling units
Manufactured Home – Class A	2.0 spaces per dwelling unit
Manufactured Home – Class A	2.0 spaces per dwelling unit
Manufactured Home Park	2.0 spaces per dwelling unit plus 1.0 spaces per eight dwelling units
Security or Caretaker's Quarters	2.0 spaces per unit
Other Group Living Uses Not Listed	1.0 spaces for every two beds
Group Care (9 or fewer residents)	1.0 spaces for every three beds
Group Care (> 9 residents)	2.0 spaces for every five beds
CIVIC AND INSTITUTIONAL USE CATEGORY	
Other Civic and Institutional Uses Not Listed	1.0 spaces per 500 square feet
Assembly, Civil, Service Fraternal Clubs, Lodges and Similar Uses	1.0 spaces per 100 square feet in highest-capacity gathering space; Accessory uses such as childcare, offices, or food service shall provide parking according to their use
Library, Museum, Art Gallery	1.0 spaces per 300 square feet in principal building
Community Center	1.0 spaces per 100 square feet in highest-capacity structure
Higher Education	5.0 spaces per classroom
School, Primary or Secondary	1.6 spaces per classroom or office in elementary schools; 5.0 spaces per classroom or office in high schools
Emergency Services	n/a
Prison, Jail, Detention Facility	1.0 spaces per employee plus 1.0 visitor spaces per 20 inmates
Cemetery	n/a
Hospice	1.0 spaces for every four beds
Hospital	1.0 spaces per bed plus 1.0 spaces per employee on maximum shift
Ambulatory Health & Emergency Care Facility	1.0 spaces per 400 square feet of gross floor area
Religious Institution	1.0 spaces per 100 square feet in highest-capacity gathering space; Accessory uses such as childcare, offices, or food service shall provide parking according to their use

TABLE OF PARKING REQUIREMENTS	
USE	MINIMUM NUMBER OF VEHICLE SPACES
RECREATIONAL AND ENTERTAINMENT USE CATEGORY	
Other Recreational and Entertainment Uses Not Listed	2.0 spaces per acre, plus 1.0 spaces per 250 square feet of developed park facility
Bar, Nightclub, Tavern	1.0 spaces per 200 square feet of gross floor area
Golf Course or Country Club , Private	1.0 spaces per 200 square feet of building area plus any outdoor gathering area spaces
Horse Stables and Related Facilities	1.0 spaces per four horses at maximum capacity
Indoor Athletic or Entertainment Facility	1.0 spaces per four persons at 75 percent maximum capacity
Electronic Gaming Centers	1.0 spaces per three persons at maximum occupancy
Outdoor Athletic or Entertainment Facility	1.0 spaces per four persons at 75 percent maximum capacity
Theater	1.0 spaces for every four seats
Other Parks and Open Space Uses Not Listed	1.0 spaces per acre, plus 1.0 spaces per 250 square feet of developed park facility
Public Park, Passive Open Space, Nature Park	2.0 spaces per acre, plus 1.0 spaces per 250 square feet of developed park facility
Sexually Oriented Business	1.0 spaces per three persons at maximum occupancy
Theater, Drive-In	1.0 spaces per speaker outlet
Recreational community amenity areas (pool , clubhouse, or other amenity area) that are solely for the use of the residents of said development , and not generally open to the outside public	4.0 spaces plus 1.0 spaces for every 20 dwelling units farther than 0.5 miles by road or walkway from amenity area
OVERNIGHT ACCOMMODATION USE CATEGORY	
Other Overnight Accommodation Uses Not Listed	1.0 spaces per bedroom
Bed and Breakfast, eight rooms or fewer	1.0 spaces per room plus 1.0 spaces for every two employees on maximum shift
Bed and breakfast, nine - 30 rooms	1.0 spaces per room plus 1.0 spaces for every two employees on maximum shift
Hotel / Motel	1.0 spaces per room plus 1.0 spaces for every two employees on maximum shift
COMMERCIAL, OFFICE, RETAIL, SERVICE USE CATEGORY	
Other Office Uses Not Listed	1.0 spaces per 500 square feet of gross floor area
Medical Office	1.0 spaces per 200 square feet of gross floor area
Other Restaurant and Food Service Uses Not Listed	1.0 spaces per four occupants at maximum occupancy
Restaurant , Sit-down Establishment	1.0 spaces per four occupants at maximum occupancy
Restaurant , with Drive-In or Outdoor Curb Service	1.0 spaces for every three seats, plus reserve lane capacity equal to 5.0 spaces per drive-up window.
Convenience Store , without Fuel Sales	1.0 spaces per 300 square feet of gross floor area
Convenience Store , with Fuel Sales	1.0 spaces per 500 square feet of gross floor area
In-Home Child Day Care	1.0 spaces in addition to required residential space(s)
Day Care Center	1.0 spaces per employee plus 1.0 spaces per eight clients enrolled

TABLE OF PARKING REQUIREMENTS	
USE	MINIMUM NUMBER OF VEHICLE SPACES
Gym, Spa, Indoor Tennis Court, or Pool	1.0 spaces per four persons at maximum occupancy
Funeral Home	1.0 spaces for every two employees on maximum shift plus 1.0 spaces per 100 square feet in highest-capacity gathering space
Crematorium	1.0 spaces for every two employees on maximum shift
Personal or Professional Services (up to 5,000 square foot ground floor footprint)	1.0 spaces per 300 square feet of gross floor area
Personal or Professional Services (> 5,000 square foot ground floor footprint)	1.0 spaces per 500 square feet of gross floor area
Banks or Financial Institution	1.0 spaces per 500 square feet of gross floor area
Banks or Financial Institution , with Drive-thru or Vehicular ATM	1.0 spaces per 500 square feet of gross floor area
Sales / Retail (no outdoor operations)	1.0 spaces per 250 square feet of gross floor area
Sales / Retail (with outdoor operations up to 25 percent of total sales area)	1.0 spaces per 250 square feet of gross floor area
Sales Oriented Use (with outdoor operations > 25 percent of total sales area)	1.0 spaces per 250 square feet of gross floor area
Parking Lot, Commercial	1.0 spaces per employee on maximum shift
Self Storage, Mini Storage	1.0 spaces per 10,000 square feet of area devoted to storage
Manufactured Home Sales	1.0 spaces per employee on maximum shift
Veterinarian / Kennel, Indoor	1.0 spaces per 300 square feet of gross floor area
Veterinarian / Kennel , with Outdoor Operations	1.0 spaces per 300 square feet of gross floor area
Vehicle Sales, Rental, Service, Repair	5.0 spaces per service bay plus 1.0 spaces per employee on maximum shift
Vehicle Towing, Storage	1.0 spaces per employee on maximum shift
INDUSTRIAL, MANUFACTURING, WAREHOUSING, WASTE SERVICES, AND TRANSPORTATION USE CATEGORY	
Flex Space, Other Light Industrial, Manufacturing, Warehousing, or Transportation Uses Not Listed	1.0 spaces per 1,000 square feet of gross floor area
Microbrewery / Microdistillery	1.0 spaces per 1,000 square feet of gross floor area
Wholesale Sales	1.0 spaces for every four employees on maximum shift
Industrial, Manufacturing, or Production, Indoor Only	1.0 spaces for every four employees on maximum shift
Industrial, Manufacturing, or Production with Outdoor Operation	1.0 spaces for every four employees on maximum shift
Outdoor Storage (> 10 feet above grade)	1.0 spaces for every four employees on maximum shift
Resource Extraction	1.0 space for every 4 employees on the maximum shift
Passenger Terminals	1.0 spaces per 300 square feet
Truck Terminal, Fueling Terminal	1.0 spaces for every four employees on maximum shift
Aviation Service and Freight	1.0 spaces for every two employees on maximum shift, plus 1.0 visitor spaces per 200 square feet of office
Warehouse and Freight Movements	1.0 spaces for every four employees on maximum shift

TABLE OF PARKING REQUIREMENTS	
USE	MINIMUM NUMBER OF VEHICLE SPACES
Other Waste Related Services	1.0 spaces for every four employees on maximum shift
Recyclable Materials Collection Center	1.0 spaces for every four employees on maximum shift plus 1.0 spaces per vehicle used in operation
Sanitary Landfill, Junk or Salvage Yard	1.0 spaces for every four employees on maximum shift plus 1.0 spaces per vehicle used in operation
UTILITIES USE CATEGORY	
Other Utilities Uses Not Listed	None
Minor Utility	None
Solar Farms	1.0 spaces
Telecommunication Facility	1.0 spaces per service vehicle
Concealed Telecommunication Facility	1.0 spaces per service vehicle
AGRICULTURAL AND MISCELLANEOUS USE CATEGORY	
Other Agricultural Uses Not Listed	1.0 spaces for every two employees on maximum shift
Agriculture or Silviculture	1.0 spaces for every two employees on maximum shift
Greenhouse, Nursery (commercial), indoor operations	1.0 spaces for every four employees on maximum shift
Greenhouse, Nursery (commercial), outdoor operations	1.0 spaces for every four employees on maximum shift
ACCESSORY, TEMPORARY, AND HOME OCCUPATION USE CATEGORY	
Accessory Uses and Structures – Section 6.12.	None
Home Occupations – Section 6.13. and 6.14.	See corresponding residential use
Temporary uses – Section 6.15.	None
Cluster Mailbox Units (CBUs)	2.0 spaces for first 20 units plus 1.0 spaces for each additional 20 units up to 100 units plus 1.0 spaces for every 30 units after first 100 units

9.3.6. Design and Dimensional Standards

A. Parking Spaces

See Town of Garner Engineering Manual, Section 1.6.

9.3.7. Vehicle Accommodation Area (VAA)

A. Design of VAAs shall meet the following standards:

1. Vehicles shall exit the VAA without backing into a public **street**. This provision shall not apply to **driveways** serving a single **dwelling unit** or areas accessed from a minor **local street**.
2. Vehicles shall not overhang property lines, obstruct public rights-of-way or sidewalks, conflict with vegetation, or damage any **structure**.
3. VAAs shall not pose a danger to pedestrians or other motorists.
4. VAAs may not interfere with parking areas.

5. Dead-end parking areas are prohibited unless a turnaround space is striped, signed, and provided.
- B. To protect against potholes, erosion, and dust, VAAs meeting the criteria below shall be graded and surfaced with asphalt, concrete, or other similar dust-free material approved by the Administrator, and treated as VSA for landscaping purposes:
 1. VAAs with drive-thru-lanes; or
 2. VAAs with 10 or more **parking spaces** and that are used five or more days per week.
- C. VAAs with Nonpermanent Pavement and Three or More **Parking Spaces**
 1. Where permanent paving is not used, the surface shall be graded with crushed stone, gravel, or other suitable material approved by the Administrator.
 2. The perimeter of areas without permanent paving shall be delineated by bricks, stones, railroad ties, or similar devices.
 3. These areas are not subject to the VSA landscaping requirements of Article 10: Lighting and Landscaping; however, any screening requirements shall still apply.
- D. A minimum of five feet shall be provided between the right-of-way line or property line and the edge of the **vehicle accommodation area**.
- E. VAAs shall be landscaped in accordance with Article 10: Lighting and Landscaping, except as otherwise provided for herein.
- F. The pavement and **parking space** markings of VAAs shall be maintained in good condition. Markings should be visible and distinct.
- G. Head-in or angled **parking spaces** shall be separated from walkways by at least four feet.
- H. Where parallel **parking spaces** abut a sidewalk or pedestrian way, an additional two feet of clearance from the parking shall be provided.

9.3.8. Shared Parking Standards

Shared parking allows for a reduction in the total number of **parking spaces** required for certain properties where a mix of adjacent land **uses** have varying peak periods of parking demand.

- A. Applicability
 1. Shared parking shall be considered only for new **developments** or significant increases in **building** size or **additions**.
 2. Shared parking may not include a reduction in accessible **parking spaces**.
 3. Shared parking is only permitted in the NMX, TBD, AC, CMX, LI, and HI districts.

Commentary:

Parallel **parking spaces** abutting a sidewalk or pedestrian way require an additional two feet of clearance. One way that this can be accomplished is by widening the sidewalk by two feet.

4. A **use** for which an application is made for shared parking shall be located within 800 feet of the parking **facility**.

B. Shared Parking Agreement

1. The parties involved shall execute a shared parking agreement, which shall be filed with the Planning Department.
2. The agreement shall continue as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, parking shall be provided as otherwise required by this Ordinance.

C. Shared Parking Plan

1. The shared parking agreement shall include a shared parking plan.
2. The plan shall include all the following elements:
 - a. **Parking spaces** (numbered).
 - b. Required parking calculations.
 - c. Any directional signage directing drivers to the most convenient parking locations.
 - d. Pedestrian walkways and connections.
 - e. Connections between parking areas and land **uses**.
 - f. Timing of operations.

D. Parking Study

A formal parking study shall not be required.

E. Calculation

The **Planning Director** shall permit **uses** requiring different amounts of parking to reduce the number of spaces required for the **use** with the higher requirement, according to the **Table of Parking Requirements** by up to 30 percent.

9.3.9. Satellite Parking

- A. If the required number of **parking spaces** cannot reasonably be provided on the same **lot** as the **use** they serve, then spaces may be provided on nearby **lots** in accordance with this Section.
- B. The **developer** must provide proof by written consent of the owner of the **lot** where the parking area is to be located.
- C. Satellite parking areas must be located within 400 feet of the **use** they serve.
- D. Satellite parking areas must satisfy all requirements for **vehicle accommodation areas** and **vehicular surface areas** found in this Ordinance.

Commentary:

As long as one **parking space** is entirely within the 400-foot distance, the vehicular accommodation area will qualify.

9.3.10. Loading and Unloading Areas

- A. Where normal business operations require routine shipping activity, sufficient off-street parking and loading shall be provided for safety and convenience.
- B. The area must be able to accommodate the number and types of vehicles used or likely to be used. The following table includes the required number and dimensions of spaces by **building gross floor area**.
- C. The **Planning Director** shall approve modifications to the number or size of spaces if provided written justification signed and sealed by an engineer licensed in North Carolina.

GROSS FLOOR AREA (SQURE FEET)	NUMBER OF SPACES WITH MAXIMUM DIMENSIONS OF 12 FEET X 25 FEET AND OVERHEAD CLEARANCE OF 14 FEET FROM STREET GRADE
0—39,999	1.0 spaces
40,000—99,999	2.0 spaces
100,000—159,999	3.0 spaces
160,000—239,999	4.0 spaces
240,000—319,999	5.0 spaces
320,000—399,000	6.0 spaces
400,000 and over	6.0 spaces plus one space for each additional 90,000 square feet over 400,000 square feet or fraction thereof

- D. **Loading and unloading areas** shall be designed and located so that vehicles can:
 1. Maneuver safely to and from a public right-of-way; and
 2. Complete operations without obstructing or interfering with any public right-of-way, **parking spaces**, or **parking lot** aisle.
- E. **Loading and unloading areas** shall not be used to satisfy parking requirements and vice versa.
- F. **Loading and unloading areas** within **industrial subdivisions** shall not be visible from any right-of-way or residential **use** or district. They shall be located to the rear or side of **structures**. Where this is not feasible the loading docks and doors shall be screened in accordance with **Article 10. Lighting and Landscaping**.

9.3.11. Bicycle Parking

- A. General Provisions
 1. Bicycle parking is required in the MF-A, MF-B, NMX, CMX, and LI zoning districts.
 2. All **uses** within applicable districts shall provide a minimum of two bicycle spaces.

3. In TBD and AC Districts, the Town of Garner shall provide bicycle parking.
4. In a multi-tenant **development**, minimum requirements shall be based on overall square footage of each **use**. In such case, bicycle parking may be clustered, provided that every tenant has a cycle rack within 50 feet of their primary entrance.
5. Bicycle parking must be located within 50 feet of primary **building** entrance or as close as possible. For **parks**, cycle racks must be located within 150 feet of primary **park** entrance.
6. Racks must support the bicycle frame at two points. Racks that support only the wheel of the bicycle are not permissible.
7. Bicycle parking locations with dimensions shall be shown on the preliminary **site plan**.
8. See **Article 10**. for lighting requirements in bicycle parking areas.
9. Cycle racks shall be on graded, paved areas with direct paved access to walkways and sidewalks.

B. Bicycle Parking Minimums

1. New or existing automobile required parking may be replaced by bicycle parking at a ratio of one automobile **parking space** for every four bicycle **parking spaces** provided. No more than 5 percent of the required automobile **parking spaces** for nonresidential **uses** shall be replaced at a site.
2. Bicycle parking shall be provided in the following quantities:

PRINCIPAL USE CATEGORY	MINIMUM CYCLE PARKING SPACES
Residential - Multifamily over 4 units, Upper story residential, group living	1 per 10 bedrooms
Civic and Institutional	4 bike spaces per 20,000 square feet of interior space
Recreation and Entertainment	4 bike spaces per 20,000 square feet of interior space
Overnight Accommodation	2 per site
Commercial, Office, Retail , and Service	4 bike spaces per 20,000 square feet of interior space
Industrial	1 per 40,000 square feet of interior space
Park or Open Space	8 spaces per acre for parks up to 3 acres, 2 spaces per acre after the first 3 acres. Minimum of 8 parking spaces per parking area

9.3.12. Electric Vehicle Charging

Two electric vehicle (EV) charging stations are required in all **parking lots** greater than 100 spaces, with an additional station required for every 100 spaces thereafter. In a parking deck, one EV charging station per 100 spaces is required.

ARTICLE 10. LIGHTING AND LANDSCAPING

10.1. GENERAL PROVISIONS

10.1.1. Purpose

The purpose of regulating landscaping, lighting, and related site elements is to promote the general health, safety, and welfare of the community and reach the goals of the Garner Forward **Comprehensive Plan** by:

- A. Creating safe outdoor environments through the provision of lighting that does not disturb residents or pollute the night sky;
- B. Encouraging the **use** of accent lighting in creative placemaking;
- C. Regulating planting and planting materials to ensure sites contribute to the overall value of the Town;
- D. Promoting an attractive environment;
- E. Mitigating the environmental impacts of **development**;
- F. Achieving harmony between the natural landscape and manmade **structures**;
- G. Improving the appearance of the built environment;
- H. Protecting the natural resources of the community; and
- I. Conveying the importance of high-quality **development** to residents, visitors, businesses, and investors.

10.2. LIGHTING

10.2.1. Purpose

Outdoor lighting is regulated in the Town of Garner in the interest of creating a safe pedestrian environment at night, creating attractive **streetscapes**, reducing environmental light pollution, creating secure storage areas of outdoor goods, enhancing automobile and pedestrian safety along and in roadways, reducing conflicts between nonresidential and residential **uses**, and enhancing the architectural appearance of **buildings** and **structures**.

10.2.2. Applicability

- A. The standards of this Article are applicable for new **development** across all zoning districts, with the exception of the **uses** listed in Subsection B.
- B. The following **uses** shall be exempt from the standards of this Section:
 1. **Single-family residential dwellings**.
 2. Lighting associated with permitted **temporary uses**.
 3. Seasonal holiday lighting and lighting associated with annual cultural or civic events.
 4. Sign illumination. (See **Article 12. Signage**)
 5. Airport runway and aviation safety lights.
 6. Lighting temporarily used by construction personnel or **public safety** officers.

10.2.3. Prohibited

- A. High-intensity light beams such as searchlights, lasers, or strobes.
- B. Lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color or **use** intermittent electrical pulsation.
- C. Dished or drop lenses or refractors which contain sources that are not incandescent.
- D. Light fixtures that imitate an official highway or traffic control light or **sign**.
- E. Light fixtures in the direct line of vision with any official traffic control light or **sign**.
- F. Privately-owned light fixtures located in the public right-of-way without permission.

10.2.4. Lighting Plan Review

- A. All **site plan** submittals and common areas of **subdivision** plan submittals shall require a detailed exterior lighting plan. The lighting plan shall provide the following information:

1. Lighting fixture specifications including location, unit type (e.g. cutoff, non-cutoff, glare shields), lamp details (e.g. wattage), electrical load requirements, utility company involved, wiring method, light location, line location, and mounting height.
2. Information indicating compliance with **lot** line footcandle (FC) maximums and illumination level requirements.

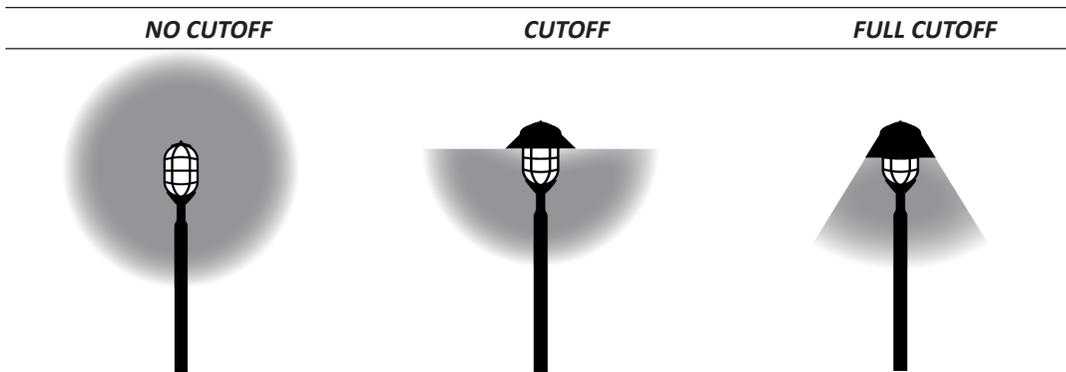
B. Final Acceptance

Prior to receiving a certificate of occupancy, the owner, builder, or authorized agent shall submit a letter from the **project's** lighting engineer, lighting manufacturer, or authorized lighting contractor certifying that all installed lighting meets Town standards, adheres to all established conditions, and matches the approved plans.

10.2.5. General Exterior Site Lighting Standards

All lighting fixtures designed or placed to illuminate any portion of a site shall meet the following requirements:

- A. Unless otherwise expressly permitted, all exterior lighting fixtures shall either have a fixture cutoff classification of "Cutoff" or have zero uplight (no light at or above horizontal).



- B. Outdoor lighting fixtures shall be designed and mounted at heights no greater than:
 1. 16 feet for pedestrian scale applications; and
 2. 35 feet for pole-mounted applications.
- C. Light fixtures shall not be located closer than 15 feet from any tree, as measured from the pole base to the tree trunk.
- D. Public, civic and institutional **uses**, commercial **uses**, and **industrial uses** that are adjacent to existing residential **development** shall dim all exterior lighting to a level necessary for overnight security or emergency purposes and reduces lighting levels at residential **lot** lines to 0.0 FC by 10:00 p.m. or within one hour of closing, whichever occurs first. For the purposes of this paragraph, lighting "necessary for security or emergency purposes" shall be construed to mean the minimum

Commentary:
Mounting height is measured from the finished grade or surface and includes the total height of the fixture, pole, and any base or other supporting **structure** required to mount the lights.

amount of exterior lighting needed for the illumination of possible points of entry or exit into a **structure**, exterior walkways, **outdoor storage** areas and parking for nighttime employees. Lighting controlled by dimming timers or activated by motion sensor devices is encouraged. Signage lighting to identify a business that is currently open is exempt.

E. Lamp Types

1. Wherever possible, LED fixtures should be used.

2. Permitted Lamp Types

Only incandescent, fluorescent, metal halide, high-pressure sodium bulbs, induction lighting, or LED lamps may be used. The same lamp type must be used for the same or similar types of lighting on any one site throughout any master-planned **development**.

3. All **street** and site lighting utilizing an LED fixture shall adhere to the following:

- a. The Color Rendering Index (CRI) shall be a value of 70 or higher;
 - i. The "white light" correlated color temperature shall be between 2,700 K and 4,200 K (degrees Kelvin); and
 - ii. The photometric design shall be in initial FC.

F. Lighting at **Lot** Lines

1. All exterior lighting shall be designed and located so that the maximum illumination measured in FC at ground level at a **lot** line shall not exceed the standards in the following table:

TYPE OF USE ABUTTING LOT LINE	MAXIMUM ILLUMINATION LEVEL AT LOT LINE (FC)
Residential – Single-family, Two-Family, Manufactured Home	0.2
Residential – Townhomes , Multifamily, Group Living	1.0
Commercial, Civic, or Mixed-Use	1.5
Industrial , Utility, Parking, when a standalone use	2.0

G. Illumination Levels

All site lighting shall be designed so that the level of illumination as measured in FC at any one point is within the specifications shown below.

TYPE OF LIGHTING	LIGHT LEVEL (FOOTCANDLES)	
	Minimum at any point	Maximum at any point
Accent Lighting	0.0	5.0
Canopy Lighting	2.0	24
Multifamily Parking Lot	0.2	8.0

TYPE OF LIGHTING	LIGHT LEVEL (FOOTCANDLES)	
	Minimum at any point	Maximum at any point
Nonresidential Parking Lot	0.2	12.0
Nonresidential and Multifamily Entrances	1.0	15.0
On-site walkways between building entrances, between parking and a building entrance in nonresidential and mixed-use buildings , bicycle parking areas	0.2	5.0
Vehicle Sales	0.5	24.0

10.2.6. Accent Lighting

Standards in this Section apply to accent and architectural lighting. This type of outdoor lighting is employed in **addition** to required site lighting and is primarily decorative in nature. Examples of accent lighting include string or tube lighting, lighting on facades, and roof lighting – all less than 2,000 lumens.

- A. Any such lighting that qualifies as a **sign** under this UDO is subject to the standards set in **Article 12. Signage**.
- B. Light fixtures must be compatible in design to the overall **structure**.
- C. All lighting fixtures utilized to provide accent lighting shall be so designated on the site’s lighting plan.
- D. The illumination on any vertical surface shall not exceed 0.5 FC maintained and shall not spill over roof lines or **building** edges.
- E. Wall Fixtures
Light must be shielded so light is directed onto **building** façade and glare and spillover are minimized.
- F. Exposed string outdoor lighting is permitted in mixed-use and **industrial** districts under the following standards:
 - 1. Exposed string lights is defined as low wattage white lights with individual bulb receptacle connected by electrical wires that are exposed to the outside surface of a plant or **building** feature; more specifically, said lights shall be defined as a commercially available maximum 2.8-watt system, designed for exterior installation and **use**. Lights which blink or chase are not permitted.
 - 2. The installation of such lights is limited to the lighting of:
 - a. Living landscape features (shrubs and trees) with bands that shall not puncture the plant;
 - b. Outside dining or plaza areas; and
 - c. Pedestrian entries and walkways.

3. Exposed string lighting or tube lighting that outlines architectural features of a **building** such as doors, windows, eaves, or rooflines is prohibited.
4. All such lighting is installed in accordance with applicable safety regulations.
5. All standards for illumination levels at property lines are met.

G. Roof Lighting

1. Application

- a. An application for a permit authorizing a **project** utilizing roof lighting shall include a roof lighting plan containing sufficient information to determine whether the proposed roof lighting will meet the standards and intent of this Section.
- b. This section applies to lighting at the top of parapets or on the eaves of a pitched roof.

2. Standards

- a. All bulbs or tubing shall be encased so that the bulb is not bare, and that direct glare is prevented.
- b. Complete outlining of the roof is not permitted.
- c. Lights shall not run along the highest peak of a roof line, except that perimeter lighting around the top of a flat roof is allowed.

10.2.7. Pedestrian Light Fixtures

A. Light poles illuminating pedestrian areas, which are provided in **addition** to **street** lighting:

1. Shall not be higher than 16 feet above grade;
2. Shall be placed a maximum of 100 feet apart; and
3. Shall be subject to **lot** line illumination maximums.

B. Pedestrian bollard lamps:

1. Shall be mounted no higher than four feet above grade;
2. Shall not exceed 900 lumens for any single lamp; and
3. Shall provide at least 1.2 FC of illumination, but not exceed 2.0 FC.

10.2.8. Canopy Lighting

A. Vehicular Canopies and Gas Station/**Convenience Store** Aprons

Areas under a vehicular canopy and the approach to the canopy shall meet the following:

1. Lighting under vehicular canopies shall be designed so as not to create glare off site. Acceptable methods include one or more of the following:

- a. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface of the vehicular canopy; or
 - b. Surface mounted fixture incorporating a flat lens that provides a fully shielded light distribution.
2. Lights shall not be mounted on the top or sides of the canopy, and the sides of the canopy shall not be externally illuminated.
 3. Lighting levels shall meet the standards in this Article.

10.2.9. Floodlights

The **use** of **floodlights** is permitted under the following conditions:

- A. In the rear of non-residential **buildings** that are not adjacent to residential **uses** or residentially zoned properties and are not visible from public or private roadways.
- B. The fixture shall be aimed down at least 60 degrees from vertical.
- C. **Flood** lights and display lights shall be positioned such that any such fixture with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way.
- D. The main beam from the light source is not visible from adjacent properties or the public **street** right-of-way.
- E. **Floodlights** shall not be used to light any portion of an exterior between the hours of 10:00 p.m. and 6:00 a.m.

10.2.10. Sports and Recreational Lighting

Lighting for outdoor athletic **uses** or other private outdoor recreational **uses** may exceed illumination standards set forth in this Section to meet the higher standards required for active recreation.

- A. Unless specifically permitted by a **conditional zoning** district, **variance**, or **special use permit**, fixtures must not exceed 35 feet in mounting height (this includes bases and/or other mounting **structures**).
- B. Fixtures must be fitted with the manufacturer's glare control package. If the manufacturer does not have a glare control package, the fixture specification must be changed to a manufacturer that offers a glare control package.
- C. Fixtures must be designed and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted. Spillover levels at the property line may not exceed footcandle standards enumerated in **Section 10.2.5.F**.
- D. Unless specifically permitted by a **conditional zoning** district, **variance**, or **special use permit**, area lighting shall be extinguished no later than 10:00 p.m.

- E. A minimum of a 15-foot wide, Type A **buffer** is required along any property line of the recreation **facility** when such lighting fixture is within 100 feet of a residential **structure** or the property line.
- F. Such lighting shall be indicated on the lighting plan at the time of **site plan** approval for new recreation **facilities**.

10.2.11. Street Lighting

A. Purpose

These regulations establish **street** lighting requirements to enhance safety for pedestrians, cyclists, and drivers, including the reduction of unnecessary glare, enhancement of the public realm to allow activities without the need for natural light, and creation of unique **streetscapes** that encourage private investment.

B. Applicability

- 1. These regulations shall apply to all **streets** within the Town's municipal limits and any **streets** annexed after July 5, 2022.
- 2. The Town of Garner shall require **street** lighting installation for all **site plans** and **subdivisions**.

C. Installation

1. NCDOT Streets

The **developer** shall be responsible for installing **street** lighting where existing NCDOT **streets** which abut and are directly accessed by the site or **subdivision**. Installation shall meet the following standards:

- a. **Street** lighting shall be installed along the entire **street**.
- b. **Street** lighting shall meet NCDOT standards. The **developer** shall procure the required **encroachment** agreements.
- c. The **developer** shall provide adequate easement and roadway corridor cross section grading required by Duke Energy Progress to accommodate the installation of non-breakaway poles.

2. All **street** lighting shall be installed in accordance with the following standards:

- a. Electrical wiring shall be installed underground along all proposed and existing **streets** within and abutting the property.
- b. Underground service installation shall comply with the established standards of Duke Energy Progress.
- c. On residential **streets**, light fixtures shall be spaced at 180- to 220-foot intervals.
- d. Along nonresidential **streets**, fixture placement shall adhere to the standards of the latest version of the Illuminating Engineering Society's, "American National Standard for Roadway Lighting" and/or specifications required by the Town Engineer.

- e. A **streetlight** shall be provided at all **street** intersections.
- f. Where sidewalks are existing or proposed on one, but not both, sides of the **street**, all **street** lighting shall be placed on the same side of the **street** as the sidewalk.

D. Financial Responsibility

1. Initial Costs

The owner, **developer**, or **subdivider** shall be responsible for all **street** lighting preparation and installation costs. This includes all **streets**, regardless of federal-, state-, local-, or private-ownership status.

2. Monthly Costs

- a. The Town shall pay maintenance, electricity, and pole rental costs charged by Duke Energy Progress for standard **street** lighting along public **streets**.
- b. Where nonstandard lighting is installed on public **streets**, the Town shall pay maintenance, electricity, and pole rental costs up to the standard **street** lighting amount, and the **developer** or HOA shall be responsible for paying the remainder.
- c. The **developer** or HOA is responsible for paying for all monthly costs on **private streets**.

E. Standard Street Lighting

Standard **streetlight** fixtures for Town **streets** shall be LED and shall comply with the following standards:

- 1. All fixtures on residential **streets** shall be 50- or 75-watt LED fixtures on Duke Energy Progress standard gray fiberglass poles 25 feet in height.
- 2. The Town Engineer may require 75- or 105-watt LED fixtures at select intersections.
- 3. Thoroughfare **streets** shall be typically 105-, 150-, or 215-watt LED on Duke Energy Progress standard gray fiberglass poles 30 feet in height. In any instance where a 280-watt LED fixture is proposed it shall be installed on Duke Energy Progress standard gray fiberglass poles 35 feet in height.

F. Nonstandard Street Lighting

A **developer** or HOA may request non-standard **street** lighting within a **development** provided:

- 1. Town of Garner staff approves the fixture types and locations.
- 2. **Street** lighting spacing shall be equal to a distance that is six times the exposed pole height. This distance may vary by no more or less than 10 feet.

3. For **street** lighting with a spacing interval less than 120 feet, the lights shall alternate on both sides of the **street** to avoid a “picket fence” appearance.
 - a. To prevent glare issues, clear lenses are not allowed on post lamps with globe fixtures.
 - b. Where post lamps are installed, globes with solid tops shall be used to eliminate vertical light pollution.
 - c. Where post lamps are installed, there shall be two lamps, each placed diagonally on opposite sides of the intersection.
4. The **developer** and/or HOA shall enter directly into a contract with Duke Energy Progress for the monthly maintenance, electricity, and pole rental costs. On public **streets**, the **developer** and/or HOA may request partial reimbursement for the monthly costs from the Town on an annual basis.
5. The Town will reimburse the billing on an annual basis based on copies of all bills paid to Duke Energy Progress. The reimbursement shall be equivalent to the cost of a standard **street** lighting system meeting Town minimum requirements. The Town Engineer will establish the inventory of said standard system prior to approval of the non-standard system.
6. Reimbursement shall become effective for the first billing cycle following the changeover date when the Town becomes responsible for the monthly electrical expense and pole rental costs charged by Duke Energy Progress. The Town will not reimburse any billing for which the requesting party is responsible or for which the Town has not authorized Duke Energy Progress to bill. This includes any billing between the date when the system is energized and the date of the changeover billing. Reimbursement is only applicable for monthly maintenance, electricity, and pole rental billing.
7. The **developer** and/or HOA shall be responsible for any costs associated with deletion of non-standard **street** lights and any costs associated with installing the Town’s standard **street** lights prior to the expiration of the 20-year contract with Duke Energy Progress. To ensure that sufficient funds are available for this purpose, the **developer** shall escrow funds with the Town in an amount sufficient to cover the cost for Duke Energy Progress to remove the non-standard system and install the Town’s standard **street** lighting system. Said amount will be determined by the Town Engineer. The escrowed funds will be returned, with interest, to the HOA once the 20-year contract with Duke Energy Progress has expired.
8. The **developer** shall include all responsibilities of the HOA pertaining to the non-standard **street** lighting in the **development** covenants. The **developer** shall inform all purchasers of property in the **project** of these same responsibilities.

9. Non-standard lighting shall not be used on thoroughfares or NCDOT streets.
- G. Streetlight system layout, installation, and operation shall occur at such time as:
1. The layout and design of the streetlight system shall be submitted by Duke Energy Progress, through the developer, as part of the construction plan review and approval process for the development project.
 2. The installation of the lighting system shall be complete prior to the recording of the subdivision plat. In the event the street lighting has not been installed prior to plat approval, the developer may submit a performance guarantee in accordance with Section 8.1.1. of this UDO for the incomplete portion of the street lighting system. The amount of the performance guarantee will be determined by the Town Engineer.
 3. On public streets, once the subdivision plat is recorded and the associated street lighting system is placed into operation, the Town will be responsible for paying for the monthly electrical expense and pole rental costs charged by Duke Energy Progress. If the developer wishes to place the street lighting system into operation prior to plat recordation, then the developer will be responsible for paying for the monthly operational cost up until the time that plat recordation occurs.
 4. The street lighting system must be in operation for a subdivision or phase of the subdivision prior to issuance of a Certificate of Occupancy for any dwelling or building in that subdivision or subdivision phase.
 5. The street lighting system must be in operation for a site plan prior to the issuance of a Certificate of Occupancy for any building associated with that site plan unless approved by the Town Engineer.

10.2.12. Nonconforming Fixtures

- A. All outdoor lighting fixtures existing and legally installed and operative before July 5, 2022, are subject to the standards for nonconforming site elements, Section 2.7.
- B. When a nonconforming fixture is replaced, the replacement shall meet the requirements of this Article.

10.3. LANDSCAPING

10.3.1. Applicability

The provisions of this Article shall apply to all developed or improved public and private land within the Town of Garner's **planning jurisdiction**.

- A. All new **development** sites shall meet the requirements of this Section.
- B. Existing **developments** and properties shall comply with the standards of **Article 2. Nonconformitiess**.

10.3.2. Administrative Modifications

The Town Council recognizes that mathematical precision is not always necessary to achieve the objectives in this Article and as such offers the following **administrative** modifications:

- A. Upon the applicant providing a revised landscaping plan, the **Planning Director** shall permit relocation of no more than 10 percent of the landscaping requirements and up to a 10 percent **buffer** width reduction. Reduction in **buffer** width does not include any reduction in the required number of plantings.
- B. Any deviation may only be allowed when all of the following are true:
 - 1. The objectives underlying these standards can be met without strict adherence to them;
 - 2. Peculiarities in the tract of land eliminate the value gained from strict adherence to the standards in this Article; and
 - 3. The overall amount of planting materials is not diminished.

10.3.3. Landscape Plans

- A. A landscape plan prepared by a registered landscape architect is required for the following:
 - 1. Per **Article 4. Review Procedures**, any **development** requiring or modifying a **site plan** approval.
 - 2. Any nonresidential or mixed-use **structure** or site with an enclosed area greater than 1,000 square feet or a disturbed area greater than 2,500 square feet.
- B. Sites which do not meet the above criteria and are not **single-family residential** or **duplex lots**, must provide a landscape plan, but are not required to employ a registered landscape architect.
- C. **Single-family residential** and **duplex lots** must meet the criteria of this Article but do not require a landscape plan.
- D. Landscape Plan Elements

Commentary:

Landscape plans should be prepared with the appropriate mix of plant varieties and quantities necessary to meet the requirements of this UDO. In cases where overhead power or utility lines exist, selected landscape material located underneath said lines must be the appropriate plant type so as not to create future conflicts.

All the following planting components shall be considered in the landscape plan for any site subject to this Article:

1. Tree canopy cover;
2. Tree preservation (where required);
3. **Buffers, yards, vehicular surface areas**, foundation plantings, and **street trees**; and
4. Screening of service areas and objectionable views.

10.3.4. Plant Material Standards

- A. Except as otherwise specified in this Article, plant materials must meet either the minimum height or **caliper** requirement at installation:

PLANT MATERIAL	MINIMUM HEIGHT	MINIMUM CALIPER
Canopy or Overstory Tree	8 feet	2.5 inches
Understory or Ornamental Tree	6 feet	2 inches
Shrub (not used for screening)	12 inches	n/a
Shrub (used for screening)	18 inches	n/a

- B. It is strongly recommended that dwarf shrubs be used around ground-mounted signage or for screening where the overall screening height need not be greater than three feet high.
- C. Species shall be selected from the North Carolina Extension Gardener Plant Toolbox maintained by the North Carolina State Extension that are hardy for the Garner locale and not identified as invasive or problematic.
- D. Up to 20 percent of the overall required understory tree plantings may be non-native **ornamental trees** to allow for accent coloring and decorative planting.
- E. Required site interior canopy trees (i.e., not **street trees, buffer** or perimeter plantings, or **parking lot** plantings) may be substituted for understory trees at a rate of one canopy tree to two understory trees. No more than 50 percent of the required site interior canopy trees may be substituted.
- F. Up to 100 percent of the required understory trees may be substituted with canopy trees on a one-for-one basis.
- G. Crape myrtles shall not count towards any required perimeter **buffer** or screening plantings. Only single-stem specimens may be considered for required **street trees** in constrained circumstances such as where overhead power lines are present.

Commentary:
NC Extension Gardener Plant Toolbox is available [plants.ces.ncsu.edu](https://ces.ncsu.edu/plants).

10.3.5. Installation

In **addition** to the standards herein, all plant material installed must meet standards set by the most recent practices outlined by the AmericanHort's "American Standard for **Nursery Stock**," the Tree Care Industry Association's "**ANSI A300**," or best practices as prescribed by a licensed landscape architect.

Commentary:
AmericanHort's "American Standard for **Nursery Stock**" is available at www.AmericanHort.org. The Tree Care Industry Association's "**ANSI A300**" is available at www.TCIA.org.

A. Depth and Soil

1. Trees shall be planted with a minimum depth of at least three feet of suitable soil. The minimum soil volume for canopy and understory trees is the volume of [the projected tree canopy area] x [2-foot depth]. This volume can be configured to suit existing conditions. Additional volume standards for **vehicular surface area** trees are described in this Section.
2. Side walls of tree pit to be "scored" to release compaction, prevent glazing, and encourage lateral root growth and proper drainage.

B. Slope Stabilization

Slopes greater than 3:1 shall not be stabilized with turf grass and shall require the planting of groundcover to stabilize any disturbed soil.

C. Sight Triangle Clearance

No plantings shall interfere with the **sight distance triangles** required for safe traffic movements at **driveway**, parking drive aisle or **street** intersections (public or private).

D. Protection of Planting Areas

1. Protection from Vehicular Traffic

Planting areas shall be permanently protected from damage by vehicular traffic by curbing, wheel stops and/or railroad ties. Wheel stops and/or railroad ties shall be used in parking areas where:

- a. Curbing has not been used or is less than six inches in height.
- b. Proposed new trees and shrubs are planted within five feet from adjacent curbing or edge of **vehicular surface area** paving, except when the plant is centered inside an interior or terminal **parking lot** island.

2. Tree **Fencing**

- a. During the entire construction period, all protected trees shall be surrounded and protected by an orange Tensar geogrid **fencing** fabric or equivalent approved **fencing**. Tree protection **fencing** shall be installed a minimum of 10 feet from the trunk of any protected tree or drip line, whichever is greater. For any tree greater than 10 inches **DBH**, this distance shall be increased one foot for every one inch in **DBH**. Tree protection **fencing** shall be maintained until a final certificate of occupancy has been issued.

- b. Any trees or plants within the tree protection **fencing** that are not intended for preservation and/or have at least 33 percent of their drip line (measured along the circumference) outside of the tree protection **fencing** shall be removed in a way that does the least amount of damage to trees or plants planned for preservation.
- c. One **sign** shall be placed every 200 feet along **fencing** to read:

**TREE PROTECTION AREA – DO NOT ENTER.
ÁREA DE PROTECCIÓN DE ÁRBOLES - NO ENTRAR.**

3. Soil Disturbance

There shall be no soil disturbance or compaction within areas designated for tree preservation and protection, and areas protected by tree protection **fencing** prior to or during construction. This includes no stockpiling of materials, no bore sampling, and other similar vehicular traffic. Failure to comply shall constitute a **violation** and result in a fine based on the Town’s fee schedule.

E. Bare Earth Prohibited

All bare earth or disturbed areas shall be stabilized from soil erosion immediately upon planting and shall be permanently maintained.

10.3.6. Completion of Work and Performance Guarantees

- A. A Certificate of Occupancy shall be issued only when all plantings have been installed and all the work shown on the approved landscape plan has been completed. Substantial changes in plantings shall be reviewed by the Town staff for compliance prior to the issuance of the Certificate of Occupancy.
- B. If adverse planting conditions prohibit installation or the Certificate of Occupancy is required prior to completion, the **Planning Director** will accept performance guarantee for 125 percent of the cost of the uncompleted work and issue a Temporary Certificate of Occupancy with date certain for completion at the next possible planting season.

10.3.7. Maintenance Requirements

- A. Owner/Agent Responsibility
 - 1. Owners are responsible for the upkeep of their property with a routine maintenance program. A proper program will reduce disease and insect problems, and involve weed control, pruning, and when necessary, supplementary watering.
 - 2. Vegetation planted as screening shall be allowed to grow and be maintained as a continuous hedge at designated screening heights.

B. Longevity

Planted vegetation must live for a minimum period of at least one year from the issuance of a Certificate of Occupancy. Failure of the owner to meet this standard constitutes a **violation** of this Ordinance. Associated penalties and fines shall apply in accordance with the Town of Garner fee schedule.

C. Replacement

The owner is responsible for maintaining all required plant material in good health for the duration of his or her ownership. Any dead, unhealthy, or missing plants must be replaced.

D. Loss Due to Catastrophe

Should an unusual cause or catastrophe result in the significant loss of required landscaping, the owner of the property shall submit a plan detailing his or her intent to replace lost material. Replacement planting may occur on a phased basis in alignment with typical planting seasons and practices. The length of the phasing period shall not exceed two years from the submittal of plans to the Town.

E. Excessive Pruning Prohibited

The owner is responsible for following accepted pruning practices for all required plant material and shall avoid excessive pruning of said material. Excessive pruning is defined as any of the following:

1. Removal of more than 25 percent of the crown or root system.
2. Failure to conform to standard pruning practices.
3. Cutting other than for hazard, utility, or maintenance pruning.
4. Failure to maintain appropriate dimensional standards specified in this Article.

Illegally pruned trees shall be replaced with trees proportional to the size of the tree damaged with the minimum replacement size of three inches **caliper** in a 200 square foot planting bed required. Other penalties may still apply.

10.4. TREE PRESERVATION AND PROTECTION

See **Article 11.**, for information on tree preservation and protection measures including substitution of landscaping materials.

10.5. STREET TREES

10.5.1. Purpose

The Town of Garner requires **street trees** to provide intermittent visual relief from expanses of pavement and to contribute to the charm and aesthetic of the community.

10.5.2. Easements

- A. All new **developments** and **developments** subject to compliance requirements in **Article 2. Nonconformities** shall provide one **street tree** easement along each public or **private street** frontage on the property.
 - 1. In the TBD, AC, and MF-B districts, **street trees** may be located inside the right-of-way. These trees must be placed in a tree grate.
 - 2. Each easement shall be a minimum of eight feet wide.
 - 3. Each easement shall extend along the interior of the property and along the entire length of the respective **street** frontage.
 - 4. Where sidewalks exist or are required, easements shall be of sufficient width to ensure trees are planted no closer than 5 feet to the sidewalk. A note on all plans and **final plats** shall be added indicating “No **street trees** may be planted within 5 feet of sidewalks.”

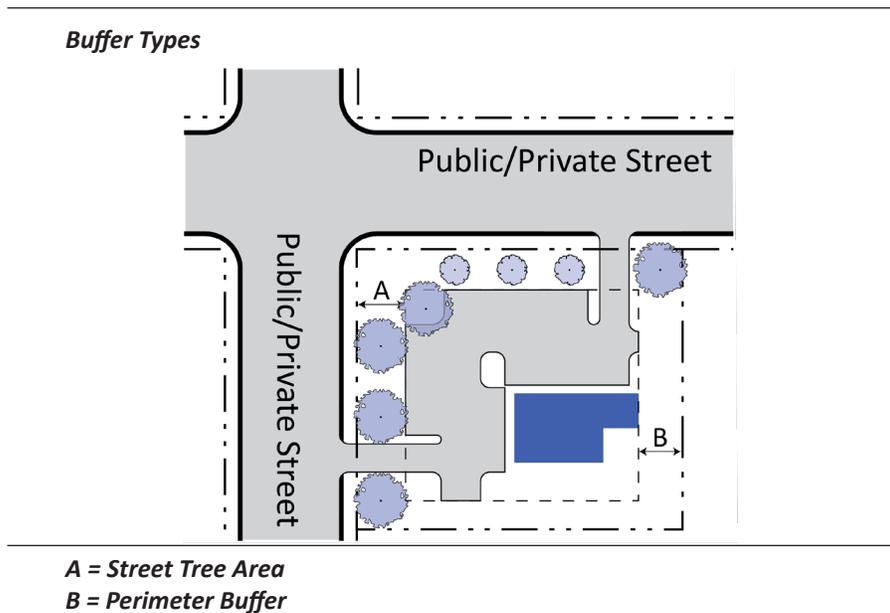
10.5.3. Street Tree Specifications

- A. All **street trees** shall reach at least 30 feet in height at maturity.
 - 1. **Streets** in residential zones must be planted with at least two different species.

10.5.4. Tree Location and Spacing

- A. One **street tree** shall be installed at least every 40 feet (on center), or as close thereto as practicable.
 - 1. Where existing utilities or natural impediments preclude the installation of an **overstory tree**, the **Planning Director** may modify the spacing requirements to accommodate the obstructions.
 - 2. Where overhead wiring exists, understory trees shall be substituted for canopy trees. These understory trees shall be spaced a maximum of 30 feet (on center), or as close thereto as practicable, and the maximum height at maturity shall be no more than 30 feet tall.
 - 3. **Street trees** not permitted in a public right-of-way shall be at least five feet but no more than 10 feet from the edge of sidewalk pavement (or from the road right-of-way in the absence of an

existing or planned sidewalk) and within the associated **street tree** easement. See the following **Buffer Types** graphic.



4. Where **street tree** planting is required, the **Planning Director** shall have the authority to require maximum screening where significant grade differences exist.
5. **Street tree** spacing, but not amount, shall be varied to accommodate major signage (monument or **wall signs**) and entrances.

Street Tree Placement A

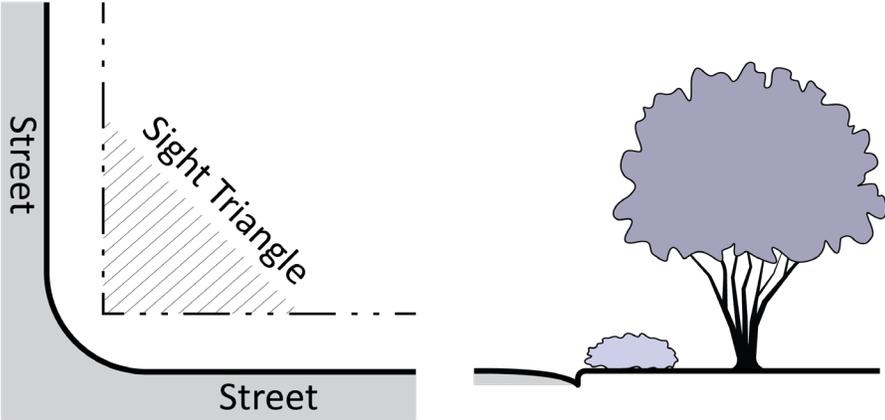


Street Tree Placement B



*A = Correct street tree placement; Trees accent the storefront, entranceway, and signage.
B = Incorrect street tree placement, the trees obscure signage and entranceways.*

Sight Distance Triangle



6. **Sight distance triangles** must be maintained at all intersections. Plantings must not create any visual obstruction between 30 inches and eight feet in height within this triangle. The Town of Garner Engineering Department staff may modify these requirements as necessary.
7. **Street trees** must be planted in tree pits of adequate size to accommodate the projected full size of the tree, as detailed in the soil requirements of **Section 10.3**.

10.5.5. Maintenance

- A. The HOA or property owners shall be responsible for maintaining the **street trees**, as described in **Section 10.3.7**.
- B. Failure to maintain the **street trees** in a manner that meets the requirements of this Ordinance shall constitute a **violation**. Associated penalties and fines shall apply based on the Town of Garner's fee schedule.
- C. **Developments** with homeowners' associations (HOAs) shall incorporate provisions for **street tree** maintenance into the **development's** codes, covenants, and restrictions recorded with the Wake County Register of Deeds.
- D. All HOAs shall establish a maintenance agreement between the HOA and the Town of Garner. The agreement shall be recorded with the Wake County Register of Deeds, and the HOA shall provide a copy to the Town of Garner Planning Department.

10.5.6. Modification Permitted in Industrial Subdivisions

The landscaping requirements for **industrial subdivision** shall be met in a manner that enhances **street appeal** and maximizes screening of objectionable views. Up to 75 percent of the required plantings in the side and **rear yard** areas (not including **vehicular surface area** plantings) may be applied toward **street yard** areas for maximum **street appeal**. No reduction shall be allowed in side and **rear yards** where that yard is adjacent to existing residential **uses** or districts.

10.6. PERIMETER BUFFERS

10.6.1. Purpose

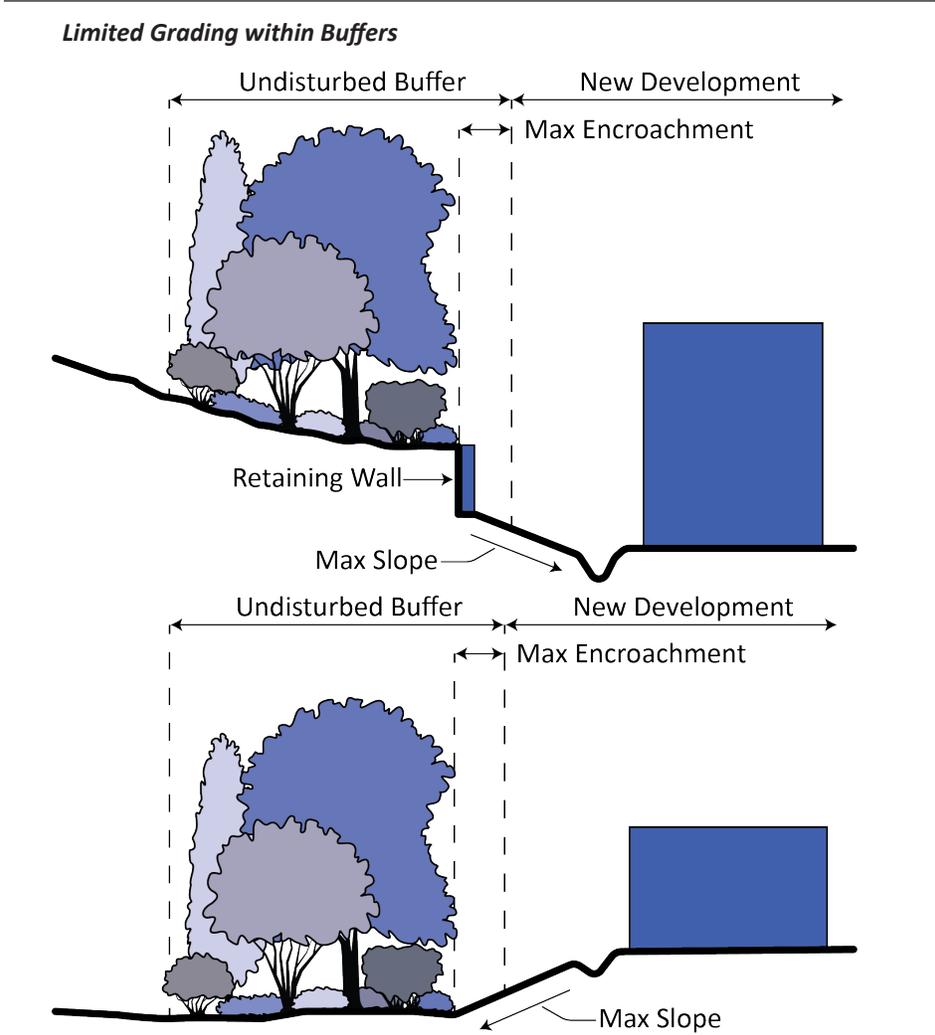
Perimeter **buffers** perform a dual role of providing both horizontal separation and vertical screening between different zoning districts.

10.6.2. Land Disturbance

Land disturbing activities are prohibited in perimeter **buffers** containing existing trees with a minimum four-inch **caliper DBH** or within the **critical root zone** of any retained significant or specimen trees, except as needed for road grading, stub outs, or connectivity to adjacent parcels or rights-of-way.

10.6.3. Limited Grading within Buffers

- A. Limited grading within designated perimeter **buffers** is only permitted in either of the following instances:



1. When designated perimeter **buffers** completely lack existing trees and vegetation

2. In perimeter **buffers** 35-feet wide or more and meeting the following standards:
 - a. Does not exceed 15 percent **encroachment** into the **development** side of the perimeter **buffer**.
 - b. The length of the grading **encroachment** does not exceed 15 percent of the affected perimeter **buffer's** total length.
 - i. If retaining walls are used, grading shall not exceed a maximum slope ratio of 2.5:1.

10.6.4. Existing Vegetation

Existing vegetation can be used to meet all or part of the requirements, provided it meets the specified standards in this Ordinance. A Tree Inventory (see **Article 11.**) may be required.

10.6.5. Prohibited Plantings

Bradford pear trees and any species listed as invasive by the North Carolina State Agricultural Extension may not be used to meet perimeter **buffer** requirements.

10.6.6. Supplemental Planting

- A. Supplemental planting may be necessary to supplement any existing, retained vegetation in order to achieve the requirements of this Section.
- B. In general, perimeter **buffer** plantings should be evenly distributed or planted in intentional clusters evenly spaced along the **buffer**.
- C. Where supplemental planting is required in perimeter **buffers**, the **Planning Director** shall have the following authority:
 - 1. To specify the location, where practicable.
 - 2. To require maximum screening where significant grade differences or visibility from the right-of-way exist.
- D. Supplemental planting shall adhere to the following perimeter **buffer** planting requirements:
 - 1. Required planting shall **use** a mix of deciduous **overstory trees**, evergreen trees, deciduous understory trees, and evergreen shrubs to provide vertical screening.
 - 2. Monoculture plantings are not permitted.
 - 3. The mix shall be planted to create a 100 percent screening **buffer** within two years of planting, where screening is required.
- E. In calculating **buffer** planting requirements, areas occupied by **driveways**, **sight distance triangles**, or **buildings** shall be excluded.

10.6.7. Design Requirements

- A. Perimeter **Buffer** Widths and Types
 - 1. The following tables provide requirements for perimeter **buffers** between zoning districts. Identify the zoning districts for the proposed **use** and adjacent property. The required perimeter **buffer** width in feet and type are listed at the intersection of the respective row and column.
 - 2. For **single-family residential**, **duplex**, and **townhome subdivisions** of 12 **lots** or fewer, the maximum **buffer** required is 15 feet wide.

		ADJACENT BASE DISTRICT MINIMUM BUFFER WIDTH (FEET) AND TYPE									
SUBJECT PROPERTY		RA, R2	R4	R8, MF-A	MF-B	RMH	NMX	TBD, AC	CMX	LI	HI
BASE DISTRICT	RA, R2	15A	25B	25B	25C	25B	25A	25D	25C	25C	15D
	R4	25B	15A	25C	15D	25C	25B	35D	15D	15D	25D
	R8, MF-A	35B	45C	15A	15B	35A	25B	25C	15B	15B	15C
	MF-B	45C	45D	25B	15A	35B	25C	25B	15A	15A	15B
	RMH	35B	35C	35A	25B	15A	15B	45C	25B	25B	25C
	NMX	25A	35B	15B	15C	25B	15A	15D	15C	15C	15D
	TBD, AC	25D	35D	15C	15B	25C	15D	0	15B	15B	25A
	CMX	45C	55D	35B	25A	35B	35C	15B	15A	15A	15B
	LI	45C	55D	35B	25A	35B	45C	25B	25A	15A	25B
	HI	55D	65D	55C	45B	55C	55D	55A	35B	35B	25A

B. Perimeter Buffer Plantings by Type

BUFFER TYPE	MINIMUM SCREENING HEIGHT AT MATURITY (FEET)	OPACITY ¹	MAXIMUM HORIZONTAL OPENINGS AT MATURITY	MINIMUM NUMBER PER 100 LINEAR FEET					ADDITIONAL PLANTINGS (APPLY REGULAR MATHEMATICAL ROUNDING RULES TO THE NEAREST WHOLE NUMBER)
				15-FOOT WIDE BUFFER				25-FOOT – 65-FOOT WIDE BUFFER	
				CANOPY TREES (MIN. 1 EVERGREEN)	UNDERSTORY TREES	LARGE EVERGREEN SHRUBS ³	MEDIUM AND SMALL SHRUBS (MIN. 40 PERCENT EVERGREEN, TYPE D = 100 PERCENT EVERGREEN)		
A	n/a	n/a	20 feet	2	2	1	5	25 feet (x 1.25) 35 feet (x 1.5) 45 feet (x 1.75) 55 feet (x 2.0) 65 feet (x 2.25)	
B	n/a	Semi-opaque	8 feet	3	3	2	9		
C	n/a	Semi-opaque	4 feet	4	3	3	13		
D	6	Opaque ²	None	4	3	4	20		

Notes:

¹ Must reach the opacity level indicated within 2 years of planting. Additional plantings may be required beyond the minimum standards listed above.

² Any berms used to meet or compliment the opacity requirement may not have slopes steeper than 2.5:1.

³ A maximum of one **large shrub** may be substituted for two small- or medium-sized shrubs, and vice versa, per every 100 linear feet of perimeter **buffer**.

C. Perimeter **Buffer** Width Reductions

1. Where a subject property is adjacent to a vacant property with existing vegetation at least 15 feet deep and sufficient to serve as a perimeter **buffer**, upon the owner of the subject property or authorized agent's request and concurrence by all involved property owners, the **Planning Director** shall reduce the subject property's required **buffer** width (and associated plantings) by 10 feet of width, although no resulting required **buffer** may ever be reduced to less than 15 feet or the planting standards required there.
2. Where a minimum 6-foot tall, 100 percent opaque, privacy **fence** is installed, that section of the **buffer** may forego the planting of two-thirds of small or **medium shrubs**. Privacy **fencing** may be installed inside the perimeter **buffer**, but enough passage must be maintained to allow proper maintenance of landscaping.

D. Planting Standards for Perimeter **Buffer** Trees

1. All landscaping materials shall be evenly distributed throughout the perimeter **buffer** or planted in fairly regular, clustered groupings.

10.6.8. Sight Line Drawings

- A. If the proposed **development** is adjacent to a residential district, the **Planning Director** shall require the submission of sight line drawings with landscape plans. Elevations renderings or photo simulations showing the vegetative opacity at maturity are considered site line drawings for purposes of this Section.
- B. The **Planning Director** may require the submission of sight line drawings with landscape plans based on, but not limited to, the following criteria:
 1. Where existing vegetation or proposed vegetation and/or berming is inadequate;
 2. Where the first story finished floor elevation of the proposed **development** is located on a slope placing it at least six feet higher or lower than adjacent residential zoning or **use**;
 3. Where the proposed **building** volume is five or more times greater than adjacent residential **building** volume, and/or the height of the proposed **building** is three stories (or equivalent) or higher.
- C. Implications for site layout may include increased **buffer** width and standards, revision to **building footprint** dimension or location, revision to **building** orientation, and/or revision to location of site support **structures** (dumpster, accessory **buildings**).

10.7. VEHICULAR SURFACE AREAS

The purpose of this Section is to provide visual relief from large expanses of pavement through the introduction of landscape plantings. Landscaping lessens the visual impact of parking areas while reducing heat, glare, noise, and pollution.

10.7.1. Perimeter Screening

- A. The perimeter of all off-street parking areas and other vehicular **use** areas adjacent to property zoned R8, R4, R2, RA, or MF-A shall provide a minimum perimeter **buffer** as follows:
 1. AC and TBD districts: none.
 2. All other districts: minimum 15 feet wide, Class D.
- B. The perimeter of all parking areas and other vehicular **use** areas with frontage on or visibility from any portion of a public right-of-way or external pedestrian way shall be screened to a minimum height of three feet (within two years of planting) by either a landscaped berm, continuous landscaped hedge, decorative **fence**, decorative masonry wall, or any combination thereof. Plants shall be spaced accordingly to achieve this performance requirement.
- C. Any vegetative screen shall be maintained at a minimum height of three feet within two years of planting.
- D. Perimeter screening is not required for on-street parking.

10.7.2. Landscaping Islands

- A. These requirements shall apply to off-street **parking lots** except that a median island is not required for formalized on-street parking that is directly adjacent to sidewalks and planting strips meeting the landscaping requirement for ***Site Interior Landscaping Area, Section 10.8.***
- B. General requirements
 1. Landscape islands shall be evenly distributed throughout the **vehicular surface areas** for maximum shade.
 2. No **parking space** shall be more than 65 feet from the trunk of a deciduous **overstory tree**.
 3. Trees are permitted to be planted in clusters provided that it exceeds all other planting requirements.
 4. Each island shall include a minimum of one canopy or **overstory tree**.
- C. Interior Islands
 1. An interior landscape island shall be provided at least every 12 **parking spaces** or 120 linear feet of pavement, whichever requires more islands.

2. Each island shall contain a minimum of 198 square feet of **landscaped area** with a minimum width of 11 feet inside the curb.
3. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees of greater than six inches **diameter at breast height**.

D. Terminal Islands

1. All parking rows shall terminate in a curbed landscaped island.

E. Median Islands

1. Median islands shall have a minimum width of eight feet inside the curb.
2. Median islands shall be sited between every six single parking rows and continuously along primary internal and external access drives.
3. Median intervals may be expanded in order to preserve existing trees of greater than six inches **diameter at breast height**.

F. Curbing

1. Landscape planting areas adjacent to **vehicular surface areas** and **parking spaces** shall be a minimum of 10 feet in width. Unless a **parking space** contains a specified wheel stop, trees and shrubs shall be placed at least four feet from the edge of the curb/pavement.

10.8. SITE INTERIOR LANDSCAPING AREA

10.8.1. Purpose

The purpose of this Section is to provide guidance for the installation of plant materials on a property and to promote visual harmony across different sites.

10.8.2. Applicability

- A. The following standards apply to all properties within the Town. For single-family and **duplex lots**, these standards only apply at initial construction and/or issuance of first Certificate of Occupancy.
- B. A property's site interior is the portion of the **lot** excepting perimeter **buffers**; **street tree** easements (also known as **street tree buffers**); **vehicular surface areas**, parking areas, and associated landscaping and landscape islands; **stormwater** ponds, conveyance systems, and associated required graded areas (such as for berms or **stormwater** retention); developed, active recreation spaces (such as formal sports fields or greenway trails); and/or permitted **impervious surfaces**.

10.8.3. Distribution

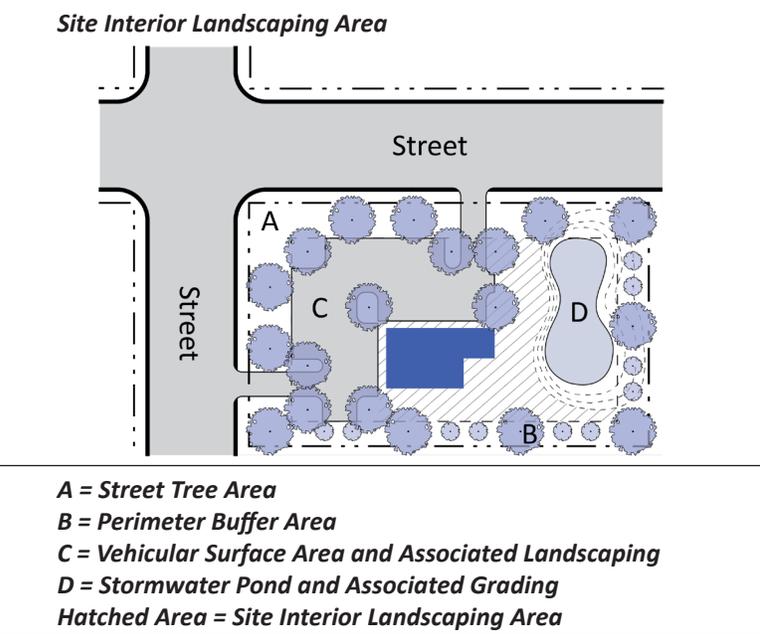
- A. Plantings shall be evenly distributed, clustered, or staggered throughout the site to maximize aesthetic **appeal**, visual, and screening objectives, and to meet the environmental needs of certain species.
- B. Plantings should also be spaced so they respectfully enhance views of primary entrances and signage, although this shall not permit a reduction in planting materials.

10.8.4. Site Interior Landscaping Area Calculation

- A. The site interior **landscaping area** shall be calculated by subtracting the areas of the perimeter **buffers**; **street tree** easements; **vehicular surface areas** and associated landscaped islands; **stormwater** ponds, conveyance systems, and associated graded areas; active recreation spaces; and/or **impervious surfaces** from the total property area. Where perimeter **buffers**; **street tree** easements; **vehicular surface areas** and associated landscaped islands; **stormwater** ponds, conveyance systems, and associated graded areas; active recreation spaces; and/or **impervious surfaces** intersect or overlap, the smaller intersecting or overlapping feature shall not be included in the calculation.

Commentary:

"Active recreation spaces" include, but are not limited to, playgrounds, sports fields and courts, swimming **pools**, and greenways and associated easements. See **Article 8**. for active space requirements.



10.8.5. Planting Requirements

- A. All yard areas, excluding decorative, **landscaped areas** (e.g. - patios, rock gardens, terraces), shall be appropriately graded, seeded, mulched, and/or planted to establish a permanent lawn or natural ground cover.
 - 1. The following table shows the minimum gross number of plantings of each type per 1,000 square feet of site interior **landscaping area**. Where the resulting number of plantings required results in a fraction or mixed number, the number of plantings shall be rounded down to the nearest whole number.

DISTRICT	PLANTING TYPE (Minimum Number of Plantings Per 1,000 Square Feet of Site Interior Landscaping Area) ¹			
	CANOPY TREES	UNDERSTORY TREES	LARGE SHRUBS ²	MEDIUM AND SMALL SHRUBS ²
TBD, AC, MF-B	1	1	0	2
All Others	1	2	1	4

Notes:

¹For multi-family **structures** on individual **lots**, the requirement applies to the gross site interior **landscaping area** for the entire **development**.

²A maximum of one **large shrub** may be substituted for two small- or medium-sized shrubs, and vice versa, per every 100 linear feet of perimeter **buffer**.

- 2. When there is not enough room for a site interior **landscaping area** planting due to minimal setbacks or **structure** placement, any residual area shall have an appropriate year-round groundcover or **landscaped area** (e.g. rock garden, mulch, grass, annual, or perennial plantings, etc.) and, where permissible pursuant to G.S. §160D-702(b), the **structure** shall have a decorative architectural treatment, such as a toe foundation, decorative brick row, change of materials, or other appropriate architectural embellishment.

10.9. FOUNDATION PLANTING REQUIREMENTS

10.9.1. Applicability

These standards do not apply to the TBD, AC, MF-B, LI, and HI districts.

10.9.2. Planting Requirements

- A. All retaining and foundation walls, including where primary **structures** meet the grade, shall be screened by a continuous planting of shrubs (minimum 75 percent evergreen) installed along the perimeter of the **structure** base.
 1. For **structures** up to 35 feet tall, final shrub height at maturity shall be a minimum of two feet.
 2. For **structures** over 35 feet tall, final shrub height at maturity shall be a minimum of five feet.
 3. Plantings shall be spaced far enough from any **structure** and any surrounding infrastructure (e.g. sidewalk or bicycle parking area) so that the plants have adequate room for growth and will not adversely impact their surroundings.
 4. When there is not enough room for a foundation planting due to minimal setbacks or **structure** placement, any residual area shall have an appropriate year-round groundcover or **landscaped area** (e.g. rock garden, mulch, grass, annual, or perennial plantings) and, where permissible pursuant to G.S. §160D-702(b), the **structure's** foundation shall have a decorative architectural treatment, such as a toe foundation, decorative brick row, change of materials, or other appropriate architectural embellishment.

10.10. SCREENING OF OBJECTIONABLE VIEWS

10.10.1. Fences and Walls

These provisions shall apply to all **fences** and **decorative walls** installed to meet screening requirements and to **fences** and walls accessory to properties visible from any **street** larger than a **local street**. Property owners or authorized designees shall be responsible for maintenance of **fences** and walls.

- A. A **fence** or **decorative wall** shall not be disfigured. This includes, but is not limited to, the presence of graffiti, cracks, peeling paint, or other material.
 - 1. **Fences** shall not have bent or broken supports.
 - 2. **Fences** shall be kept free of missing boards and gaps.
 - 3. Repairs shall be made using the same or similar material as was used on the original **structure**. This includes size, width, and other dimensional attributes.
 - 4. Chain link **fences** shall have black-coated vinyl covering.
 - 5. **Barbed Wire Fencing Standards**
 - a. **Barbed wire fencing** shall only be permitted in conjunction with Utility **uses** as defined in **Article 6**.
 - b. **Barbed wired** and associated **fencing** shall only be black in color.
 - c. **Barbed wire strands** shall be strung straight between posts. The strands shall not be rolled.
- B. When portions of **fences** and **decorative walls** are removed or taken down with no intention to rebuild or replace, all portions of the **fence** must be removed. In cases where the **fence** or wall is part of the screening required for an approved **development project**, the **fence** or wall must be replaced consistent with the provisions for new installations.
 - 1. If a nonconforming **fence** or **decorative wall** is damaged and such damage is greater than 50 percent of the replacement value of the entire **fence** or wall, the entire **fence** or wall must be reconstructed to conform with the provisions regulating **fences** and walls.
 - 2. **Fences** shall be constructed such that exposed framing faces the interior yard and not visible from the **street** right-of-way.

10.10.2. Waste Collection Areas

- A. Trash container areas shall be located to minimize their visual impact from public rights-of-way, **private streets**, and adjacent residential districts or **uses**.
 - 1. All trash container areas shall be a minimum of 50 feet from any adjacent **single-family residential** district.

2. Trash container areas shall be fully enclosed with **fences** or walls. The entire area shall be at least eight feet in height, fully block the view of the trash collection area, and include a gate with a self-latching mechanism. The enclosure shall be opaque, although an air gap under the walls up to 1 foot tall is permitted to allow water flow and enhance **public safety**.
3. The area visible shall be consistent with the primary color and material of the **principal building**, except that EIFS shall not be permitted. Split face concrete block, brick, or stone shall be permitted as post materials, and brick, stone, or decorative, low-reflectivity aluminum paneling shall be permitted as wall materials.
4. Plant material shall supplement the area and shall screen all parts of the dumpster wall foundation visible from a **street**, sidewalk or pedestrian path, pedestrian area, common area, parking area, or window. Planting material shall be small or dwarf evergreen shrubs.
5. Standard trash container areas shall be a minimum of 12 feet across by 12 feet deep for a single dumpster and 24 feet wide for a double dumpster. A minimum six-inch thick reinforced concrete (3,000 psi) pad shall be at least 12 feet wide by 15 feet deep per container.
6. Bollards shall be required at the rear of the area.
7. Access to collection devices must be by internal **driveways** and parking areas within a site. No collection device may be accessed directly from a public **street**, and no backing movement from an internal collection device may **encroach** into a public right-of-way. Exemption of this condition for properties within the TBD and AC districts may be granted by the **Planning Director**.

10.10.3. Loading Areas

- A. All **loading areas** shall provide a minimum 100 percent opaque year-round screen of all loading and service areas from the adjacent public rights-of-way, **private streets**, **open spaces** intended for recreational **use**, and/or the first and second stories of residential districts and **uses**. The screen shall be maintained between 2.5 and 4 feet in height.
 1. This screen shall consist of berms, walls, **fences**, plant material, or a combination thereof totaling eight feet in height at installation or completion of construction.
 2. Wall or **fence** materials shall be consistent with the primary **structure**.
 3. Where a service or **loading area** is located closer than 25 feet from a property line adjacent to a residential district, the minimum height of the plantings shall be six feet at installation.

10.10.4. Utility Devices

- A. All utility devices and mechanical equipment outside of but visible from public rights-of-way or **private streets** shall be installed underground or screened with low branching evergreen shrubs at least 30-inches tall at installation. Screening material shall be planted at least 10 feet from the access doors to allow for service and utility maintenance activities. This does not apply to electric meters mounted on the primary **structure** unless more than four are located together.
1. Property owners shall be responsible for screening utilities located on their property.
 2. Other devices including air conditioning units, storage tanks, non-utility transformers, compactors, etc. shall be screened entirely from the public right-of-way and **private streets**. Accesses to these elements shall not face public rights-of-way or **private streets**.
 3. All roof-mounted elements shall be completely screened from public rights-of-way and/or adjacent properties.
 4. Screening is not required from adjacent properties past a point one floor higher than the **structure** on which the mechanical equipment exists or beyond the second floor of an adjacent property, whichever is higher.
 5. Any electric mechanical equipment necessary for signage shall be located on or inside the primary **structure** for which it advertises. If that is not possible, it shall be located in an underground box next to the signage.

Commentary:

Utility devices include electric meters, electric boxes, traffic control boxes, backflow preventers, gas tanks, HVAC equipment, and aboveground gas storage tanks.

10.10.5. Solar Farms

- A. Where a **solar farm** area is visible from a public right-of-way or **private street**, a staggered, double row of evergreen trees and/or shrubs shall be provided, in a minimum 20-foot-wide **buffer** around the **project** site.
1. All screening material shall be installed adjacent to and outside of security **fencing** surrounding the **solar farm** area and be at least six feet in height at planting with an expected minimum height of 10 feet at maturity.
 2. Required screening materials shall be planted no more than 10 feet apart on-center or at a lesser distance in order to achieve the screening objectives.

10.10.6. Screening of Industrial or Utility Properties

- A. **Fencing**, walls, hedges, landscaping, berms, natural areas, or any combination thereof shall be provided to obscure **uses** or any portion of a **use** with potential external impacts.
1. The following specific **uses** shall be completely screened from adjacent properties and from public rights-of-way:

- a. Service entrances and **utility facilities**.
 - b. Loading docks or spaces.
 - c. **Outdoor storage** and any material stocks or equipment including motor vehicles, farm equipment, and construction equipment.
2. No buffering or screening is required in side or **rear yards** between parcels zoned **industrial**.
 3. The minimum vegetative **buffer** between an **industrial subdivision** and vacant adjacent **lots** shall be at least 15 feet wide. If the perimeter **buffer** table in **Section 10.6**. requires a **buffer** width greater than 15 feet, the minimum width shall meet or exceed the standard in the table.

10.10.7. Gas Operational Areas

- A. Canopy/gas island operational areas shall be completely screened from first and second story views from adjoining residential **uses** year-round. Screening shall be at least eight feet in height. Any combination of landscaping, earthen berms, or **fencing** may be used.
 1. **Buffers** must be a minimum of 15 feet wide. If the perimeter **buffer** table in **Section 10.6**. requires a **buffer** width greater than 15 feet, the minimum width shall meet or exceed the standard in the table

ARTICLE 11. ENVIRONMENTAL AND FLOODPLAIN

11.1. STORMWATER MANAGEMENT

11.1.1. Application to Existing Development

- A. **Existing structures** which become nonconforming with respect to **watershed** regulation by the adoption of this UDO are not affected unless and until there is a repair or expansion of or reconstruction of such **structure**.
- B. **Existing structures** which become nonconforming with respect to **watershed** regulation by the adoption of this UDO may be repaired or reconstructed without a **stormwater** permit or **watershed** protection occupancy permit provided that there is no net increase in **impervious surface**.
- C. **Existing structures**, whether conforming or nonconforming, may be added to or expanded without a **stormwater** permit or **watershed** protection occupancy permit provided there is no net increase in **impervious surface**.
- D. In determining whether there is additional **impervious surface** area, and in determining the **best management practices** to be utilized in **watershed** protection in connection with an **addition** or expansion to an **existing structure**, the **built-upon area** of the existing **development** is to be excluded from any density calculations which are required to be performed.

11.1.2. Erosion and Sediment Control

- A. A permit shall be obtained from the Wake County Erosion and Sediment Control (E&SC) Inspector before undertaking any **land disturbing activity** that is subject to Wake County E&SC measures. No such permit may be issued for any such **development** until an erosion control plan is submitted and approved. This section does not apply to activity under the exclusive jurisdiction of the North Carolina Sedimentation Control Commission (NCSCC), which is exempt from these requirements.
- B. No **use** permit may be issued or **final plat** approval be given for any **development** that would cause **land disturbing activity** subject to the jurisdiction of Wake County E&SC Inspector or the NCSCC unless such inspector or agency has certified to the Town that:
 - 1. Any permit required by such inspector or agency has been issued or any erosion control plan required by such inspector or agency has been approved; or
 - 2. Upon examination of the preliminary plans for the **development** it appears that any required permit or erosion control plan can be approved upon submission by the **developer** of more detailed construction or design drawings. However, construction of the **development** may not begin until such inspector or agency issues any required permit or approves any required erosion control plan.

Commentary:

Often, more than one element of the **stormwater** provisions will apply to an individual property. Questions about the application of these provisions should be discussed with the Town Engineer.

11.1.3. Stormwater Quantity

Specific to **stormwater** management and relation to adjacent properties, no **development** shall unreasonably burden adjacent properties with surface waters as a result of such **development**, specifically including the following standards:

- A. No **development** may be constructed or maintained so that such **development** unreasonably impedes the natural flow of water from higher to lower properties, thereby causing **substantial damage** to such higher properties.
- B. No **development** may be constructed or maintained so that surface waters from such **development** are unreasonably collected or diverted onto lower properties, thereby causing **substantial damage** to lower properties.

11.1.4. Stormwater Runoff Design Standards

All of the following standards and requirements shall be met:

- A. To the extent practicable, all **development** shall conform to the natural contours and drainage patterns (**watersheds**) of the land and retain existing patterns of flow.
- B. To the extent practicable, **lot** boundaries shall be made to coincide with natural drainage ways within **subdivisions** to avoid the creation of **lots** that can be built upon only by altering such natural drainage ways.
- C. All **developments** shall have a drainage system adequate to prevent the undue retention of surface water on the **development** site. Surface water shall not be regarded as unduly retained if:
 - 1. The retention results from a deliberate approved sedimentation or storm water run-off control plan; or
 - 2. The retention is not substantially different in location or degree than in the site's pre-**development** stage, unless such retention presents a danger to health or safety.
- D. No surface water may be channeled or directed into a sanitary sewer.
- E. Whenever practicable, drainage systems shall coordinate with and connect to drainage systems or drainage ways on surrounding properties or **streets**.
- F. Drainage swales in **subdivisions** are provided for in **Article 8. Subdivisions: Streets, Open Space, and Utilities**. Private roads and access ways within unsubdivided **developments** shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.
- G. Evaluation of Detention Needs

Applicants for **development** approval shall evaluate detention needs for the **development** as follows:

1. Except in certain situations, **stormwater** detention will be required on new **development**. The design standard for detention will be based upon peak flow reduction to pre-**development** (existing) conditions for the 1-, 10-, 25-, and in some cases, the 100-year return frequency storm events.
2. Detention requirements may be reduced or eliminated by the Town Engineer upon a showing that installation of reduced or eliminated **detention facilities** will not create adverse downstream impacts.

H. **Stormwater Control Structure** Requirements

1. All **stormwater** control **structures** and any modifications thereto, shall be designed and sealed by a North Carolina registered professional engineer, except that such a **structure** may be designed by a registered land surveyor, where the runoff consists solely of incidental drainage within a **subdivision**, as provided in G.S. § 89C-3(7); and
2. All water quality controls shall **use** retention ponds, bioretention areas, or other approved devices, as a primary treatment system. All approved devices shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Department of Environmental Quality (NCDEQ). Specific requirements for these systems shall be in accordance with the NCDEQ design criteria or otherwise as approved by the Town Engineer.
3. All water quantity controls shall **use** detention ponds, bioretention areas, or other devices or systems as approved by the Town Engineer. **Detention facilities** shall be designed using the design procedures set forth in Elements of Urban **Stormwater** Design (Malcolm, 1989) or other design procedures as approved by the Town Engineer.
4. A maintenance and operations plan, acceptable to the Town Engineer, shall be developed for each water quantity and water quality control **structure** proposed as part of the **development**. The agreement must be signed by the **developer** and Town Manager and be recorded at the Register of Deeds.

I. Maintenance of Retention **Facilities**

1. All water quality controls and devices which are installed solely to provide 85 percent total suspended solid (TSS) removal in order to satisfy the water supply **watershed** protection section of the UDO shall be maintained by the Town of Garner. Such maintenance by the Town will be limited to the water quality treatment function of the **stormwater** control system. Maintenance activities not related

to water quality such as aesthetics, **nuisance** control, etc. will not be the responsibility of the Town but shall be the responsibility of the owner. The **developer** shall deed, dedicate, or grant sufficient easement or right-of-way to allow for the access and maintenance of the water quality control system.

2. All water quality controls and devices which are installed to meet the nitrogen reduction requirements of this UDO shall be maintained by the property owner or the person or persons responsible for the maintenance of the property. In the case of residential or commercial **subdivisions**, an HOA or merchants association shall be established in order to identify the person or persons responsible for the maintenance of the property. The **developer** shall deed, dedicate, or grant sufficient easement or right-of-way to allow for the access and inspection of the water quality control system.
3. All water quantity controls and devices shall be maintained by the property owner or the person or persons responsible for the maintenance of the property. In the case of residential or commercial **subdivisions**, an HOA or merchants association shall be established in order to identify the person or persons responsible for the maintenance of the property. The **developer** shall deed, dedicate, or grant sufficient easement or right-of-way to allow for the access and inspection of the water quality control system.

11.1.5. Fencing for Stormwater Control Measures or Other Water Feature Standards

Where a water impoundment pond (wet or dry pond) or other water feature is located more than 25 feet from the property line of any adjacent residential **use** or zoning district and provides an aquatic shelf acceptable to the Town Engineer, no **fence** shall be required.

- A. Alternative means of separation for water impoundment ponds, such as natural landforms and native plantings, are encouraged.
- B. **Fencing** used around SCMs shall not be opaque.

11.1.6. Water Impoundment Ponds as Open Space

- A. Applicability

All **stormwater** retention ponds (wet ponds) and detention basins (dry ponds) permitted or constructed after the adoption date of this ordinance and exceeding 0.5 acres in surface area (at full retention/detention) may count said area toward the **passive open space** requirement for the greater **development** subject to the following limitations:

1. No more than 20 percent of the total required **open space** for a **development** may consist of water impoundment ponds.
2. No more than half of the open water area (or area designed to retain/detain water) may be counted as **open space**.

B. Design Standards

Water impoundment ponds as **open space** must be integrated into the design of public areas within the site through appropriate site placement, **use** of common **building** materials, textures, features, or other treatments. This shall be achieved by incorporating at least three of the following elements:

1. Proximate placement of the **stormwater facility** to the principal **structure(s)** on the site.
2. Provision of pedestrian access to the **facility** through installation of a delineated walk or trail. Water impoundment ponds which are not accessible to pedestrians or are 100 percent **fenced** shall not be counted toward **open space** requirements.
3. Utilization of similar planting materials and **building** materials as the principal **structure** of the site, if amenities are constructed within the **open space**.
4. Permanent, pedestrian-oriented features such as seating or tables, at least every 100 linear feet.
5. Grading and slopes of 10:1 or shallower which will allow utilization of the **facility** as an area for recreation, with the exemption of a dam or retaining **structure** and as is necessary to tie back to existing grades.

11.2. NITROGEN REDUCTION

11.2.1. Stormwater Requirements for Nitrogen Control

All new **development** shall meet the requirements of the “The Town of Garner **Stormwater** Program for Nitrogen Control.” The major requirements that must be met by new **development**, as contained in the **stormwater** program, are as follows:

- A. New **development** shall comply with the requirements for protecting and maintaining riparian **buffers** as specified in the Riparian **Buffer** Rule 15A NCAC 2B.0610, 0611, or 0612.
- B. As required by the Neuse **Stormwater** Rule 15A NCAC 2B.0710, 0711, 0712, 0713, 0714, or 0715, the nutrient load contributed by new **development** activities is limited to 3.6 pounds per acre per year (lbs/ac/yr) of nitrogen loading. **Development** shall have the option of partially offsetting projected nitrogen loads by funding wetland or riparian area restoration through the North Carolina Wetland Restoration Program. However, the total nitrogen loading rate cannot exceed 6.0 lbs/ac/yr for residential **development** or 10.0 lbs/ac/yr for nonresidential **development**. SCMs provided for in the **stormwater** program must be used to reduce nitrogen loading to the 6.0 and 10.0 limits and may be used to reduce nitrogen loading to the 3.6 limit. Maintenance of any SCMs installed will be the responsibility of the **development**.
- C. Except in certain situations, **stormwater** detention will be required on new **development**. The design standard for detention will be based upon peak flow reduction to pre-**development** (existing) conditions for the 1-, 10-, 25-, and in some cases, the 100-year return frequency storm events.

11.3. WATER SUPPLY WATERSHED PROTECTION

The water supply **watershed** protection areas described below are identified on the Town of Garner **Watershed** Protection Map.

11.3.1. Water Supply Watershed Protection Areas

- A. Swift Creek Water Supply **Watershed** Protection Area (Swift Creek WSW)

The Town of Garner Swift Creek-Lake Benson public water supply **watershed** protection area shall apply to the land defined in the Swift Creek Land Management Plan (SCLMP) Interlocal Agreement.

- B. Exemptions

The water supply **watershed** protection ordinances of the Town of Garner shall apply to the above-described land area, except, however that the **watershed** protection ordinances shall not apply to:

1. Existing **development**, although they shall apply to future **additions**, expansion, repair, or reconstruction of existing **development** which are of such nature to create additional **impervious surface**; or
2. To the **development** of a single existing **lot** for **single-family residential** purposes; although they shall apply to **single-family residential development** of multiple contiguous **lots** with common ownership.

11.3.2. Impervious Surface Limits

- A. Within the Garner Swift Creek WSW, impervious limits may not exceed 12 percent of land area, per **lot**, except that impervious limits may be a maximum of 70 percent, known as the high density option, where the **stormwater** runoff from a one inch rainfall event is retained by retention ponds, or other approved devices designed to achieve 85 percent total suspended solids as approved by the NCDEQ and the Town of Garner, constructed in accordance with **best management practices**.
- B. **Impervious surface** shall occupy no more than 40 percent of the required **front yard**.
- C. The Swift Creek WSW **critical area** is subject to the Lake Benson Conservation District Overlay, found in **Article 5**.

Commentary:

This means, for example, that the owner of an existing **lot** may build on up to 70 percent of the remaining **previours surface**, rather than the 70 percent limitation being applied to the entire **lot** including pre-existing **development**. Questions about the application of these provisions should be discussed with the Town Engineer.

11.4. FLOODPLAIN MANAGEMENT

The **stormwater** management provisions apply seven sets of rules, covering the areas of erosion control, **stormwater** quantity, conservation or protected **buffers**, nitrogen reduction, water supply **watershed** protection, environmentally sensitive **watershed** protection, and **floodplain management**. The Town of Garner adopted **floodplain** regulations to be consistent with federal and state requirements. However, Town regulations specifically prohibit **development** in the 100-year **floodplain** and in conservation or protected **buffers** areas except as noted in *Section 5.13*.

11.4.1. Statutory Authorization, Findings of Fact, and Purpose and Objectives

A. Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town of Garner North Carolina, does ordain the following findings of fact:

1. The **flood prone areas** within the jurisdiction of Town of Garner are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of **flood** protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These **flood** losses are caused by the cumulative effect of obstructions in **floodplains** causing increases in **flood** heights and velocities and by the occupancy in **flood prone areas** of **uses** vulnerable to **floods** or other hazards.

B. Statement of Purpose

It is the purpose of this Section to promote public health, safety, and general welfare and to minimize public and private losses due to **flood** conditions within **flood prone areas** by provisions designed to:

1. Restrict or prohibit **uses** that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, **flood** heights, or velocities;
2. Require that **uses** vulnerable to **floods**, including **facilities** that serve such **uses**, be protected against **flood** damage at the time of initial construction;

3. Control the alteration of natural **floodplains, stream** channels, and natural protective barriers which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging, and all other **development** that may increase erosion or **flood** damage; and
5. Prevent or regulate the construction of **flood** barriers that will unnaturally divert **flood** waters or which may increase **flood** hazards to other lands.

C. Objectives

The objectives of this Section are to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly **flood** control **projects**;
3. Minimize the need for rescue and relief efforts associated with **flooding** and generally undertaken at the expense of the general public;
4. Minimize prolonged business losses and interruptions;
5. Minimize damage to public **facilities** and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, **streets**, and bridges) that are located in **flood prone areas**;
6. Minimize damage to private and public property due to **flooding**;
7. Make **flood insurance** available to the community through the National **Flood Insurance** Program;
8. Maintain the natural and beneficial functions of **floodplains**;
9. Help maintain a stable tax base by providing for the sound **use** and **development** of **flood prone areas**; and
10. Ensure that potential buyers are aware that property is in a **Special flood hazard area (SFHA)**.

11.4.2. Definitions

Unless specifically defined below, words or phrases used in **Section 11.4.** shall be interpreted so as to give them the meaning they have in common usage and to give **Section 11.4.** its most reasonable application. The definitions listed below apply to **Section 11.4.** only.

Accessory structure (appurtenant structure). A **structure** located on the same parcel of property as the principal **structure** and the **use** of which is incidental to the **use** of the principal **structure**. Garages, carports, and storage sheds are common urban **accessory structures**. Pole barns, hay sheds, and the like qualify as **accessory structures** on farms, and may or may not be located on the same parcel as the farm **dwelling** or shop **building**.

Addition (to an existing building). An extension or increase in the floor area or height of a **building** or **structure**.

Alteration of a watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the **riverine** flow of water during conditions of the **base flood**.

Appeal. A request for a review of the **Floodplain Administrator's** interpretation of any provision of **Section 11.4**.

Area of shallow flooding. A designated Zone AO or AH on a community's **flood insurance rate map** (FIRM) with **base flood** depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of **flooding** is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard. See "**Special flood hazard area (SFHA)**".

Area of future-conditions flood hazard. The land area that would be inundated by the one-percent-annual-chance (100-year) **flood** based on future-conditions hydrology.

Basement. Any area of the **building** having its floor subgrade (below ground level) on all sides.

Base flood. The **flood** having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). A **determination** of the **water surface elevations** of the **base flood** as published in the **flood insurance study**. When the **BFE** has not been provided in a **SFHA**, it may be obtained from engineering studies available from federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the "**freeboard**", establishes the "**regulatory flood protection elevation**".

Building. See "**Structure**".

Chemical storage facility. A **building**, portion of a **building**, or exterior area adjacent to a **building** used for the storage of any chemical or chemically reactive products.

Design Flood. See "**Regulatory flood protection elevation**".

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, **buildings** or other **structures**, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Activity. Any activity defined as **Development** which will necessitate a **Floodplain Development Permit**. This includes **buildings**, **structures**, and non-structural items, including (but not limited to) fill,

bulkheads, piers, **pools**, docks, landings, ramps, and erosion control/stabilization measures.

Digital flood insurance rate map (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the **special flood hazard areas** and the risk premium zones applicable to the community are delineated.

Disposal. As defined in G.S. §130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Elevated building. A non-**basement building** which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment. The advance or infringement of **uses**, fill, excavation, **buildings**, permanent **structures**, or **development** into a **floodplain**, which may impede or alter the flow capacity of a **floodplain**.

Existing building and existing structure. Any **building** and/or **structure** for which the “**start of construction**” commenced before March 1984.

Existing manufactured home park or manufactured home subdivision. A **manufactured home park** or **subdivision** for which the construction of **facilities** for servicing the **lots** on which the **manufactured homes** are to be affixed (including, at a minimum, the installation of utilities, the construction of **streets**, and either final site grading or the pouring of concrete pads) was completed before March 1984.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

Flood boundary and floodway map (FBFM). An official map of a community, issued by the federal emergency management agency, on which the **SFHAs** and the **floodways** are delineated. This official map is a supplement to and shall be used in conjunction with the **flood insurance rate map (FIRM)**.

Flood hazard boundary map (FHBM). An official map of a community, issued by the federal emergency management agency, where the boundaries of the **SFHAs** have been defined as Zone A.

Flood insurance. The insurance coverage provided under the National **Flood Insurance** Program.

Flood insurance rate map (FIRM). An official map of a community, issued by the federal emergency management agency, on which both

the **SFHAs** and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS). An examination, evaluation, and **determination of flood** hazards, corresponding **water surface elevations** (if appropriate), **flood** hazard risk zones, and other **flood** data in a community issued by the federal emergency management agency. The **flood insurance study** report includes **flood insurance rate maps** (FIRMs) and **flood boundary and floodway maps** (FBFMs), if published.

Flood prone area. See “Floodplain”.

Floodplain. Any land area susceptible to being inundated by water from any source.

Floodplain administrator. The individual appointed to administer and enforce the **floodplain management regulations**.

Floodplain development permit. Any type of permit that is required in conformance with the provisions of **Section 11.4.**, prior to the commencement of any **development activity**.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing **flood** damage and preserving and enhancing, where possible, natural resources in the **floodplain**, including, but not limited to, emergency preparedness plans, **flood** control works, **floodplain management regulations**, and **open space** plans.

Floodplain management regulations. Section 11.4. and other zoning ordinances, **subdivision regulations**, **building** codes, health regulations, special purpose ordinances, and other applications of police power which control **development** in **flood-prone** areas. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing **flood** loss and damage.

Floodproofing. Any combination of structural and nonstructural **additions**, changes, or adjustments to **structures**, which reduce or eliminate **flood** damage to real estate or improved real property, water and sanitation **facilities**, **structures**, and their contents.

Flood-resistant material. Any **building** product (material, component, or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade **use**, is not **flood-resistant**. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not **flood-resistant**. Please refer to **Technical Bulletin 2, Flood** Damage-Resistant Materials Requirements, and

available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable **flood-resistant materials**.

Floodway. The channel of a river or other **watercourse** and the adjacent land areas that must be reserved in order to discharge the **base flood** without cumulatively increasing the **water surface elevation** more than one foot.

Floodway encroachment analysis. An engineering analysis of the impact that a proposed **encroachment** into a **floodway** or **non-encroachment area** is expected to have on the **floodway** boundaries and **flood** levels during the occurrence of the **base flood** discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

Flood zone. A geographical area shown on a **flood hazard boundary map** or **flood insurance rate map** that reflects the severity or type of **flooding** in the area.

Freeboard. The height added to the **base flood elevation (BFE)** or the **Future Conditions 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, bridge openings, and the hydrological effect of urbanization on the **watershed**. The **base flood elevation** plus the **freeboard** establishes the “**regulatory flood protection elevation**”.

Future conditions flood. The **flood** having a one percent chance of being equaled or exceeded in any given year based on **future conditions hydrology**.

Future conditions flood elevation. A **determination** of the **water surface elevations** of the one percent annual chance **flood** based on **future conditions hydrology** as published in the **Flood Insurance Study**. This elevation, when combined with the **freeboard**, establishes the “**Regulatory Flood Protection Elevation**” in **Future Conditions Flood Hazard Areas**.

Future conditions flood hazard area. The land area that would be inundated by the one percent annual chance **flood** based on **future conditions hydrology** as determined in **Section 11.4.3.B.** of this ordinance.

Future conditions hydrology. The **flood** discharges associated with **project** land **use** conditions based on Wake County’s comprehensive land **use** plans and without consideration of projected future construction of **flood** detention **structures** or projected future hydraulic modifications within a **stream** or other waterway such as bridge and culvert construction, fill, and excavation. **Future conditions flood** discharges are published in the **Flood Insurance Study**.

Functionally dependent facility. A **facility** which cannot be used for its intended purpose unless it is located in close proximity to water, such

as 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**.

Hazardous waste facility. As defined in G.S. § 130A-290(a)(9), a **facility** for the collection, storage, processing, treatment, recycling, recovery, or **disposal** of hazardous waste.

Highest adjacent grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the **structure**.

Historic structure. Any **structure** that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
4. Certified as contributing to the historical significance of a historic district designated by a community with a CLG Program.

CLG programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of map change (LOMC). An official **determination** issued by FEMA that amends or revises an effective **Flood Insurance Rate Map** or **Flood Insurance Study**. Letters of Map Change include:

- a. **Letter of Map Amendment (LOMA):** An official amendment, by letter, to an effective National **Flood Insurance** Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the **floodplain**, but is actually on natural high ground above the **base flood elevation**. A LOMA amends the current effective **Flood Insurance Rate Map** and establishes that a specific property, portion of a property, or **structure** is not located in a **special flood hazard area**.
- b. **Letter of Map Revision (LOMR):** A revision based on technical data that may show changes to **flood zones**, **flood** elevations, **special flood hazard area** boundaries and **floodway** delineations, and other planimetric features.

- c. **Letter of Map Revision Based on Fill (LOMR-F):** A determination that a **structure** or parcel of land has been elevated by fill above the **BFE** and is, therefore, no longer located within the **special flood hazard area**. In order to qualify for this **determination**, the fill must have been permitted and placed in accordance with the community's **floodplain management regulations**.
- d. **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed **project** complies with the minimum NFIP requirements for such **projects** with respect to delineation of **special flood hazard areas**. A CLOMR does not revise the effective **Flood Insurance Rate Map** or **Flood Insurance Study**; upon submission and approval of certified as-built documentation, a **Letter of Map Revision** may be issued by FEMA to revise the effective FIRM.

Light Duty Truck. Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- a. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- b. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- c. Available with special features enabling off-street or off-highway operation and use.

Lowest adjacent grade (LAG). The elevation of the ground, sidewalk, or patio slab immediately next to the **building**, or deck support, after completion of the **building**.

Lowest floor. The **lowest floor** of the lowest enclosed area (including **basement**). An unfinished or **flood** resistant enclosure, usable solely for parking of vehicles, **building** access, or limited storage in an area other than a **basement** area is not considered a **building's lowest floor**, provided that such an enclosure is not built so as to render the **structure** in **violation** of the applicable non-elevation design requirements of **Section 11.4**.

Manufactured home. A **structure**, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "**manufactured home**" does not include a "**recreational vehicle**".

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more **manufactured home lots** for rent or sale.

Map repository. The location of the official **flood** hazard data to be applied for **floodplain management**. It is a central location in which **flood** data is stored and managed; in North Carolina, FEMA has recognized that the application of digital **flood** hazard data products have the same authority as hard copy products. Therefore, the NCEM's **Floodplain** Mapping Program websites house current and historical **flood** hazard data. For effective **flood** hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the **map repository**, and for historical **flood** hazard data the **FloodNC** website (<http://FLOODNC.GOV/NCFLOOD>) is the **map repository**.

Market value. The **building** value, not including the land value and that of any **accessory structures** or other improvements on the **lot**. **Market value** may be established by independent certified appraisal; replacement cost depreciated for age of **building** and quality of construction (actual cash value); or adjusted tax assessed values.

New construction. **Structures** for which the “**start of construction**” commenced on or after March 1, 1984 and includes any subsequent improvements to such **structures**.

Non-conversion agreement. A document stating that the owner will not convert or alter what has been constructed and approved. **Violation** of the agreement is considered a **violation** of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-encroachment area. The channel of a river or other **watercourse** and the adjacent land areas that must be reserved in order to discharge the **base flood** without cumulatively increasing the **water surface elevation** more than one foot as designated in the **flood insurance study** report.

Post-FIRM. Construction or other **development** for which the “**start of construction**” occurred on or after the effective date of the initial **flood insurance rate map** for the area, July 3, 1978.

Pre-FIRM. Construction or other **development** for which the “**start of construction**” occurred before the effective date of the initial **flood insurance rate map** for the area, July 3, 1978.

Principally above ground. At least 51 percent of the actual cash value of the **structure** is above ground.

Public safety and/or nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or **use**, in the customary manner, of any navigable lake, or river, bay, **stream**, canal, or basin.

Recreational vehicle (RV). A vehicle, which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a **light duty truck**; and
4. Designed primarily not for **use** as a permanent **dwelling**, but as temporary living quarters for recreational, camping, travel, or seasonal **use**.

Reference level. The top of the **lowest floor** for **structures** within **SFHAs** designated as Zone A1--A30, AE, A, AO, A99 or Zone X (Future).

Regulatory flood protection elevation. The **BFE** plus the “**freeboard**”. In **SFHAs** where **BFEs** have been determined, this elevation shall be the **BFE** plus two feet of **freeboard**. In **SFHAs** where no **BFE** has been established, this elevation shall be at least two feet above the **highest adjacent grade**. In **Future Conditions Flood Hazard Areas** this elevation shall be the **Future Conditions Flood Elevation** plus two feet of **freeboard**.

Remedy a violation. To bring the **structure** or other **development** into compliance with state and community **floodplain management regulations**, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the **structure** or other affected **development** from **flood** damages, implementing the enforcement provisions of **Section 11.4**, or otherwise deterring future similar **violations**, or reducing federal financial exposure with regard to the **structure** or other **development**.

Riverine. Relating to, formed by, or resembling a river (including tributaries), **stream**, brook, etc.

Salvage yard. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

Solid waste disposal facility. Any **facility** involved in the **disposal** of solid waste as that term is defined in G.S. § 130A- 290(a)(35).

Solid waste disposal site. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, **sanitary landfill**, or any other method.

Special flood hazard area (SFHA). The land in the **floodplain** subject to a one percent or greater chance of being **flooded** in any given year, as determined in **Section 11.2.6**.

Start of construction. Includes **substantial improvement**, and means the date the **building** permit was issued, provided the actual **start of construction**, repair, reconstruction, rehabilitation, **addition** placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction

of a **structure** on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a **manufactured home** on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of **streets** and/or walkways; nor does it include excavation for a **basement**, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory **buildings**, such as garages or sheds not occupied as **dwelling units** or not part of the main **structure**. For a **substantial improvement**, the actual **start of construction** means the first alteration of any wall, ceiling, floor, or other structural part of the **building**, whether or not that alteration affects the external dimensions of the **building**.

Structure. A walled and roofed **building**, a **manufactured home**, or a gas, liquid, or liquefied gas storage tank that is **principally above ground**.

Substantial damage. Damage of any origin sustained by a **structure** during any one-year period whereby the cost of restoring the **structure** to its before damaged condition would equal or exceed 50 percent of the **market value** of the **structure** before the damage occurred. See definition of “**substantial improvement**”. **Substantial damage** also means **flood**-related damage sustained by a **structure** on separate occasions during a 5-year period for which the cumulative cost of repairs equals or exceeds 50 percent of the **market value** of the **structure** before the damage occurred.

Substantial improvement. Any combination of repairs, reconstruction, rehabilitation, **addition**, or other improvement of a **structure**, taking place during any one-year period for which the cost equals or exceeds 50 percent of the **market value** of the **structure** before the “**start of construction**” of the improvement. **Substantial improvement** also means improvement to a **structure** on separate occasions during a 5-year period for which the cumulative cost equals or exceeds 50 percent of the **market value** of the **structure** before improvements occurred. This term includes **structures** which have incurred “**substantial damage**”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any correction of existing **violations** of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
2. Any alteration of a **historic structure**, provided that the alteration will not preclude the **structure’s** continued designation as a **historic structure**.

Technical bulletin and technical fact sheet. A FEMA publication that provides guidance concerning the **building** performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for **use** primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the **development** community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

Temperature controlled. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance. A grant of relief from the requirements of **Section 11.4.**

Violation. The failure of a **structure** or other **development** to be fully compliant with the community's **floodplain management regulations**. A **structure** or other **development** without the elevation certificate, other certifications, or other evidence of compliance required in **Section 11.2.3.** are presumed to be in **violation** until such time as that documentation is provided.

Water surface elevation (WSE). The height, in relation to **mean sea level**, of **floods** of various magnitudes and frequencies in the **floodplains** of coastal or **riverine** areas.

Watercourse. A lake, river, creek, **stream**, wash, channel or other topographic feature on or over which waters flow at least periodically. **Watercourse** includes specifically designated areas in which substantial **flood** damage may occur.

11.2.1. General Provisions

A. Lands to which **Section 11.4.** Applies

This ordinance shall apply to all **SFHAs** and **Future Conditions Flood Hazard Areas** within the jurisdiction, including **ETJs**, of Town of Garner and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

B. Basis for Establishing the **SFHAs**

The **SFHAs** and **Future Conditions Flood Hazard Areas** are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated July 19, 2022, for Wake County and associated DFIRM panels, including any digital data developed as part of the FIS, and any revision thereto, which are adopted by reference and declared a part of this ordinance.

C. Establishment of **Floodplain Development Permit**

A **floodplain development permit** shall be required in conformance with the provisions of **Section 11.4.** prior to the commencement of any **development** activities within **SFHAs** and **Future Conditions Flood Hazard Areas** determined in accordance with **Section 11.4.** of this ordinance.

D. Compliance

No **structure** or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of **Section 11.4.** and other applicable regulations.

E. Abrogation and Greater Restrictions

Section 11.4. is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where **Section 11.4.** and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

F. Interpretation

In the interpretation and application of **Section 11.4.,** all provisions shall be:

1. Considered as minimum requirements.
2. Liberally construed in favor of the governing body.
3. Deemed neither to limit nor repeal any other powers granted under North Carolina state law.

G. Warning and Disclaimer of Liability

The degree of **flood** protection required by **Section 11.4.** is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger **floods** can and will occur. Actual **flood** heights may be increased by man-made or natural causes. **Section 11.4.** does not imply that land outside the **SFHAs** and **Future Conditions Flood Hazard Areas** or **uses** permitted within such areas will be free from **flooding** or **flood** damages. **Section 11.4.** shall not create liability on the part of Town of Garner or by any officer or employee thereof for any **flood** damages that result from reliance on **Section 11.4.** or any **administrative decision** lawfully made hereunder.

H. Penalties for **Violation** of the provisions of this ordinance or failure to comply with any of its requirements, including **violation** of conditions and safeguards established in connection with grants of **variance** or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or **imprisoned** for not more than thirty (30) days, or both. Each day such **violation** continues shall be considered a separate offense. Nothing herein contained shall prevent

Town of Garner from taking such other lawful action as is necessary to prevent or **remedy** any **violation**.

11.2.2. Administration

A. Designation of Floodplain Administrator

The Town Engineer or their designee, hereinafter referred to as the “**Floodplain Administrator**”, is hereby appointed to administer and implement the provisions of **Section 11.4**.

B. Floodplain Development Permits

1. Application Requirements

Application for a **floodplain development permit** shall be made to the **Floodplain Administrator** prior to any **development** activities located within **SFHAs** and **Future Conditions Flood Hazard Areas**. An application for a **floodplain development permit** must be preceded by the issuance of a **variance** from the BOA for any new **development**. The following items shall be presented to the **Floodplain Administrator** to apply for a **floodplain development permit**:

- a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed **floodplain development**:
 - i. The nature, location, dimensions, and elevations of the area of **development/disturbance**; existing and proposed **structures**, utility systems, grading/pavement areas, fill materials, storage areas, drainage **facilities**, and other **development**.
 - ii. The boundary of the **SFHA** and **Future Conditions Flood Hazard Areas** as delineated on the FIRM or other **flood** map as determined in **Section 11.2.2**. or a statement that the entire **lot** is within the **SFHA** or **Future Conditions Flood Hazard Area**.
 - iii. **Flood zone(s)** designation of the proposed **development** area as determined on the FIRM or other **flood** map as determined in **Section 11.2.1**., the boundary of the **floodway(s)** or **non-encroachment area(s)** as determined in **Section 11.4.3**.
 - iv. The **BFE** or **Future Conditions Flood Elevation** where provided as set forth in **Section 11.4.3**.
 - v. The old and new location of any **watercourse** that will be altered or relocated as a result of proposed **development**.
 - vi. Certification of the plot plan by a registered land surveyor or professional engineer.

- b. Proposed elevation, and method thereof, of all **development** within a **SFHA** or **Future Conditions Flood Hazard Area** including but not limited to:
 - i. Elevation in relation to NAVD 1988 of the proposed **reference level** (including **basement**) of all **structures**.
 - ii. Elevation in relation to NAVD 1988 to which any non-residential **structure** in Zone AE, A, or AO will be **flood-proofed**.
 - iii. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or **floodproofed**.
- c. If **floodproofing**, a **floodproofing** certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of **floodproofing** measures.
- d. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of **Section 11.4**. are met. These details include but are not limited to:
 - i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns, posts, piers, piles, and/or shear walls).
 - ii. Openings to facilitate equalization of hydrostatic **flood** forces on walls in accordance with **Section 11.4.7.B.4.**, when solid foundation perimeter walls are used in Zones A, AO, AE, AH, A99 and Zone X (Future).
- e. Usage details of any enclosed areas below the **regulatory flood protection elevation**.
- f. Plans and/or details for the protection of public utilities and **facilities** such as sewer, gas, electrical, and water systems to be located and constructed to minimize **flood** damage;
- g. Certification that all other Local, State, and Federal permits required prior to **floodplain development permit** issuance have been received.
- h. Documentation for placement of **recreational vehicles** and/or temporary **structures**, when applicable, to ensure Sections **11.4.7.D.** and **11.4.7.E.** of this ordinance are met.
- i. A description of proposed **watercourse** alteration or relocation, when applicable, including an engineering report on the effects of the proposed **project** on the **flood**- carrying capacity of the **watercourse** and the effects to properties located both upstream and downstream; and a map (if not shown on plot

plan) showing the location of the proposed **watercourse** alteration or relocation.

2. Permit Requirements

The **floodplain development permit** shall include, but not be limited to:

- a. A complete description of all **development** to be permitted under the **floodplain development permit** (e.g. house, garage, **pool**, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- b. The **SFHA or Future Conditions Flood Hazard Area determination** for the proposed **development** per available data specified in **Section 11.2.2**.
- c. The **regulatory flood protection elevation** required for the **reference level** and all attendant utilities.
- d. The **regulatory flood protection elevation** required for the protection of all public utilities.
- e. All certification submittal requirements with timelines.
- f. A statement that no fill material or other **development** shall **encroach** into the **floodway** or **non-encroachment area** of any **watercourse**, as applicable.
- g. The **flood** openings requirements, if in Zones A, AO, AE, AH, A99 or Zone X (Future).

11.2.3. Certification Requirements

A. Elevation Certificates

1. An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any **new construction**. It shall be the duty of the permit holder to submit to the **Floodplain Administrator** a certification of the elevation of the **reference level**, in relation to NAVD 1988. The **floodplain administrator** shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a **floodplain development permit**.
2. A final as-built elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the **Floodplain Administrator** a certification of final as-built construction of the elevation of the **reference level** and all attendant utilities. The **Floodplain Administrator** shall review the certificate data submitted. Deficiencies detected by such review

shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the **building** taken within 90 days from the date of certification. The photographs must be taken with views confirming the **building** description and diagram number provided in Section A. To the extent possible, these photographs should show the entire **building** including foundation. If the **building** has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the **building**. In **addition**, when applicable, provide a photograph of the foundation showing a representative example of the **flood** openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

B. Floodproofing Certificate

If non-residential **floodproofing** is used to meet the **regulatory flood protection elevation** requirements, a **floodproofing** certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan is required prior to the actual start of any **new construction**. It shall be the duty of the permit holder to submit to the **Floodplain Administrator** a certification of the **floodproofed** design elevation of the **reference level** and all attendant utilities, in relation to NAVD1988. **Floodproofing** certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The **Floodplain Administrator** shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a **floodplain development permit**. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

A final Finished Construction **Floodproofing** Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the **Floodplain Administrator** a certification of the **floodproofed** design elevation of the **reference level** and all attendant utilities, in relation to NAVD 1988. **Floodproofing** certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The **Floodplain Administrator** shall review the certificate data, the operational plan, and the inspection

and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a **Floodplain Development Permit**. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- C. If a **manufactured home** is placed within Zone A, AO, AE, AH, A99 or or Zone X (Future) and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per **Section 11.4.7.B.3**.
- D. If a **watercourse** is to be altered or relocated, a description of the extent of **watercourse** alteration or relocation; a professional engineer's certified report on the effects of the proposed **project** on the **flood**-carrying capacity of the **watercourse** and the effects to properties located both upstream and downstream; and a map showing the location of the proposed **watercourse** alteration or relocation shall all be submitted by the permit applicant prior to issuance of a **floodplain development permit**.

E. Certification Exemptions

The following **structures**, if located within Zone A, AO, AE, AH, A99 or Zone X (Future), are exempt from the elevation/**floodproofing** certification requirements specified in the preceding subsection A.:

1. **Recreational vehicles** meeting requirements of **Section 11.4.7.D.1**;
2. Temporary **structures** meeting requirements of **Section 11.4.7.E**;
and,
3. **Accessory structures** less than 150 square feet meeting requirements of **Section 11.4.7.F**.

F. **Determination for Existing Buildings and Structures**

For applications for **building** permits to improve **buildings** and **structures**, including alterations, movement, enlargement, replacement, repair, change of occupancy, **additions**, rehabilitations, renovations, **substantial improvements**, repairs of **substantial damage**, and any other improvement of or work on such **buildings** and **structures**, the **Floodplain Administrator**, in coordination with the **Building Official**, shall:

1. Estimate the **market value**, or require the applicant to obtain an appraisal of the **market value** prepared by a qualified independent appraiser, of the **building** or **structure** before the **start of construction** of the proposed work; in the case of repair, the **market value** of the **building** or **structure** shall be the **market value** before the damage occurred and before any repairs are made;

2. Compare the cost to perform the improvement, the cost to repair a damaged **building** to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the **market value** of the **building** or **structure**;
3. Determine and document whether the proposed work constitutes **substantial improvement** or repair of **substantial damage**; and
4. Notify the applicant if it is determined that the work constitutes **substantial improvement** or repair of **substantial damage** and that compliance with the **flood** resistant construction requirements of the NC **Building** Code and this ordinance is required.

G. Duties and Responsibilities of the **Floodplain Administrator**

The **Floodplain Administrator** shall perform, but not be limited to, the following duties:

1. Review all **floodplain development** applications and issue permits for all proposed **development** within **SFHA** and **Future Conditions Flood Hazard Areas** to assure that the requirements of **Section 11.4.** have been satisfied.
2. Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian **buffers**, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the **floodplain development permit**.
3. Notify adjacent communities and the North Carolina Department of **Public Safety**, Division of Emergency Management, State Coordinator for the National **Flood Insurance** Program prior to any alteration or relocation of a **watercourse**, and submit evidence of such notification to the federal emergency management agency (FEMA).
4. Assure that maintenance is provided within the altered or relocated portion of said **watercourse** so that the **flood**- carrying capacity is not diminished.
5. Prevent **encroachments** into **floodways** and non- **encroachment** areas unless the certification and **flood** hazard reduction provisions of **Section 11.4.7.C.** are met.
6. Obtain actual elevation (in relation to NAVD 1988) of the **reference level** (including **basement**) and all attendant utilities of all new or substantially improved **structures**, in accordance with **Section 11.4.4.B.1.d.**
7. Obtain actual elevation (in relation to **mean sea level**) to which all new and substantially improved **structures** and utilities have been **floodproofed**, in accordance with **Section 11.4.4.B.1.d.**

8. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with **Section 11.4.4.B.1.d.**
9. When **floodproofing** is utilized for a particular **structure**, obtain certifications from a registered professional engineer or architect in accordance with **Section 11.4.4.B.1.d.** and **Section 11.4.7.B.2.**
10. Where interpretation is needed as to the exact location of boundaries of the **SFHA** or **Future Conditions Flood Hazard Areas**, **floodways**, or **non-encroachment areas** (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to **appeal** the interpretation as provided in this Article.
11. When **BFE** data has not been provided in accordance with **Section 11.2.2.**, obtain, review, and reasonably utilize any **BFE** data, along with **floodway** data or **non-encroachment area** data available from a Federal, State, or other source, including data developed pursuant to Section **11.4.8.A.2.c.**, in order to administer the provisions of this ordinance.
12. When **BFE** data is provided but no **floodway** nor **non-encroachment area** data has been provided in accordance with **Section 11.2.3.**, obtain, review, and reasonably utilize any **floodway** data or **non-encroachment area** data available from a federal, state, or other source in order to administer the provisions of this ordinance.
13. When the lowest ground elevation of a parcel or **structure** in a **SFHA** is above the **BFE**, advise the property owner of the option to apply for a **letter of map amendment** (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the **floodplain development permit** file.
14. Permanently maintain all records that pertain to the administration of **Section 11.4.** and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
15. Make on-site inspections of work in progress. As the work pursuant to a **floodplain development permit** progresses, the **Floodplain Administrator** shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of **Section 11.4.** and the terms of the permit. In exercising this power, the **Floodplain Administrator** has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction (including **ETJ**) of the Town of Garner at any reasonable hour for the purposes of inspection or other enforcement action.
16. Issue stop-work orders as required. Whenever a **building** or part thereof is being constructed, reconstructed, altered, or repaired in

violation of this ordinance, the **Floodplain Administrator** may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed.

17. Revoke **floodplain development permits** as required. The **Floodplain Administrator** may revoke and require the return of the **floodplain development permit** by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any **floodplain development permit** mistakenly issued in **violation** of an applicable state or local law may also be revoked.
18. Make periodic inspections throughout all **SFHAs** within the jurisdiction (including **ETJ**) of the Town of Garner. The **Floodplain Administrator** and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
19. Follow through with corrective procedures of **Section 11.2.4**.
20. Review, provide input, and make recommendations for **variance** requests.
21. Maintain a current **map repository** to include, but not limited to, the FIS Report, FIRM and other official **flood** maps and studies adopted in accordance with **Section 11.2.3**, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.
22. Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and LOMAs.

11.2.4. Corrective Procedures

A. Violations to Be Corrected

When the **Floodplain Administrator** finds **violations** of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the **building** of the **violation**. The owner or occupant shall immediately **remedy** each of the **violations** of law cited in such notification.

B. Actions in Event of Failure to Take Corrective Action

If the owner of a **building** or property shall fail to take prompt corrective action, the **Floodplain Administrator** shall give the owner written notice, by certified or registered mail to the owner's last known address or by **personal service**, stating:

1. That the **building** or property is in **violation** of the **flood** damage prevention ordinance;
2. That a hearing will be held before the **Floodplain Administrator** at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by legal counsel and to present arguments and evidence pertaining to the matter; and
3. That following the hearing, the **Floodplain Administrator** may issue an order to alter, vacate, or demolish the **building**; or to remove fill as appears appropriate.

C. Order to Take Corrective Action

If, upon a hearing held pursuant to the notice prescribed in **Subsection B.**, the **Floodplain Administrator** shall find that the **building** or **development** is in **violation** of the **flood** damage prevention ordinance, they shall issue an order in writing to the owner, requiring the owner to **remedy** the **violation** within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the **Floodplain Administrator** finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

D. Appeal

Any owner who has received an order to take corrective action may **appeal** the order to the BOA by giving notice of **appeal** in writing to the **Floodplain Administrator** and the clerk within 10 days following issuance of the final order. In the absence of an **appeal**, the order of the **Floodplain Administrator** shall be final. The BOA shall hear an **appeal** within a reasonable time and may affirm, modify, and affirm, or revoke the order.

E. Failure to Comply with Order

If the owner of a **building** or property fails to comply with an order to take corrective action for which no **appeal** has been made or fails to comply with an order of the governing body following an **appeal**, the owner shall be guilty of a misdemeanor, pursuant to G.S. §143-215.58, and shall be punished at the discretion of the court.

F. Variance Procedures

1. The BOA as established by the Town of Garner, hereinafter referred to as the "**appeal** board", shall hear and decide requests for **variances** from the requirements of **Section 11.4.**

2. Any person aggrieved by the decision of the **appeal** board may **appeal** such decision to the Court, as provided in G.S. Chapter 160D Article 14.
3. **Variances** may be issued for:
 - a. The repair or rehabilitation of **historic structures** upon the **determination** that the proposed repair or rehabilitation will not preclude the **structure's** continued designation as a **historic structure** and that the **variance** is the minimum necessary to preserve the historic character and design of the **structure**.
 - b. **Functionally dependent facilities** if determined to meet the definition as stated in **Section 11.4.2.** of this ordinance, provided provisions of sections **11.4.6.F.9.b., 11.4.6.F.9.c.,** and **11.4.6.F.9.e.** have been satisfied, and such **facilities** are protected by methods that minimize **flood** damages.
 - c. Any other type of **development**, provided it meets the requirements stated in this Section.
4. In passing upon **variances**, the **appeal** board shall consider all technical evaluations, all relevant factors, all standards specified in other subsections of **Section 11.4.**, and the following:
 - a. The danger that materials may be swept onto other lands to the injury of others.
 - b. The danger to life and property due to **flooding** or erosion damage.
 - c. The susceptibility of the proposed **facility** and its contents to **flood** damage and the effect of such damage on the individual owner.
 - d. The importance of the services provided by the proposed **facility** to the community.
 - e. The necessity to the **facility** of a waterfront location as defined under **Section 11.4.2.** as a **functionally dependent facility**, where applicable.
 - f. The availability of alternative locations, not subject to **flooding** or erosion damage, for the proposed **use**.
 - g. The compatibility of the proposed **use** with existing and anticipated **development**.
 - h. The relationship of the proposed **use** to the Comprehensive Growth Plan and **floodplain management** program for that area.
 - i. The safety of access to the property in times of **flood** for ordinary and emergency vehicles.
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters.

- k. The effects of wave action, if applicable, expected at the site.
 - l. The costs of providing governmental services during and after **flood** conditions including maintenance and repair of public utilities and **facilities** such as sewer, gas, electrical and water systems, and **streets** and bridges.
5. A written report addressing each of the above factors shall be submitted with the application for a **variance**.
 6. Upon consideration of the factors listed above and the purposes of **Section 11.4.**, the **appeal** board may attach such conditions to the granting of **variances** as it deems necessary to further the purposes of **Section 11.4.**
 7. Any applicant to whom a **variance** is granted shall be given written notice specifying the difference between the **BFE** and the elevation to which the **structure** is to be built and that such construction below the **BFE** increases risks to life and property, and that the issuance of a **variance** to construct a **structure** below the **BFE** will result in increased premium rates for **flood insurance** up to \$25.00 per \$100.00 of insurance coverage. Such notification shall be maintained with a record of all **variance** actions, including justification for their issuance.
 8. The **Floodplain Administrator** shall maintain the records of all **appeal** actions and report any **variances** to the federal emergency management agency and the State of North Carolina upon request.
 9. Conditions for **variances**:
 - a. **Variances** shall not be issued when the **variance** will make the **structure** in **violation** of other federal, state, or local laws, regulations, or ordinances.
 - b. **Variances** shall not be issued within any designated **floodway** or **non-encroachment area** if the **variance** would result in any increase in **flood** levels during the **base flood** discharge.
 - c. **Variances** shall only be issued upon a **determination** that the **variance** is the minimum necessary, considering the **flood** hazard, to afford relief.
 - d. **Variances** shall only be issued prior to **development** permit approval.
 - e. **Variances** shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A **determination** that failure to grant the **variance** would result in exceptional hardship; and
 - iii. A **determination** that the granting of a **variance** will not result in increased **flood** heights, additional threats to **public safety**, or extraordinary public expense, create **nuisance**,

cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- f. A **variance** may be issued for **solid waste disposal facilities**, hazardous waste management **facilities**, **salvage yards**, and **chemical storage facilities** that are located in **SFHAs** or **Future Conditions Flood Hazard Areas** provided that all of the following conditions are met:
 - i. The **use** serves a critical need in the community.
 - ii. No feasible location exists for the **use** outside the **SFHA** or **Future Conditions Flood Hazard Area**.
 - iii. The **reference level** of any **structure** is elevated or **floodproofed** to at least the **regulatory flood protection elevation**.
 - iv. The **use** complies with all other applicable federal, state, and local laws.
 - v. The Town of Garner has notified the Secretary of the North Carolina Department of Crime Control and **Public Safety** of its intention to grant a **variance** at least 30 calendar days prior to granting the **variance**.

11.2.5. Provisions for Flood Hazard Reduction

A. General Standards

In all **SFHAs** and **Future Conditions Flood Hazard Areas**, the following provisions are required:

1. All **new construction** and **substantial improvements** shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the **structure**.
2. All **new construction** and **substantial improvements** shall be constructed with materials and utility equipment resistant to **flood** damage in accordance with the FEMA **Technical Bulletin 2, Flood Damage-Resistant Materials Requirements**.
3. All **new construction** and **substantial improvements** shall be constructed by methods and practices that minimize **flood** damages.
4. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service **facilities** shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of **flooding**. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into **flood** waters.
7. On-site waste **disposal** systems shall be located and constructed to avoid impairment to them or contamination from them during **flooding**.
8. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a **building** or **structure** existing prior to March 1, 1984, and located totally or partially within the **floodway, non-encroachment area, or stream** setback, provided there is no additional **encroachment** below the **regulatory flood protection elevation** in the **floodway, non-encroachment area, or stream** setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
9. New **solid waste disposal facilities** and sites, hazardous waste management **facilities, salvage yards, and chemical storage facilities** shall not be permitted, except by **variance** as specified in **Section 11.4.6.F.9.f**. A **structure** or tank for chemical or fuel storage incidental to an allowed **use** or to the operation of a **water treatment** plant or **wastewater treatment facility** may be located in a **SFHA** or **Future Conditions Flood Hazard Area** only if the **structure** or tank is either elevated or **floodproofed** to at least the **regulatory flood protection elevation** and certified according to **Section 11.2.3** of this ordinance.
10. All **subdivision** proposals and other **development** proposals shall be consistent with the need to minimize **flood** damage.
11. All **subdivision** proposals and other **development** proposals shall have public utilities and **facilities** such as sewer, gas, electrical, and water systems located and constructed to minimize **flood** damage.
12. All **subdivision** proposals and other **development** proposals shall have adequate drainage provided to reduce exposure to **flood** hazards.
13. All **subdivision** proposals and other **development** proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.
14. When a **structure** is partially located in a **SFHA**, the entire **structure** shall meet the requirements for **new construction** and **substantial improvements**.
15. When a **structure** is located in multiple **flood** hazard zones or in a **flood** hazard risk zone with multiple **base flood elevations**,

the provisions for the more restrictive **flood** hazard risk zone and highest **BFE** shall apply.

16. Fill material located within any **SFHA** or **Future Conditions Flood Hazard Area** used for a proposed **development** shall require certification by a professional engineer, supported by appropriate documentation, that such fill material will not raise the 100-year **floodplain** elevation on any upstream property during a **base flood** event.

B. Specific Standards

In all **SFHAs** and **Future Conditions Flood Hazard Areas** where **BFE** data has been provided, as set forth in **Section 11.2.1.**, the following provisions, in **addition** to Section **11.4.7.A.**, are required:

1. Residential Construction

New construction and **substantial improvement** of any residential **structure** (including **manufactured homes**) shall have the **reference level**, including **basement**, elevated no lower than the **regulatory flood protection elevation**, as defined in **Section 11.4.2.** of this ordinance.

2. Nonresidential Construction

New construction and **substantial improvement** of any commercial, **industrial**, or other non-residential **structure** shall have the **reference level**, including **basement**, elevated no lower than the **regulatory flood protection elevation**, as defined in **Section 11.2.3.** of this ordinance. **Structures** located in Zones A, AE, AH, AO, and X (Future) may be **floodproofed** to the **regulatory flood protection elevation** in lieu of elevation provided that all areas of the **structure**, together with attendant utility and sanitary **facilities**, below the **regulatory flood protection elevation** are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the **floodproofing** elevation shall be in accordance with **Section 11.4.8.D.12.** A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the **Floodplain Administrator** as set forth in **Section 11.4.5.D.**, along with the operational and maintenance plans.

3. **Manufactured Homes**

- a. New or replacement **manufactured homes** shall be elevated so that the **reference level** of the **manufactured home** is no lower than the **regulatory flood protection elevation**, as defined in **Section 11.4.2.** of this ordinance.

- b. **Manufactured homes** shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for **Manufactured Homes** adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.
- c. All enclosures or skirting below the **lowest floor** shall meet the requirements of **Section 11.4.7.B.4**.
- d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged **manufactured home parks** or **subdivisions** located within **flood prone areas**. This plan shall be filed with and approved by the **Floodplain Administrator** and the local emergency management coordinator.

4. **Elevated Buildings**

Fully enclosed area, of **new construction** and substantially improved **structures**, which is below the **lowest floor**:

- a. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, **building** access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- b. Shall not be temperature-controlled or conditioned;
- c. Shall be constructed entirely of **flood** resistant materials below the **regulatory flood protection elevation**;
- d. Shall include, in Zones A, AO, AE, AH, A99 and X (Future), **flood** openings to automatically equalize hydrostatic **flood** forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed all of the following minimum design criteria:
 - i. A minimum of two **flood** openings on different sides of each enclosed area subject to **flooding**.

- ii. The total net area of all **flood** openings must be at least one square inch for each square foot of enclosed area subject to **flooding**.
 - iii. If a **building** has more than one enclosed area, each enclosed area must have **flood** openings to allow floodwaters to automatically enter and exit.
 - iv. The bottom of all required **flood** openings shall be no higher than one foot above the adjacent grade.
 - v. **Flood** openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions.
 - vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require **flood** openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires **flood** openings as outlined above.
- e. Property owners shall be required to execute and record a **non-conversion agreement** prior to issuance of a **building** permit declaring that the area below the **lowest floor** shall not be improved, finished or otherwise converted to habitable space; Town of Garner will have the right to inspect the enclosed area. This agreement shall be recorded with the Wake County Register of Deeds and shall transfer with the property in perpetuity.

C. **Additions / Improvements**

1. **Additions** and/or improvements to **pre-FIRM structures** when the **addition** and/or improvements in combination with any interior modifications to the **existing structure** are:
 - a. Not a **substantial improvement**, the **addition** and/or improvements must be designed to minimize **flood** damages and must not be any more non-conforming than the **existing structure**.
 - b. A **substantial improvement**, both the **existing structure** and the **addition** and/or improvements must comply with the standards for **new construction**.
2. **Additions** to **post-FIRM structures** with no modifications to the **existing structure** other than a standard door in the common wall shall require only the **addition** to comply with the standards for **new construction**.
3. **Additions** and/or improvements to **post-FIRM structures** when the **addition** and/or improvements in combination with any interior modifications to the **existing structure** are:

- a. Not a **substantial improvement**, the **addition** and/or improvements only must comply with the standards for **new construction**.
 - b. A **substantial improvement**, both the **existing structure** and the **addition** and/or improvements must comply with the standards for **new construction**.
4. Any combination of repair, reconstruction, rehabilitation, **addition** or improvement of a **building** or **structure** taking place during a five year period, the cumulative cost of which equals or exceeds 50 percent of the **market value** of the **structure** before the improvement or repair is started must comply with the standards for **new construction**. For each **building** or **structure**, the five year period begins on the date of the first improvement or repair of that **building** or **structure** subsequent to the effective date of this ordinance. If the **structure** has sustained **substantial damage**, any repairs are considered **substantial improvement** regardless of the actual repair work performed. The requirement does not, however, include either:
- a. Any **project** for improvement of a **building** required to correct existing health, sanitary or safety code **violations** identified by the **building** official and that are the minimum necessary to assume safe living conditions; or
 - b. Any alteration of a **historic structure** provided that the alteration will not preclude the **structure's** continued designation as a **historic structure**.
5. Where an independent perimeter load-bearing wall is provided between the **addition** and the **existing building**, the **addition(s)** shall be considered a separate **building** and only the **addition** must comply with the standards for **new construction**.

D. Recreational Vehicles

Recreational vehicles shall either:

1. Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway **use** (a **recreational vehicle** is ready for highway **use** if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached **additions**); or
2. Meet all the requirements for **new construction**.

E. Temporary Nonresidential Structures

Prior to the issuance of a **floodplain development permit** for a temporary **structure**, the applicant must submit to the **Floodplain Administrator** a plan for the removal of such **structure(s)** in the event of a hurricane, flash **flood** or other type of **flood** warning notification. The

following information shall be submitted in writing to the **Floodplain Administrator** for review and written approval;

1. A specified time period for which the **temporary use** will be permitted. Time specified may not exceed three months, renewable up to one year;
2. The name, address, and phone number of the individual responsible for the removal of the temporary **structure**;
3. The time frame prior to the event at which a **structure** will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon **flood** warning notification);
4. A copy of the contract or other suitable instrument with the entity responsible for physical removal of the **structure**; and
5. Designation, accompanied by documentation, of a location outside the **SFHA** or **Future Conditions Flood Hazard Area**, to which the temporary **structure** will be moved.

F. **Accessory Structures**

When **accessory structures** (sheds, detached garages, etc.) are to be placed within a **SFHA** or **Future Conditions Flood Hazard Area**, the following criteria shall be met:

1. **Accessory structures** shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas).
2. **Accessory structures** shall not be temperature-controlled.
3. **Accessory structures** shall be designed to have low **flood** damage potential.
4. **Accessory structures** shall be constructed and placed on the **building** site so as to offer the minimum resistance to the flow of floodwaters.
5. **Accessory structures** shall be firmly anchored in accordance with **Section 11.4.7.A.1**. All service **facilities** such as electrical shall be installed in accordance with **Section 11.4.7.A.4**.
6. **Flood** openings to facilitate automatic equalization of hydrostatic **flood** forces shall be provided below **regulatory flood protection elevation** in conformance with **Section 11.4.7.B.4.c**.
7. An **accessory structure** with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or **floodproofing** certificate. Elevation or **floodproofing** certifications are required for all other **accessory structures** in accordance with **Section 11.2.3**.

G. Tanks

When gas and liquid storage tanks are to be placed within a **SFHA** or **Future Conditions Flood Hazard Area**, the following criteria shall be met:

1. Underground tanks. Underground tanks in **flood** hazard area shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the **design flood**, including the effects of buoyancy assuming the tank is empty;
2. Above-ground tanks, elevated. Above-ground tanks in **flood** hazard areas shall be elevated to or above the **Regulatory Flood Protection Elevation** on a supporting **structure** that is designed to prevent flotation, collapse or lateral movement during conditions of the **design flood**. Tank-supporting **structures** shall meet the foundation requirements of the applicable **flood** hazard area;
3. Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements shall be permitted in **flood** hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all **flood**-related and other loads, including the effects of buoyancy, during conditions of the **design flood** and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other **flood** forces acting on an empty tank during **design flood** conditions.
4. Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - a. At or above the **Regulatory Flood Protection Elevation** or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the **design flood**; and
 - b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the **design flood**.

H. Other **Development**

1. **Fences** in regulated **floodways** and NEAs that have the potential to block the passage of floodwaters, such as stockade **fences** and wire mesh **fences**, shall meet the limitations of this Section.
2. Retaining walls, sidewalks and **driveways** in regulated **floodways** and NEAs. Retaining walls and sidewalks and **driveways** that involve the placement of fill in regulated **floodways** shall meet the limitations of this Section.
3. Roads and **watercourse** crossings in regulated **floodways** and NEAs. Roads and **watercourse** crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians

to travel from one side of a **watercourse** to the other side, that **encroach** into regulated **floodways** shall meet the limitations of this Section.

11.2.6. Floodplain Standards

This section provides the standards for **floodplains** without established **BFEs**.

- A. Within the **SFHAs** designated as approximate zone and established in **Section 11.4.3.B.**, where no **BFE** data has been provided by FEMA, the following provisions, in **addition to Section 11.4.7.A.** shall apply:
1. No **encroachments**, including fill, **new construction**, **substantial improvements** or new **development** shall be permitted within a distance of 20 feet each side from top of **bank** or five times the width of the **stream**, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such **encroachments** shall not result in any increase in **flood** levels during the occurrence of the **base flood** discharge.
 2. The **BFE** used in determining the **regulatory flood protection elevation** shall be determined based on one of the following criteria set in priority order:
 - a. If **BFE** data is available from other sources, all **new construction** and **substantial improvements** within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or **floodproofed** in accordance with standards in sections **11.4.7.A** and **11.4.7.B.**
 - b. All **subdivision**, **manufactured home park** and other **development** proposals shall provide **BFE** data if **development** is greater than five acres or has more than 50 **lots/manufactured home** sites. Such **BFE** data shall be adopted by reference per **Section 11.4.3.B.** to be utilized in implementing this ordinance.
 - c. When **BFE** data is not available from a federal, state, or other source as outlined above, the **reference level** shall be elevated to or above the **regulatory flood protection elevation**, as defined in **Section 11.4.3.B.**

- B. Standards for **Riverine Floodplains** with **BFE** but without Established **Floodways** or **Non-encroachment Areas**

Along rivers and **streams** where **BFE** data is provided but neither **floodway** nor **non-encroachment areas** are identified for a **SFHA** on the FIRM or in the FIS report, the following requirements shall apply to all **development** within such areas:

1. Standards outlined in sections **11.4.7.A** and **11.4.7.B.**
2. Until a regulatory **floodway** or **non-encroachment area** is designated, no **encroachments**, including fill, **new construction**, **substantial improvements**, or other **development**, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the

cumulative effect of the proposed **development**, when combined with all other existing and anticipated **development**, will not increase the **water surface elevation** of the **base flood** more than one foot at any point within the community.

C. Floodways and Non-encroachment Areas

Areas designated as **floodways** or **non-encroachment areas** are located within the **SFHAs** established in **Section 11.2.2**. The **floodways** and **non-encroachment areas** are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential **projectiles**. The following provisions, in **addition** to standards outlined in sections **11.4.7.A** and **11.4.7.B.**, shall apply to all **development** within such areas:

1. Construction within **Floodways** Restricted.

No **development**, including **structures**, **fences**, fill, or storage of materials or equipment, are permitted within a **floodway** or the conservation **buffer** areas of specified **streams**, as defined above, except the following:

- a. Pasture, forestry, wildlife sanctuary, game farm, and similar agricultural, wildlife, and related **uses**.
- b. Lawns, gardens, play areas, and similar areas.
- c. Golf courses, tennis courts, archery ranges, picnic grounds, **parks**, hiking or horseback riding trails, **open space**, and similar private and public recreational **uses**, provided that golf courses must have retention ponds.
- d. Public water, **stormwater**, or sewer infrastructure and highways.
- e. No artificial obstruction may be located within any **floodway**, except as provided above. For purposes of this Section, an artificial obstruction is any obstruction, other than a natural obstruction, that can reduce the **flood**carrying capacity of a **stream**, or may accumulate debris and thereby reduce the **flood**carrying capacity of a **stream**. A natural obstruction includes any rock, tree, or **analogous** natural matter located within the **floodway** by a non-human cause.
- f. The **use** of fill materials within a **floodway** is prohibited unless certification by a registered professional engineer is provided demonstrating that no increase in **flood** levels during a **base flood** will result. Fill dirt within a **floodplain** shall be adequately stabilized to withstand the erosive force of the **base flood**.
- g. No new **building** construction or **substantial improvement** of an **existing building** may take place within any **floodway**.

2. No **encroachments**, including fill, **new construction**, **substantial improvements**, and other **developments** shall be permitted unless it has been demonstrated that:
 - a. The proposed **encroachment** would not result in any increase in the **flood** levels during the occurrence of the **base flood**, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the **Floodplain Administrator** prior to issuance of **floodplain development permit**, or
 - b. A **conditional letter of map revision** (CLOMR) has been approved by FEMA. A **letter of map revision** (LOMR) must also be obtained upon completion of the proposed **encroachment**.
3. If **Section 11.4.8.C.** is satisfied, all **development** shall comply with all applicable **flood** hazard reduction provisions of this Section.
4. No **manufactured homes** shall be permitted, except replacement **manufactured homes** in an existing **manufactured home park** or **subdivision**, provided the following provisions are met:
 - a. The anchoring and the elevation standards of **Section 11.4.7.B.3.**; and
 - b. The no **encroachment** standard of **Section 11.4.8.C.2.a.**

D. Standards for **Area of Shallow Flooding** (Zone AO)

Located within the **SFHAs** established in **Section 11.2.2.**, are areas designated as shallow **flooding** areas. These areas have special **flood** hazards associated with **base flood** depths of one to three feet where a clearly defined channel does not exist and where the path of **flooding** is unpredictable and indeterminate. In **addition** to sections **11.4.7.A** and **11.4.7.B.**, all **new construction** and **substantial improvements** shall meet the following requirements:

1. The **reference level** shall be elevated at least as high as the depth number specified on the FIRM, in feet, plus a **freeboard** of two feet, above the **highest adjacent grade**; or at least two feet above the **highest adjacent grade** plus a **freeboard** of two feet if no depth number is specified.
2. Non-residential **structures** may, in lieu of elevation, be **floodproofed** to the same level as required in **Section 11.4.7.B.2.** so that the **structure**, together with attendant utility and sanitary **facilities**, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per **Section 11.4.5.B.** and **Section 11.4.7.B.2.** Adequate drainage paths shall be provided around **structures** on slopes, to guide floodwaters around and away from proposed **structures**.

E. Standards for **Area of Shallow Flooding** (Zone AH)

Located within the **Special Flood Hazard Areas** established in **Section 11.2.2.**, are areas designated as shallow **flooding** areas. These areas are subject to inundation by one-percent-annual-chance shallow **flooding** (usually areas of ponding) where average depths are one to three feet. **Base Flood Elevations** are derived from detailed hydraulic analyses are shown in this zone. In **addition** to **Section 11.2.2.**, all **new construction** and **substantial improvements** shall meet the following requirements:

1. Adequate drainage paths shall be provided around **structures** on slopes, to guide floodwaters around and away from proposed **structures**.

Commentary:
When trees are shown on the landscaping plan, it is sufficient to identify them based on the landscaping materials they are meant to replace (e.g., canopy tree, understory tree, evergreen shrub, 24" DBH pine, etc).

11.3. TREE CONSERVATION, PRESERVATION, AND PROTECTION

11.3.1. Purpose

The purpose of this Section to preserve and protect existing tree coverage. Existing trees enhance aesthetic **appeal**, increase land values, produce oxygen, reduce carbon dioxide, and water runoff, and decrease urban heat buildup and soil erosion.

11.3.2. Tree Survey

- A. All applications for grading, **building**, demolition, land **use**, change of **use**, or rezoning permits on all property, except **single-family residential development**, shall require a tree survey.
- B. For the purposes of single **lot** residential construction or on a property with an **existing structure**, a “tree survey” shall be a rendering of the property which indicates the current or proposed footprint of any **structures** or hardscape, along with an indication of regulated trees which are to be retained, as well as those that are to be removed. In the case of commercial or mixed-use **development**, the requirement for obtaining a permit is that the survey will be prepared by a surveyor, registered forester, landscape architect, or certified arborist.
- C. When a tree survey is required, it shall include the following:
 1. All trees of eight-inch **DBH** or greater and all planted trees of two-inch **caliper** or greater and six feet in height that grow partially or wholly within the right-of-way, with type (abbreviated) and **DBH** next to each location.
 2. Any trees meeting the **DBH** standards for preservation.
 3. Any existing tree of eight inches **DBH** or greater within the first 15 feet of the portion of any **buffer** closest to the subject **development**.
 4. Location of mature specimens of other vegetation.
 5. Exception: Specimen trees located within areas identified for permanent protection, including the following areas, are not required to be inventoried:
 - a. **Floodway**.
 - b. **Floodway** fringe.
 - c. Preserved wetlands.
 - d. **Stream buffers**.
 - e. Undisturbed slopes greater than 3:1 (30 percent).

11.3.3. Significant or Specimen Tree Protection

- A. The permit-issuing authority may require any trees meeting the minimum **DBH** size listed below and or any trees of any diameter listed as rare species listed under the North Carolina Natural Heritage Program to be saved. A tree survey will be required. Such trees shall be required to be saved only when the permit-issuing authority concludes such trees are not inside or within 20 feet of the footprint of a proposed **structure** or will not require a preservation of more than 1,600 square feet in a vehicular area, **parking lot**, or other developed area.

TREE TYPE	TREE SIZE
Overstory Hardwood Tree	24-inch DBH or greater
Evergreen Tree	30-inch DBH or greater
Understory Tree	10-inch DBH or greater

- B. When **development** is unreasonably burdened by retaining such trees, the following criteria is used by the **developer** and staff to jointly prioritize the saving of as many significant or specimen trees as possible based on the following criteria:
1. General health or evidence of disease/insects.
 2. Size and age of tree.
 3. Expected longevity of species.
 4. Size at maturity.
 5. Severity of slope.

11.3.4. Tree Canopy Preservation Requirements

- A. All new **development** must meet the tree canopy preservation requirements outlined in the tables below. These standards can be achieved by preserving existing trees on the site, or by planting replacement trees. Trees in required **buffer yards** and easements, and **street trees** are typically used to meet these requirements. Preference is given to preserving existing trees, rather than preservation and planting, or exclusive planting, and this preference is reflected in the standards of the table.
- B. Water surface areas of ponds, lakes, or other surface water bodies (excluding **stormwater control structures**) shall be excluded from the total land area for the purposes of calculating tree cover requirements.
- C. Where the site or a portion of the site falls within a Neuse River Basin (NRB) riparian **buffer** area, at least 2 percent of the gross site area tree cover requirement shall be provided outside of the NRB riparian **buffer** areas.
- D. Tree Canopy Preservation Requirements
1. For residential **development**:

PRESERVED TREE COVER AREA	REPLACEMENT TREE COVER AREA	MINIMUM TOTAL TREE COVER AREA
18 percent	Plus 0 percent equals	18 percent
13.5 percent	Plus 5 percent equals	18.5 percent
9 percent	Plus 10 percent equals	19 percent
4.5 percent	Plus 15 percent equals	19.5 percent
0 percent	Plus 20 percent equals	20 percent

2. For nonresidential **development**:

PRESERVED TREE COVER AREA	REPLACEMENT TREE COVER AREA	MINIMUM TOTAL TREE COVER AREA
12 percent	Plus 0 percent equals	12 percent
9 percent	Plus 3.5 percent equals	12.5 percent
6 percent	Plus 7 percent equals	13 percent
3 percent	Plus 10.5 percent equals	13.5 percent
0 percent	Plus 14 percent equals	14 percent

E. Areas required to be undisturbed by other requirements of this UDO shall be presumed to meet requirements of this Section, provided applicable standards are met.

1. All preliminary **major subdivision** plans, **site plans**, **final plats**, and other types of plans or permits shall clearly indicate all tree preservation areas.
2. Existing or planted tree cover areas in new **subdivisions** are strongly encouraged to be located in common **open space** areas or protected **buffers**, where possible. Where this is not practical, perimeter **buffer** areas or conservation easement areas may be increased, provided the root zone of such trees can be protected during construction.

F. Tree Preservation Site Handling Requirements

See **Section 10.3.5. Installation**.

G. Replacement or Supplemental Tree Cover Requirements

1. Replacement or supplemental trees are required to meet the standards listed in the table herein.

DBH (INCHES)	CREDIT (SQUARE FEET)
Less than 1.0	No credit
1.0	100 square feet
1.5	150 square feet
2.0	175 square feet
2.5	200 square feet

DBH (INCHES)	CREDIT (SQUARE FEET)
Greater than 2.5	200 square feet + 25 square feet per 0.5 inches DBH greater than 2.5

2. At least 50 percent of the replacement trees shall be 2.5-inch **DBH** or larger.
3. At least 50 percent of the replacement trees must be large hardwoods native to this region.
4. The permit issuing authority shall have the authority to approve replacement trees of different sizes or species to better meet the purpose and intent of these regulations.

11.3.5. Preservation along Arterials and Major Thoroughfares

For **development** of new residential **lots** and new residential **subdivisions** abutting arterials and **major thoroughfares**, existing trees at or above four inches in **DBH** within 25 feet of the ultimate **street** right-of-way (post-**development**) must be preserved to the full extent of their drip line (root preservation area). These trees shall count towards the **street tree** requirement and buffering site interior landscaping, as applicable, as outlined in **Article 10**. This requirement does not apply to **driveways**, other planned access points or slope easements related to road widening where tree preservation is impracticable.

11.3.6. Preservation Incentives

A. Substitution

The following schedule outlines the minimum **DBH** for an existing tree to substitute for a new planting. To qualify, the trees must be in good health and quality, as determined by the **Planning Director**.

EXISTING TREE TYPE	DBH (INCHES)	SUBSTITUTED FOR
Canopy Tree	2.5 to 5.5 6.0 to 11.5 12.0+	1 Canopy Tree 2 Canopy Trees 4 Canopy Trees
Understory Tree	2.5 to 4.5 5.0 to 10.5 11.0+	1 Understory Tree 2 Understory Trees 2 Canopy Trees, <u>or</u> 4 Understory Trees, <u>or</u> 1 Canopy Tree and 3 Understory Trees
Large Shrub	2.5 to 4.5 5.0 to 8.5 9.0+	1 Large Shrub 2 Large Shrubs 4 Large Shrubs

B. Parking Requirement Reduction

1. The **Planning Director** shall permit up to a 10 percent reduction in the number of off-street **parking spaces** required on a **development** site if the reduction will preserve the root zones of existing healthy specimen trees.
2. The amount of reduction shall be determined after considering the following factors:
 - a. Any unique site conditions.
 - b. The parking needs of the **use**.

11.3.7. Exemptions for Timbering and Silviculture

Normal forestry activities on property taxed under present-use value standard or conducted pursuant to a forestry management plan, prepared, and approved by a forester registered according to G.S. Chapter 89B are exempt from tree preservation requirements.

- A. No forestry activities may take place on property until the property owner or his representative has obtained a forestry permit from the Town of Garner Planning Department. Failure to obtain a permit shall subject the owner to a fine not to exceed \$500.00. Each day the **violation** continues shall be considered a new **violation**, subject to a new penalty.
- B. Forestry activities are strongly encouraged to exclude all tree harvesting within the following perimeter **buffer** areas:
 1. A 60-foot-wide **buffer** along roadways or adjoining developed properties; and
 2. A 30-foot-wide **buffer** adjoining undeveloped properties.
- C. In cases where all trees or substantially all trees are removed from future perimeter **buffers** areas, the Town will not grant **site plan** or **subdivision** plan approval for said property for a period of five years following the harvest of such trees. The five-year waiting period may be waived if the Town Council, by a three-fourths majority vote, determines a **project** to be desirable and grants the right to immediate **development** on recently timbered land where no perimeter **buffer** was kept. In these instances, any required perimeter **buffers** shall be fully planted or installed prior to any **development** occurring on the site.

12.1. PURPOSE AND APPLICABILITY

12.1.1. Purpose

In the interest of public health, safety, and welfare, pursuant to its zoning authority granted by G.S. Chapter 160D, the Town of Garner regulates **signs** within its **planning jurisdiction**. The Town intends to:

- A. Encourage effective communication through **signage**;
- B. Improve pedestrian and vehicular traffic safety and promote wayfinding;
- C. Minimize adverse effects of **signs**; and
- D. Create **design** cohesion to reflect Garner's aesthetic and promote community character.

12.1.2. Applicability

Unless otherwise stipulated in this Section, these regulations shall apply to all **signs** in the Town's **planning jurisdiction**.

12.2. GENERAL REGULATIONS

12.2.1. Computation

A. Sign Area

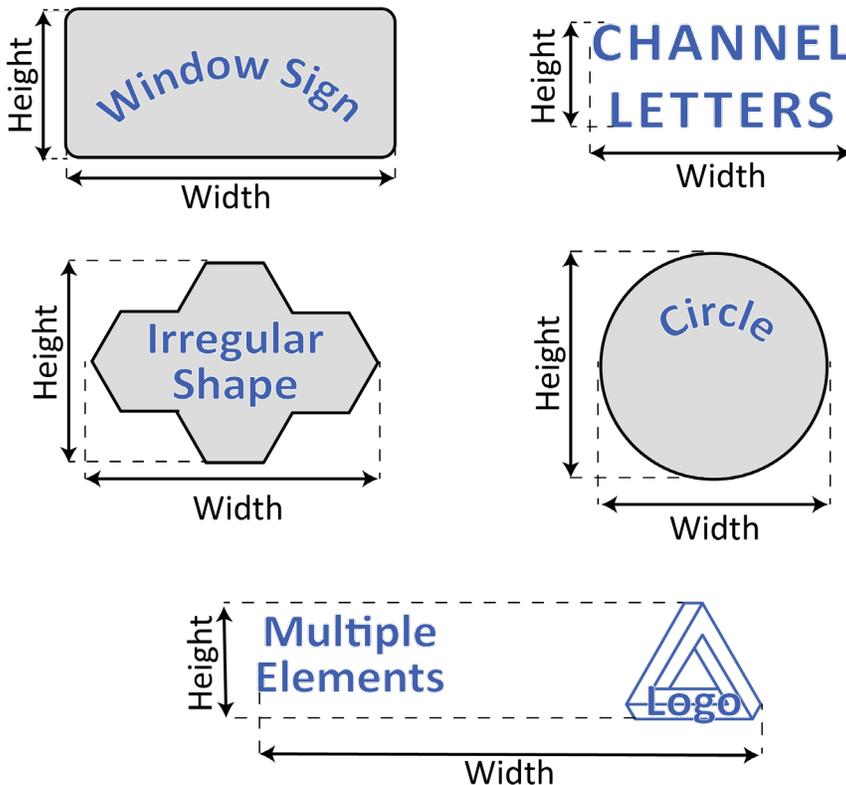
1. Freestanding Signs and Flags

The area of a **sign** shall include all letters, words, symbols, graphics, and backgrounds, whether open or enclosed, of the display. Calculations shall omit the supporting **structure** or bracing of the **sign** unless there is messaging on the supporting **structure** or bracing.

2. Wall Signs

Where **signs** are attached to walls, **building**, canopies, awnings, or windows, the **sign** area shall be the area of the smallest rectangle, with bottom edges parallel or perpendicular to the ground, completely encompassing all letters, words, symbols, and backgrounds of a color different than the natural color of the wall.

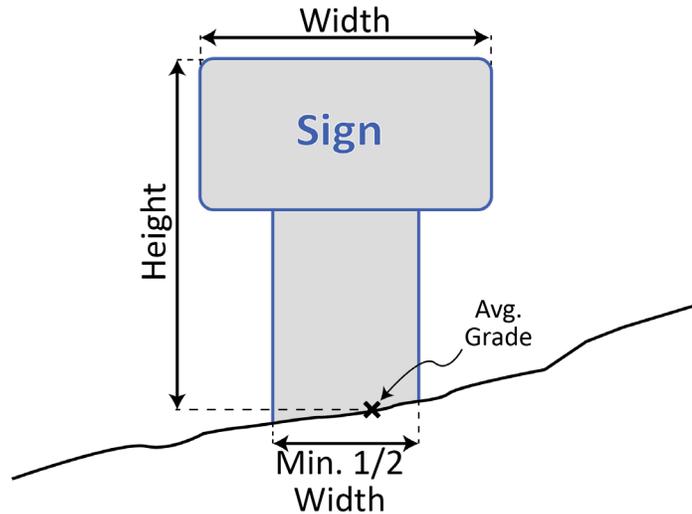
Sign Area



B. Height

The height of a **sign** is defined as the distance from the base of the **sign** at its average grade to the top of the highest attached component of the **sign**.

Sign Height



12.2.2. Location and Construction Standards

The following regulations shall apply to **signs** in all districts. Additional standards may apply to specific **sign** types in specific locations.

A. **Signs** Prohibited in the Right-of-Way

Except for governmental road and directional **signs**, no **sign** or portion thereof may be placed into or overhang any right-of-way. See Town of Garner Engineering Manual for allowable **encroachments** in the right-of-way.

B. **Signs** Below Street Elevation

1. Where **street** or site elevation limits visibility of a **freestanding sign** of maximum height in a non-residential district, the maximum height of the **sign** may be measured from the grade of the **street** immediately in front of the **sign**.
2. Unless conflicting with other provisions of this UDO, the **sign** shall be located at the point along said frontage at which reasonable visibility from said **street** is first achieved within the allowable maximum height.

C. **Sign** Materials

1. All **sign** materials shall be durable so that a **sign** shall maintain its original appearance over time.
2. Particle board, coroplast, and plywood are prohibited for permanent **signage**.
3. Any paint must be able to maintain its appearance outdoors.
4. Enamels must be baked to prevent deterioration.
5. All **signs** must be properly sealed to withstand inclement weather.

D. Supporting **Structures**

1. All **signs** shall be fully encased or skirted at a minimum width that is one-half of the width of the **sign** width on the associated side.
2. Supportive structural materials shall be consistent with or exceed the quality of the materials used for the permanent **structure** on the site.
3. The supportive **structure** of a **sign** may have decorative appurtenances that exceed the maximum height of the **sign**, up to a maximum of an additional 75 percent of the allowable **sign** height or 12 feet, whichever is shorter, provided the following are met:
 - a. The additional **structure** protrusion does not advertise or contain any messaging;
 - b. The additional **structure** or protrusion does not extend outside of the allowable **sign** footprint more than two feet in any direction; and
 - c. The additional **structure** or protrusion meets all other standards herein (e.g., does not **encroach** into right-of-way, block visibility at **street** intersection).

E. Illumination and Sign Lighting

Illumination of **signs** is allowed in accordance with the following provisions:

1. **Signs**, except off-premises advertising **signs**, shall not be illuminated outside of business hours.
2. No illuminated **sign** shall be permitted within 50 feet of any residential district.
3. No **sign** within 300 feet of a residential zone may be illuminated between 12:00 a.m. and 6:00 a.m., unless the light is entirely shielded from the neighboring property.
4. Lighting directed toward a **sign** shall be shielded so that it illuminates only the face of the **sign** and does not shine directly into a public right-of-way or residential premises.
5. All lighted **signs** shall comply with state and local **building** and electrical codes and shall bear the label of Underwriters Laboratories, Inc. All wiring to **freestanding signs** or to associated lighting equipment shall be underground or, if that is impracticable, completely screened from view.
6. Poles, canopies, and other supporting or auxiliary **structures** shall not be internally illuminated.
7. Signs associated with a **home occupation** shall not be illuminated.
8. Signs shall not have a separate electrical meter on the **sign** itself or on nearby mechanical equipment dedicated solely to the **sign**.

Any electrical or mechanical equipment shall be camouflaged or screened from view.

12.2.3. Changeable Copy

A changeable copy or marquee **sign** shall be erected only in combination with an identification **sign** and shall be included in the computation of **sign** area.

12.3. PERMANENT SIGN QUANTITY AND DIMENSIONAL STANDARDS

12.3.1. General Standards

ZONING DISTRICT	SIGN TYPE	MAXIMUM TOTAL SIGN AREA PER LOT	MAX. NUMBER	MAX. HEIGHT
RESIDENTIAL DISTRICTS (RA, R2, R4, R8, MF-A, MF-B, RMH)	Freestanding: Permitted Home Occupations and Overnight Accommodation Uses	4 square feet	1	4 feet
	Freestanding: Non-Residential and Non-Overnight Accommodation Uses	32 square feet	1	5 feet
	Wall: Non-Residential Uses	24 square feet	1	5 feet
	Residential Subdivision Signs	See 12.3.4.D.		
NON-RESIDENTIAL AND MIXED-USE DISTRICTS (NMX, CMX, TBD, AC, LI, HI)	Freestanding: 100 square feet maximum total all freestanding and wall signs	60 square feet	1 per street frontage, 2 maximum	12 feet
	Projecting signs	10 square feet	1 per street frontage, 2 maximum	2

12.3.2. Freestanding Sign Standards

- A. **Freestanding signs** shall be securely fastened to the ground so that there is virtually no danger that the **sign** may be moved by wind or other forces of nature and cause injury to persons or property. All applications for a **freestanding sign permit** shall be accompanied by an engineer’s sealed footing drawing and calculations testifying to the ability of the **sign** to withstand 100 mph winds.
- B. No **freestanding sign** shall **encroach** into any right-of-way.
- C. The Town encourages the **use** of NCDOT’s specific information signing program (**LOGO** Program) in the LAHO district.
- D. Where possible, the distance between **freestanding signs** (including **multi-tenant signs**) should be at least 150 feet.
- E. All freestanding **outparcel signs** shall be located on-site only and shall be separated by a minimum distance of 100 feet.
- F. Planted Base
 - 1. The base of every permanent **freestanding sign** that requires a **sign permit** shall be landscaped, except for those with a brick or masonry monument base.
 - 2. The size of the planted landscape area shall be determined by multiplying the height of the **sign** by the width of the **sign** (widest

dimension), divided by two, and distributed equally around the perimeter of the base.

3. The planted landscape area shall contain materials such as but not limited to the following: vegetative ground covers, decorative grasses, perennials, dwarf or miniature shrubs, and mulch. Paving and artificial plant materials are prohibited.
4. Landscaping materials in front of the **sign** face shall not exceed three feet in height.
5. The **freestanding sign** area shall be at least three feet above grade to prevent the landscaping from interfering with the **sign** message.
6. In no case shall the landscaping obscure a **sign's** messaging.
7. Any trees associated with or near the **sign** shall be limbed up to a minimum of 10 feet, as soon as practicable.
8. A sketch plan of the **landscaped area** with the name, quantity, and spacing of plants shall be presented with the **sign permit** application to the **Planning Director**.
9. Poles and other supporting **structures** shall not be internally illuminated.

12.3.3. Wall Sign Standards

- A. A **wall sign** is mounted on an exterior façade, with the front of the **sign** parallel with the supporting façade wall.
- B. No **sign** may **project** more than 18 inches from the **building** wall.
- C. No **wall sign** shall **project** above the roofline (e.g. at the top of parapet or at the eave, unless the pitch of the roof above the eave classifies that roof section as a wall).
- D. A **sign** may extend down from a roof or porch or walkway overhang not more than 18 inches (to the bottom of the **sign**), provided that a minimum clearance of seven feet between the bottom of the **sign** and the walking surface is maintained.
- E. Displays on roofs of residential **structures** erected in connection with holiday observance are not included in the prohibitions of this Section.
- F. Projecting **Wall Signs**
 1. A projecting **sign** is mounted perpendicular to the supporting wall and is intended to be read by approaching pedestrians.
 2. Projecting **signs** may not be lower than seven feet from the adjacent sidewalk at their lowest point.
 3. Projecting **signs** may not extend more than four feet from the supporting wall.

12.3.4. Other Permanent Sign Standards

A. Off-Premises Advertising Signs (Billboards)

1. Off-premises advertising **signs** are permitted only in LI or HI districts; no off-premises advertising **signs** are permitted except along and facing the CHO district, as set forth in this Section. No off-premises advertising **signs** shall be permitted along and/or facing the LAHO district.
2. Off-premises advertising **signs** shall be spaced a minimum of 2,500 feet apart, measured between **signs** facing the same **street**.
3. Where the structural support is visible from any **street**, the display shall be constructed on a single steel pole.
4. The area directly beneath the **sign** (i.e., the area running the width of the **sign** and five feet in each direction in front of and behind the **sign**) shall be kept free from debris or undergrowth. Appropriate landscaping shall be placed and maintained at the base of the structural support of every off-premises advertising **sign** erected.
5. All displays shall be maintained in a state of good repair. The backs and supporting **structures** of all off-premises advertising **signs** shall be painted and maintained in a neutral color to blend with the natural environment.
6. While minor repairs, maintenance, and the posting of new messages on off-premises advertising **signs** made nonconforming by this UDO are permitted, no changes in the size or construction of the **sign** shall be permitted except to make the **sign** comply with the regulations herein.
7. Off-premises advertising **signs** may be placed back-to-back or in a V-type construction. Not more than one face is allowed on each side of the display.
8. Size, height, and setback requirements are as follows:

STANDARD	DIMENSION
Maximum Sign Area	150 square feet
Minimum Setback	50 feet
Maximum Height	25 feet

B. Multi-Tenant Signs

1. Freestanding
 - a. The minimum separation between **freestanding signs** in multi-tenant **developments** is 300 feet.
 - b. Includes, but is not limited to, **shopping center** identification **signs**, multiple business **signs**, and directory **signs**.
 - c. Dimensional Standards

SIGN TYPE	MAX. TOTAL SIGN AREA	MAX. NUMBER OF SIGNS	MAX. HEIGHT
Freestanding	72 square feet	2 per exterior street frontage (4 maximum)	12 feet

2. Wall – Dimensional Standards

SIGN TYPE	MAX. TOTAL SIGN AREA	MAX. NUMBER OF SIGNS	MAX. HEIGHT
Wall	15 percent of wall area	Lesser of 1 per business or tenant space per exterior street frontage (3 maximum)	n/a

C. Electronic Displays

1. Electronic displays may be permitted with a free-standing **monument sign** and include changeable copy messages. Such displays shall not be permitted on a **wall sign**. All electronic displays shall meet the following standards:
 - a. The square footage of the electronic display area and the primary **sign** area together shall not exceed the total allowable **sign** area for that **use** and/or zoning district.
 - b. The electronic display area may not exceed 40 percent of the total **sign** area.
 - c. The electronic display shall be physically attached to the primary **sign**.
 - d. The total electronic display, defined as both sides of the **sign**, or any portion thereof, may change only one time per hour over a 24-hour period. This restriction does not apply to **signs** displaying emergency information during publicly declared local, state, or national emergencies or disasters.
 - e. Gas **sales** or **convenience stores** with gas **sales** displaying digital gas prices must comply with the requirements of this Section and all other applicable **sign** requirements, except gas price changes are not restricted to one time per day. In cases where a **freestanding sign** does not exist for the business, digital gas price **wall signs** may be allowed to locate on a canopy or its support columns subject to all applicable **sign** ordinance requirements.
2. Electronic displays are not permitted to have scrolling, moving, rotating, fluttering, blinking, or flashing elements. In **addition**, such **signs** are not permitted to have any animation, video, or audio elements.
3. Electronic displays are limited to one color. Background colors are not permitted.

4. Electronic displays are prohibited on off-premises advertising **signs**.
5. Electronic displays shall not have an undue brightness, which shall be defined as 5,000 nits during the day and 500 nits at night.
6. Electronic displays that are part of multi-tenant **signs** including, but not limited to, **shopping center identification signs** or multiple business **signs**, shall comply with the requirements of this Section. Such **signs** will not be permitted until operational guidelines on how the electronic display will be used have been approved by the Town of Garner as part of a **project's sign permit** application.

D. Residential **Subdivision Signs**

1. Each individual residential **subdivision** or multifamily **development** is permitted the option of having one freestanding **monument sign** to be located at the major entrance to the **development** with a single side of the **sign** not to exceed 32 square feet in area or five feet in height, or two freestanding **monument signs** with single faces not to exceed 16 square feet and five feet in height. The permit issuing authority may allow deviations from the dimensional requirements of this Section if it finds that such deviation will maintain an appropriate appearance and will not impact **public safety**. The maximum deviation permissible under this Section is 30 percent.
2. A single freestanding residential **subdivision sign** may be located within a median of a public right-of-way, at the major entrance to the **development** if such entrance is divided by a median with dimensions of minimum length of 50 feet and minimum width of 10 feet. A **sign** located in the median of a public right-of-way shall be located a minimum of 10 feet from the end of the median radius and shall not exceed 3.5 feet in height. The permit issuing authority may allow deviations from the dimensional requirements of this Section if it finds that such deviation will maintain an appropriate appearance and will not impact **public safety**. The maximum deviation permissible under section is 30 percent.
3. All other entrances for each distinct phase of a residential **subdivision** or multifamily **development** are permitted one freestanding **monument sign** having a maximum single side surface area of 16 square feet and four feet in height.
4. For all residential **subdivision signs**, the height limitation shall apply to the **sign** as well as any support devices such as, but not limited to, a wall, monument, **fence**, or similar architectural features.

12.4. STANDARDS FOR TEMPORARY SIGNS SUBJECT TO PERMIT

The application for the permit for the **sign** and the display of such **signage** constitutes authorization for the Town to enter upon such private property to inspect and/or remove the **sign** pursuant to the standards of this UDO.

12.4.1. Construction Site Identification Signs

Construction site identification **signs** require a permit and must meet the following standards:

- A. Not more than one such **sign** may be erected per site.
- B. The **sign** may not exceed 32 square feet in area or six feet in height.
- C. Permits for such **signs** shall be limited to a period of one year, but the permit may be renewed annually.
- D. For construction **fence** wraps, see **Section 12.6.3**.

12.4.2. Special Events Signs or Banners

Special event **signs** or banners require a permit and must meet the following standards:

- A. Advertising on-site must be on private property and placed no closer than 10 feet back from the curb line or edge of pavement.
- B. Not more than one such **sign** or banner per site is permitted at any one time.
- C. No **sign** or banner shall exceed 32 square feet in area and shall meet all other requirements.
- D. Permits for such banners or **signs** shall be limited to 30 days per permit and no more than four times each year.
- E. Any such **sign** or banner shall be removed within seven days after the concluding date of the event that was advertised.

12.4.3. Off-Premises Agricultural Signs

Off-premises, directional **signs** for seasonal U-pick farm operations or agricultural markets are permitted and shall meet the following standards:

- A. Any such **sign** shall not exceed 16 square feet in area and six feet in height.
- B. Permits shall be limited to a maximum of 60 days from the date of issue and require the written permission of the property owner or his agent for such **use** of his land.
- C. Signs on bona fide farms are exempt from permitting requirements.

12.5. PROHIBITED SIGNS

Apart from exemptions and express permissions stated within this UDO, the following **signs** are prohibited in all districts:

12.5.1. Signs Resembling Official Signs or Signals

Any non-government **sign** which by its location, shape, size, message, color, or operation would tend to obstruct the view of or be confused with official traffic or railroad **signs**, signals, devices, or other **signs** erected by governmental agencies.

12.5.2. Signs Obstructing Sight Lines and Access

Any **sign** which interferes with the view necessary for motorists, bicyclists, or pedestrians to proceed safely through intersections, or to enter onto, or exit from public **streets**, private roads or **driveways**.

12.5.3. Signs Obstructing Building Ingress/Egress

Any **sign** placed or shaped so as to interfere with or obstruct any window, door, fire escape, stairway, walkway, or other opening intended to provide ingress or egress for any **building**.

12.5.4. Animated Signs

Except for otherwise permitted herein, any **sign** displaying blinking, flashing or intermittent lights, lights of changing degrees of intensity, rotating lights, animation, and moving parts or **signs** giving the illusion of movement whether by natural, electrical, or mechanical means; including banners, flutter/feather flags, propellers, sun blades, and similar devices.

12.5.5. Signs Lighter than Air

Devices such as balloons, blimps, or similar types of lighter-than-air objects, except those which are subject to Federal Aviation Administration regulations.

12.5.6. Signs on Public Property

Any **sign** installed or placed on public property or within a public right-of-way. Such **sign** shall be forfeited to the public and is subject to confiscation and **disposal**.

12.5.7. Signs of Roadside Features and Appurtenances

Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other **signs**, benches, **fences**, or refuse containers unless specifically allowed elsewhere in this Article.

12.5.8. Portable Signs

Portable **signs**, including any **sign** displayed on or painted on vehicles or trailers driven or strategically parked primarily for the purpose of attracting attention.

12.5.9. Off-Premises Signs

Any commercial **sign** not located on the premises for which it advertises unless otherwise permitted herein.

12.5.10. Neon Signs

Any electronic discharge tubing manufactured into shapes that form letters, parts of letter, skeleton tubing, or other decorative elements or **logos** and filled with various inert gases that are affixed to the exterior of the **building**.

12.5.11. Pole Signs

Any **sign** which is mounted on a freestanding pole or poles.

12.5.12. Roof Signs

Any **sign** extending above or placed upon any roof surface, unless permitted as a **wall sign** in conformance with **Section 12.3.3**.

12.5.13. Other

- A. Any **temporary sign** or banner, except as specifically permitted by this Article.
- B. Any **sign** with exposed electrical wiring.
- C. Any **sign** or portion thereof placed into or overhanging any right-of-way.
- D. Rope lighting displays, except those that fall under the specifications of **Section 10.2.6. Accent Lighting**.
- E. All other **signs** not expressly permitted in this Ordinance.

Commentary:

The intent of subsection H is to prohibit vehicles that are parked in prominent locations for **signage** purposes in cases where there is no regular **use** of the vehicle in the business operation (i.e. the vehicle is not moved on any regular basis). Commercial vehicles that are regularly used as part of business are not restricted under this Section.

12.6. OTHER SIGNS ALLOWED WITHOUT A PERMIT

The following **signs** may be erected and maintained in all districts without a permit. These may be referred to as “exempt **signs**”, in that they are exempt from obtaining a **sign permit** but must adhere to all other applicable regulations.

12.6.1. Automobile Inspection Signs

One North Carolina automobile inspections **sign** located on the **building** or on a permitted **freestanding sign**, and not exceeding 10 square feet.

12.6.2. Bulletin Boards

Bulletin boards no more than 12 square feet in area are allowed provided:

- A. They are for public, charitable, or **religious institutions**; and
- B. They are located on the same premises as the institution being served.

12.6.3. Construction Fence Wraps

Use of construction-related **fence** wraps must comply with G.S. § 160D-908.

12.6.4. Flags

Flags or insignia of any governmental, civic, or non-profit organization when not displayed in connection with a commercial venture or an advertising device and when located on the same site as the organization provided:

- A. The maximum height for such does not exceed 30 feet or the height of the tallest **principal building** on the site whichever is greater; and
- B. The maximum size does not exceed 32 square feet.

12.6.5. Free-Standing Vending/Dispensing Units

- A. Includes, but is not limited to, ATMs, gas pumps, and other permitted **retail** vending boxes.
- B. Each unit face is limited to 2 square feet of **signage** area.
- C. No **signage** is permitted to **project** more than 12 inches above or to the sides of the vending box or machine’s housing.

12.6.6. Glass Door and Window Signs

- A. **Signs** may not cover more than 30 percent of the window or door area in nonresidential **buildings**.
- B. Enough clear area shall be maintained on glass doors to allow adequate vision to ensure safe **use** by people of all heights.
- C. See **Section 9.2.3. Transparency** for overall **building** transparency standards.

12.6.7. Temporary Yard Signs

- A. At any time, each **lot** is allowed one three-square-foot, non-illuminated **sign** per **street** frontage. Such **signs** shall be of a rigid material, mounted on metal or wood supports designed to be inserted into a grassed or dirt surface, and placed on the private property (with permission of the owner) at least 10 feet behind the right-of-way or edge of pavement.
- B. These **signs** shall not exceed 4 feet in height and shall not be placed so as to interfere with sight distance.
- C. Beginning 30 days prior to the beginning of early voting for any scheduled primary or election, as established by the North Carolina Board of Elections, and ending 10 days following the primary or election, this limit on the number of temporary yard **signs** that may be displayed is suspended for parcels with a residential **use**. All other regulations associated with such **signage** shall remain in effect during such period of suspension.

12.6.8. Political Signage

Political **signage** as regulated by G.S. § 136-32, Regulation of Signs.

12.6.9. Required Public Signs

Any **signs** erected pursuant to federal, state, or local law, including those erected by public and semi-public utilities, addresses, and other emergency response identification **signs**, and wayfinding **signage** approved as part of a site or **subdivision** pedestrian circulation and traffic control plan.

12.6.10. Outdoor Recreation Venue Signs

- A. **Signs** not exceeding mounted to recreational **structures** (e.g., sport field **fences**, scoreboards, concession stands) in such a manner that the **sign** area does extend beyond the surface area of the **structure** to which it is mounted, does not exceed 25 feet in height, is unlit, and is inwardly faced so as to be visible only to event attendees.
- B. **Sign** area is restricted as follows:
 1. For **signs** that are zero to 50 feet from the road right-of-way: 50 square feet maximum.
 2. For **signs** 51 to 150 feet from the road right-of-way: 150 square feet maximum.
 3. For **signs** greater than 150 feet from right-of-way: 300 square feet maximum.

12.6.11. Vehicle Wrap Signs

Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily driven or strategically parked to be used as a **sign**, provided:

- A. The vehicle is road worthy and is regularly used as part of the business operation;
- B. The vehicle displays a current license that is registered to said vehicle;
and
- C. The vehicle displays any required North Carolina inspection decal.

12.7. SIGN COMPLIANCE AND MAINTENANCE

12.7.1. Nonconforming Signs

See *Article 2. Nonconformities*.

12.7.2. Repair and Removal

- A. Whenever **use** of a **building** or premises by a specific business or activity is **discontinued** for that business or activity, the **sign** shall immediately cease to be illuminated and shall be removed within a period of 90 days. Failure to remove the **sign** in the allotted time shall constitute **abandonment** of the **sign** and is sufficient grounds to order the **sign's** removal.
- B. Every **sign** and **sign structure** shall be maintained in good condition. Said **signs** and **structures** not being in good condition are those that meet any of the following criteria:
 1. A **sign** or **sign structure** with more than five percent of its surface area covered with peeling paint, chipped corners, rust, mud, broken parts and pieces, or other unsightly conditions for a period of greater than 15 successive days;
 2. A **sign** or **sign structure** with bent or broken **sign** facing, broken supports, loose appendages, or struts or leaning more than fifteen percent from vertical or original design specifications for a period greater than 15 successive days; or
 3. A **sign** or **sign structure** with weeds, trees, vines, or other vegetation growing upon it, that obscures the view of the **sign** from the **street** or right-of-way from which it is to be viewed, for a period greater than 10 successive days.
- C. The **Planning Director** shall have the authority to order painting, repair, alteration, or removal of any **sign** or **sign structure** which is not in good condition by reason of inadequate maintenance, dilapidation, obsolescence, or **abandonment**.
- D. Failure to comply with such an order to paint, repair, alter, or remove a **sign** or **sign structure** not in good condition may result in further enforcement and revocation of permit approvals in accordance with *Article 7. Enforcement*.

ARTICLE 13. DEFINITIONS

13.1. GENERAL

For the purpose of this UDO certain words shall be interpreted as follows:

- A. "Town" means the Town of Garner, North Carolina.
- B. "Governing authority", "Town Council", and "Council" means the Mayor and Town Council of the Town of Garner, North Carolina.
- C. "Administrator" means the Planning Department under the direction of the **Planning Director**.
- D. "Zoning map" means the official zoning map of the Town of Garner, North Carolina.
- E. Words in the present tense include the future tense.
- F. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- G. The word "person" includes a firm, association, corporation, trust, and company as well as an individual.
- H. The word "**structure**" is inclusive of the word "**building**."
- I. The word "**lot**" is inclusive of the words, "plot," "parcel," or "tract."
- J. The words "will" and "shall" are always mandatory and not merely directory.
- K. The word "may" is optional or discretionary, but "may not" is mandatory.
- L. All terms not explicitly defined in this document are defined by their Merriam-Webster dictionary definitions.

13.2. DEFINED TERMS

Unless otherwise provided, or unless clearly required by the context, the terms defined in this Section shall have one meaning indicated when used in this UDO.

For matters regarding the **floodplain** ordinance, please refer to **Section 11.4.**, where **flood** ordinance-specific definitions are supplied.

13.2.1. A

Abandoned vehicles. A vehicle that has been left upon a **street** or highway in **violation** of a law or ordinance prohibiting parking; or is left on property owned or operated by the city for longer than 24 hours; or is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or is left on any public **street** or highway for longer than seven days or is determined by law enforcement to be a hazard to the motoring public.

Access easement. An **access easement** is intended to provide connections to landlocked properties created prior to the adoption of land **use** ordinance requirements for the Town in 1984. It may also, in rare cases, be used to provide access for a new **subdivision** not to exceed three **lots**.

Accessory dwelling unit. An **accessory dwelling unit** (ADU) is a self-contained **dwelling unit** - includes a sleeping area, kitchen, and bathroom, as well as its own external entrance - that is constructed on a **lot** in **addition** to an existing single-family residence. The ADU **use** is **subordinate** to the principal **dwelling** and can function autonomously if necessary.

Accessory solar energy system. A collection of solar panels and related equipment designed to convert sunlight into electrical power for direct consumption by the principal on-site **use**. **Accessory solar energy systems** may be ground-mounted, roof-mounted, or integrated into the **building** design, and are small and/or limited in scale.

Accessory use. A **use** that exists on the same **lot** as another separate principal **use** and constitutes only an customary, **subordinate**, or insubstantial part of the total activity on a **lot**. Must be permitted according to the **Table of Permitted Uses** in **Article 6**. See also **Article 11. Environmental and Floodplain**.

Accessory structure. A **building** that exists on the same **lot** with the principal **structure** and is **subordinate** in size and purpose to the principal **use**.

Addition. Any construction that increases the size of a **structure** in terms of site coverage, height, length, width, or **gross floor area**.

Administrative appeal. An **appeal** of an **administrative decision** to the BOA.

Administrative decision. Decisions made in the implementation, administration, or enforcement of **development** regulations that involve the **determination** of facts and the application of objective standards set forth in this Ordinance.

Adult care home. Subject to G.S. Chapter 131D, assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or **hospice** agencies. See also “**Family care home.**”

Adult uses. See “**Sexually-oriented business.**”

Agriculture. Activities that primarily involve raising, producing, or keeping plants or animals, forest management, tree farms, and timber areas. Also includes direct **sales** of such products at wholesale. See also “**Bona fide farm purposes.**”

Ambulatory health and emergency care facility. A stand-alone emergency department which operates under the governance of a **hospital** operator and is licensed by the State of North Carolina pursuant to the **Hospital** Licensure Act, G.S. Chapter 131E Article 5, as amended. A **heliport** may be considered a customary **accessory use** for this type of health care **facility** provided all applicable sections of the UDO are met.

ANSI. The American National Standards Institute or its successor bodies.

Antenna. Equipment designed to transmit or receive electromagnetic waves, including but not limited to, radio, telephonic, or electronic signals.

Appeal. A challenge of an **administrative, legislative, or quasi-judicial decision** to a higher authority or superior court.

Area of shallow flooding. See **Article 11. Environmental and Floodplain.**

Area of special flood hazard. See **Article 11. Environmental and Floodplain.**

Art gallery. An establishment in which works of visual art are sold, loaned, or displayed. This does not include **libraries** or **museums** with art displays.

Assembly. A site or **facility** open to the public or membership groups for social, civic, political, educational or (generally passive) recreational purposes.

Assisted living facility. A **facility** which is (i) operated under State law to provide residential care for the aged or disabled whose principal need is a home which provides personal care appropriate to their age or disability; or (ii) meets the requirements for licensure under G.S. Chapter 131D.

Aviation service and freight. Aviation service firms engaged in storage, repair, and/or servicing of airplanes, helicopters, and aviation equipment; charter aviation services; flying-related education; and/or **warehousing** related to air shipping.

A-weighted sound pressure level. The **sound pressure level** as measured with a **sound level** meter using the A-weighting network. The symbol for this standard is **dB(A)**.

13.2.2. B

Bank or financial institution. A **use** or **facility** providing banking, savings and loan, credit union, or mortgage services. May include an ATM as a customary **accessory use**.

Bar. A **use** or **facility** engaged primarily in the preparation and **retail** sale of alcoholic beverages for consumption on the premises. This **use** is also known as **tavern, bar, nightclub** or similar **use**; but does not include **restaurant** or alcohol **sales** for off-premises consumption.

Base flood. See **Article 11. Environmental and Floodplain**.

Base flood elevation (BFE). See **Article 11. Environmental and Floodplain**.

Basement. See **Article 11. Environmental and Floodplain**.

Bed and breakfast home. A business in a private home of not more than eight guest rooms that offers bed and breakfast accommodations for a period of less than one week and that (a) does not serve food or drink to the general public for pay; (b) serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals, only to overnight guests of the home; (c) includes the price of breakfast in the room rate (the price of additional meals served shall be listed as a separate charge on the overnight guest's bill rate at the conclusion of the overnight guest's stay); and (d) is the permanent residence of the owner or the manager of the business.

Bed and breakfast inn. A business of at least nine but not more than 12 guest rooms that offers bed and breakfast accommodations for a period of less than one week, and that (a) does not serve food or drink to the general public for pay; (b) serves the breakfast meal, the lunch meal, the dinner meal, or a combination of all or some of these three meals only to overnight guests of the business; (c) includes the price of breakfast in the room rate (the price of additional meals served shall be listed as separate charge on the overnight guest's bill at the conclusion of the guest's stay); and (d) is the permanent residence of the owner or the manager of the business.

Best management practices (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters to achieve water quality protection goals.

Boarding house. A rooming house or a **structure** which contains four or more rooms, each of which have no kitchen **facilities**, and are designed or intended to be used for residential occupancy on a rental basis.

Bona fide farm purposes. Subject to the restriction of G.S. § 160D-903, purposes including the **production** and activities relating or customary to the **production** of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, **livestock**, poultry, and all other forms of **agriculture**.

Buffer, landscaping. The area of undisturbed land between different, adjacent zoning districts. Performs the dual role of providing horizontal separation and vertical screening. The width and type vary according to the zoning district of the subject and adjacent property.

Buffer, stream. The area of natural or planted vegetation through which **stormwater** runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The **buffer** is measured landward from the normal **pool** elevation of impounded **structures** and from the **bank** of each side of the **streams** or rivers. Includes riparian **buffers** adjacent to the Neuse River per 15A NCAC 02B .0714.

Building. Subject to the restriction of G.S. § 160D-706(b), any **structure** used or intended for supporting or sheltering any **use** or occupancy.

Building coverage. **Building** coverage refers to the area of a **lot** covered by **buildings** (principal and accessory) or roofed areas, as measured along the outside wall at ground level, and including all **projections** other than open porches, fire escapes, canopies, and the first two feet of a roof overhang.

Building footprint. The portion of a **lot** covered by a **building** or **structure** at the surface level, measured on a horizontal plane.

Built-upon area. **Built-upon areas** shall include that portion of a parcel that is covered by impervious improvements.

13.2.3. C

Caliper. Trunk diameter measurement for **nursery** grown tree stock taken six inches above grade of the root ball for trunks up to and including four inches, and 12 inches above grade of the root ball for trunks greater than four inches.

Cemetery. A place used or to be used and dedicated or designated for interments of human remains or pet animal remains. A **cemetery** may include an office, chapel, mausoleum or columbarium as customary **accessory uses**.

Chemical storage facility. See **Article 11. Environmental and Floodplain**.

Childcare facility. See “**Childcare center**” and “**Family childcare home**.”

Childcare center. Per G.S. § 110-86, an arrangement where, at any one time, children who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

Circulation area. That portion of the **vehicle accommodation area** used for access to parking or **loading areas** or other **facilities** on the **lot**. Essentially, **driveways** and maneuvering areas (other than **parking aisles**) comprise the **circulation area**.

Civic club. **Buildings** and **facilities** owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Collection point. A customary **use** that is considered an **accessory use** to only the principal **uses**. Recycling **collection points** serve as a neighborhood drop-off point outside of a fully enclosed **building** for temporary storage of small amounts of recyclable materials. Does not include donation drop-off points.

Community center. Governmentally owned and operated **building(s)** and **facilities** which may provide a wide range of activities predominately indoors to the general community such as but not limited to the following **use**: recreational, cultural, dining, educational, and social.

Comprehensive plan. The Garner Forward **Comprehensive Plan**, or a successive **comprehensive plan** that has been officially adopted by the Town Council, pursuant to the regulation of G.S. § 160D-501.

Conditional zoning. A **legislative zoning map amendment** with site-specific conditions incorporated into said amendment.

Congregate living facility. A shared residential living environment for 9 or less people which integrates shelter and service needs of functionally impaired or socially isolated older persons who are otherwise in good health and can maintain a semi-independent lifestyle and who do not require constant supervision or intensive health care.

Conservation areas, primary. See **Article 8. Subdivisions: Streets, Open Space, and Utilities**.

Conservation areas, secondary. See **Article 8. Subdivisions: Streets, Open Space, and Utilities**.

Continuing care retirement facility. A property designed to provide a continuum of care within a single community. The living accommodations and care provided within a **continuing care retirement facility** are a combination of the accommodations and services

provided by senior apartments, independent living units, assisted living residences, and skilled nursing beds.

Convenience store. A store selling a limited selection of daily essentials which may or may not include fuel **retail sales** to the public.

Correctional facility. A **facility** that houses persons in the custody of Wake County, the state of North Carolina, federal government, or their agents as a result of conviction of a criminal offense or persons on parole.

Country club, private. A private club with social and/or recreation **facilities** for members, their families, and invited guests.

Crematorium. A place used and dedicated to the cremation of human remains or pet animal remains.

Critical area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the **watershed**. In this UDO, the **critical area** consists of the Lake Benson Conservation District, as previously established and mapped, extending to the next property line or major landmark after a distance of 2,000 feet from the lake, plus the **Watershed Conservation Buffer** Areas as established at specified distances beyond the **floodplain** of Swift Creek and all other creeks flowing into Lake Benson, up to a distance of 5,000 feet.

Critical root zone. A circular area measured outward from a tree trunk where roots must remain undisturbed to ensure the tree's survival. Measured as one-foot radial distance for every inch of tree **DBH**, with a minimum of eight feet radial distance.

Cul-de-sac. A **street** with a single common ingress and egress and with a turnaround at the end.

Customary Accessory. An operational **accessory use** provided on a property that is inherent to the operations of the **facility** and not in conflict with the intention of the site's zoning district. Examples include daycare at a **gym**, food **sales** at a recreational **facility**, and a helipad at a **hospital**.

13.2.4. D

Day care center. A care **facility** for children or adults who do not reside in the **facility**, are present primarily during daytime hours and do not regularly stay overnight. See also "**Childcare facility**", "**Childcare center**", "**Adult care home**" and "**Family childcare home**".

DBH. Diameter-at-breast-height is a standard forestry measure of tree size and is a tree trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below four and one-half feet, then each trunk is measured as a separate tree. A

tree which splits into multiple trunks above four and one-half feet is measured as a single tree at four and one-half feet.

Decibel (dB). A unit of measure, on a logarithmic scale, of the ratio or magnitude of a particular sound pressure to a standard reference pressure, which, for purposes of this UDO, shall be 20 micro pascals. When shown as “**db(A)**,” it denotes use of the A-weighting network of a **sound level meter**.

Decorative wall. A completely opaque masonry **structure** used to define a boundary or as a means of protection, confinement, or visual obstruction.

Detention Facility. See “**Correctional facility**.”

Determination. A written, final, and binding order, requirement, or **determination** regarding an **administrative decision**.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any **development** and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake **development** on that property.

Development. Pursuant to the definition in G.S. § 160D-102(12), any of the following: (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any **structure**; (b) The excavation, grading, filling, clearing, or alteration of land; (c) The **subdivision** of land as defined in G.S. § 160D-802; and/or (d) The initiation or substantial change in the **use** of land or the intensity of **use** of land. See also **Article 11. Environmental and Floodplain**.

Development approval. Pursuant to the regulations of G.S. §160D, an **administrative** or **quasi-judicial** approval that is written and that is required prior to commencing **development** or undertaking a specific activity, **project**, or **development** proposal. **Development** approvals include, but are not limited to: zoning permits, **site plan** approvals, **special use permits**, **variances**, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this UDO, including, but not limited to: **plat** approvals, permits issued, **development** agreements entered into, and **building** permits issued.

Development regulation. Pursuant to the definition in G.S. § 160D-102(14), a unified **development** ordinance, **zoning regulation**, **subdivision regulation**, erosion and sedimentation control regulation, **floodplain** or **flood** damage prevention regulation, mountain ridge protection regulation, **stormwater** control regulation, wireless **telecommunication facility** regulation, historic preservation or landmark regulation, housing code, State **Building** Code enforcement, or any other regulation adopted by the State of North Carolina or

the Town of Garner by local act or charter that regulates land **use** or **development**.

Diameter at Breast Height. See “DBH.”

Discharging landfill. A **facility** with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving **stream**.

Driveway. That portion of the **vehicle accommodation area** that consists of a travel lane bounded on either side by an area that is not part of the **vehicle accommodation area**.

Driveway/intersection sight distance standards. All **driveway** and/ or **street** intersections shall maintain sight triangles meeting the requirements of Section 8.3.6.D., within which nothing that may obstruct a motorist’s or pedestrian’s view of traffic on the **street** onto which the motorist or pedestrian will enter shall be permitted, including **structures, signs**, plant materials, or earth berms.

Driveway or residential or secondary street intersection with U.S. or N.C. primary road. See **Article 8. Subdivisions: Streets, Open Space, and Utilities**.

Duplex. See “Dwelling, two-family”.

Dwelling. Subject to the regulation of G.S. § 160D-706(b), a **building** that contains one or two **dwelling units** used, intended or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

Dwelling, single-family detached. One **dwelling unit** in a single **structure** on a single **lot**.

Dwelling, two-family. Two **dwelling units** in a single **structure** on a single **lot** or on two **lots** where the **dwelling units** share a wall.

Dwelling unit. Subject to the regulation of G.S. § 160D-706(b), a single unit providing complete independent living **facilities** for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

13.2.5. E

Eighty-five percent TSS removal stormwater quality control device. A constructed device or series of devices designed to achieve the removal of 85 percent of the total suspended solids from **stormwater** runoff. This may be a single device with a removal efficiency of 85 percent or multiple devices with a collective removal efficiency of 85 percent. Examples of single devices with a removal efficiency of 85 percent include retention ponds and bioretention devices. Other devices and their associated removal efficiencies are subject to approval by the North Carolina Division of Environmental Management.

Electrical substation. A subsidiary station of electricity generation, transmission, and distribution system where high voltage is transformed from high to low or the reverse using transformers.

Electronic gaming centers. A business enterprise, as a principal use or as an accessory use where persons utilize more than six electronic machine(s), including, but not limited to: computers and gaming terminals; to conduct games including but not limited to: sweepstakes, lotteries games and/or games of chance; and where cash, merchandise, or items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. The term includes, but is not limited to: internet sweepstakes, video sweepstakes, or cybercafes. This definition does not include any lottery endorsed, approved, or sponsored by the State of North Carolina or arcade games of skill.

Elevated building. See **Article 11. Environmental and Floodplain.**

Elevated water storage tank. Used to store water for fire protection and potable drinking water within a designated area or community; these elevated tanks allow the natural force of gravity to produce consistent water pressure throughout the system.

Emergency services. Emergency service providers and associated equipment and response **facilities**, including training **facilities**. Includes Ambulance Service, Rescue Squad, Police or Fire Station.

Encroachment. To construct, erect, or maintain in, over, or under any public place, right-of-way, easement, roadway, parking strip and/or sidewalk, including the airspace above them, any **structures** permanent in nature, including, but not limited to, **building** extension, marquee, **fence**, retaining wall, or any other **building** or **structure**. For **encroachment** in a **floodplain**, See **Article 11. Environmental and Floodplain.**

Engineered stormwater control structure. Stormwater control **structures** designed by an engineer or landscape architect to control **stormwater** runoff. Such **structures** include but are not limited to wet retention ponds, detention ponds, etc.

Evidentiary hearing. Pursuant to the definition in G.S. § 160D-102(16), a hearing to gather competent, material, and substantial evidence to make findings for a **quasi-judicial decision** required by a **development** regulation adopted under G.S. § 160D.

Extraterritorial planning jurisdiction (ETJ). That portion of the Town's **planning jurisdiction** located outside the corporate boundaries of the Town.

13.2.6. F

Facility. A **structure** or site that is built, installed, or established to serve a particular purpose.

Family care home. Subject to the definition in G.S. § 131D-2.1(9), an **adult care home** with two to six beds.

Family childcare home. Subject to Article 7 of G.S. § 110, a childcare arrangement with a license from the State of North Carolina and a **zoning compliance permit** from the Town of Garner located in a private home where, at any one time, more than two, but less than nine children, receive childcare.

Fence. A **structure** constructed of posts, rails, wire, and, in some cases, barrier panels, used to define a boundary or as a means of protection, confinement, or visual obstruction. For masonry barriers, see “**Decorative wall.**”

Flex space. The sale, lease or rental of space within a **structure** or multiple **structures** that will allow a combination of non-residential uses.

Flood or flooding. See *Article 11. Environmental and Floodplain.*

Flood boundary and floodway map (FBFM). See *Article 11. Environmental and Floodplain.*

Flood hazard boundary map (FHBM). See *Article 11. Environmental and Floodplain.*

Flood insurance. See *Article 11. Environmental and Floodplain.*

Flood insurance rate map (FIRM). See *Article 11. Environmental and Floodplain.*

Flood insurance study (FIS). See *Article 11. Environmental and Floodplain.*

Flood prone area. See *Article 11. Environmental and Floodplain.*

Floodplain. See *Article 11. Environmental and Floodplain.*

Floodplain administrator. See *Article 11. Environmental and Floodplain.*

Floodplain development permit. See *Article 11. Environmental and Floodplain.*

Floodplain management. See *Article 11. Environmental and Floodplain.*

Floodplain management regulations. See *Article 11. Environmental and Floodplain.*

Floodproofing. See *Article 11. Environmental and Floodplain.*

Floodway. See *Article 11. Environmental and Floodplain.*

Flood zone. See *Article 11. Environmental and Floodplain.*

Fraternal club. See “Civic club.”

Freeboard. See *Article 11. Environmental and Floodplain.*

Frontage road. A **street** that is parallel to and adjacent to a **major or minor thoroughfare street** and that is designed to provide access to abutting properties.

Functionally dependent facility. See *Article 11. Environmental and Floodplain.*

Funeral home. An establishment for the arrangement and management of funerals and preparation of the human deceased for burial.

13.2.7. G

General use district. A zoning district in which some **uses** are permissible with a site permit and others require a **special use permit**. Also known as a conventional zoning district.

Golf course, private. A privately owned tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A **private golf course** may include a clubhouse, restrooms, driving range, and shelters as customary **accessory uses**.

Greenhouse. A **use** involving the sale and/or growth of horticultural and floricultural specialties both in open and enclosed **structures** and may include the sale of mulch and accessory hardscape materials such as decorative stones intended for ornamental or landscaping purposes.

Gross floor area. The total area of a **building** measured by taking the exterior dimensions of the **building** at each floor level intended for occupancy or storage. This includes **circulation areas**, elevator shafts, attics having greater than 7.5 feet of head room, enclosed porches, and mechanical equipment space.

Group care home. A home where rehabilitation and/or care services are provided in a residential setting and family environment including support and supervisory personnel who may reside in the home. According to G.S. § 168A-3(7a), a person with a disability is defined as a person with a temporary or permanent, physical, emotional or mental disability. A **group care home** is a residential **use** of property and permissible by right in all residential districts, subject to additional requirements.

Group care facility. A **facility** whose primary purpose is for the care, treatment, habilitation, or rehabilitation of individuals with mental illnesses or intellectual or other developmental disabilities or substance abusers including 24-hour **facilities** that are not **hospitals**.

Gym. A **facility** where members or nonmembers **use** equipment or space for the purpose of physical exercise including boutique exercise

studios. Customary **uses** include daycare **facilities** and limited food sales.

13.2.8. H

Halfway house. A residence within a single **dwelling unit** for at least six but not more than nine persons who are physically or mentally handicapped, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

Handicapped institution. An institutional **facility** housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.

Hazardous material. Any substance listed as such in: SARA Section 302 - Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Hazardous waste facility. See **Article 11. Environmental and Floodplain.**

Heliport. A formalized helicopter landing area that offers some or all of the following services: fueling, maintenance, passenger **building**, hanger **facilities**, and support services.

High density development. **Development** within the Lake Benson Swift Creek **Watershed** area that exceeds the amount of impervious area which is allowed without engineered **stormwater** control measures.

Higher education. An institution of higher learning offering post-high school, undergraduate or graduate degrees, licenses, or certificates; and including the **buildings** required for educational or support services, including, but not limited to, classrooms, laboratories, and dormitories. Includes study in vocational, technical, or other special subjects.

Highest adjacent grade (HAG). See **Article 11. Environmental and Floodplain.**

Historic structure. See **Article 11. Environmental and Floodplain.**

Home occupation. A commercial activity within a residential **dwelling** that: (a) is conducted by a person on the same **lot** where such person resides; and (b) is not so insubstantial or customary or is not so commonly associated with the residential **use** as to be regarded as a customary **accessory use**, but that can be conducted without any significantly adverse impact on the surrounding neighborhood, (c) does not exceed 25 percent of the **gross floor area** of the **dwelling**, (d) does

not involve **outdoor storage** or **warehousing** of material or equipment, and does not create excessive noise, vibration, fumes, odors, or glare.

Homes for the mentally ill. See “**Assisted living facility.**”

Horse stables. A **facility** containing indoor and outdoor spaces for the breeding, boarding, training, raising, or care of horses.

Hospital. A **facility** licensed by the State of North Carolina which maintains and operates organized **facilities** for medical or surgical diagnosis, overnight and outpatient care and treatment of human illness. A **hospital** may include **customary accessory** support **facilities** such as a helipad, laboratories, out-patient departments, staff offices, food services, and gift shops.

Hospice. See **Article 6. Use Regulations.**

Hotel. A **facility** that contains rooms for overnight guests containing registration **facilities**, on-site management, cleaning services, and combined utilities. May include food service **facilities**.

Household. The person or persons occupying a **single-family dwelling** unit with a single kitchen **facility**.

13.2.9. I

Impervious surface. **Impervious surfaces** are those natural or man-made **structures** which prevent or restrict the infiltration of **stormwater** runoff into the underlying soil. For impervious calculation, rooftops, gravel or paved **driveways**, sidewalk, gravel or paved **streets**, curb and gutter and like **structures** are considered to be **impervious surfaces**. Water impoundments, **landscaped areas** and wooden slatted decks are considered pervious.

Impulsive sound. Either a single pressure peak or a single burst (multiple pressure peaks) for a duration less than one second.

In-home adult day care. An adult day care arrangement that has been issued a certificate to operate by the State of North Carolina and located in a residence where a day care program is provided for up to six adults which meets the standards of the UDO for which a **zoning compliance permit** has been issued by the Planning Department.

In-home child day care. Day care for up to three nonresident children in a residence.

Indoor athletic or entertainment facility. Amusement activities carried on wholly within a **building**. Typical **uses** include bowling alleys, billiard parlors, **theaters**, escape rooms, video game arcades, laser tag, indoor paint ball, skating rink, and activities of a similar nature.

Industrial, light. **Industrial uses** which do not create a noticeable amount of noise, dust, odor, smoke, glare, or vibration outside of the **building** in which the activity takes place.

Industrial. Uses involving, relating to, concerning, or arising from the assembling, fabrication, finishing, **manufacturing**, packaging, or processing of goods; or mineral extraction.

Intermediate care home. See “**Group care home.**”

13.2.10. J

Jail. See “**Correctional facility.**”

Junk yard. Any **lot** or **structure** used wholly or partly for the storage, collection, processing, or **disposal** of junk.

Junked vehicles. A **junked vehicle** is an abandoned motor vehicle that is also partially dismantled or wrecked; or cannot be self-propelled or moved in the manner in which it was originally intended to move; or is more than five years old and worth less than one hundred dollars (\$100.00) or is more than five years old and worth less than five hundred dollars (\$500.00) as provided by the municipality in an ordinance adopted under this Section; or does not display a current license plate.

13.2.11. K

kennel. A commercial operation that provides food, shelter and care for animals. A **kennel** may: (a) be run by or associated with a **veterinarian**; or (b) engage in the breeding of animals for sale.

13.2.12. L

Land disturbing activity. Any **use** of land in residential, **industrial**, educational, institutional, or commercial **development**; or highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

Landfill. A **facility** for the **disposal** of solid waste on land in a sanitary manner in accordance with Article 9 of G.S. Chapter 130A. In this UDO, this term does not include composting **facilities**.

Landscaped area. Areas of a site where trees, shrubs and/or ground cover are proposed and are defined within a bed of mulch or areas where landscaping is required in order to meet the standards of the UDO.

Legislative decision. Pursuant to the definition in G.S. § 160D-102(19), the adoption, amendment, or repeal of a regulation by the act of the Town of Garner. The term also includes the decision to approve, amend, or rescind a **development** agreement consistent with the provisions of Article 10 of G.S. § 160D.

Legislative hearing. Pursuant to the definition of G.S. § 160D-102(20), a hearing to solicit public comment on a proposed **legislative** decision.

Library. A public **facility** for the **use**, but not sale, of literary, musical, artistic, or reference materials.

Livestock. All animals kept or raised on a farm. Necessary service animals and pets are not included.

Loading and unloading area. That portion of the **vehicle accommodation area** used to satisfy the relevant requirements of this UDO.

Lodge. A **facility** housing a civic or service club.

Logo. A picture, pattern, or way of writing its name that an establishment **uses** as its symbol and puts on its products or **signs**.

Lot. A parcel of land whose boundaries have been established by some legal instrument, such as a recorded deed or a recorded map, and which is recognized as a separate legal entity for purposes of transfer of title.

Lot area. The area circumscribed by the boundaries of a **lot**, except that: (a) when the legal instrument creating a **lot** shows the boundary of the **lot** extending into a public **street** right-of-way, then the **lot** boundary for the purposes of computing the **lot area** shall be the **street** right-of-way line, or a line running parallel to and 30 feet from the center of the traveled portion of the **street** if the right-of-way line cannot be determined; and (b) in a residential district, when a private road that serves more than three **dwelling** units is located along any **lot** boundary, then the **lot** boundary for purposes of computing the **lot area** shall be the inside boundary of the traveled portion of that road.

Lowest adjacent grade (LAG). See *Article 11. Environmental and Floodplain*.

Lowest floor. See *Article 11. Environmental and Floodplain*.

13.2.13. M

Manufactured home. A **structure**, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a **dwelling**, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein. The **structure** exceeds 40 feet in length and eight feet in width and meets the National Manufactured Housing Construction and Safety Standards Act of 1974. **Manufactured home** includes any **structure** that meets all of the requirements of this definition and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the **Manufactured Home Act** and Article 9B of G.S. § 143. See *Section 6.4.4*.

for Class A and Class B standards. Also, See **Article 11. Environmental and Floodplain.**

Manufactured home park or subdivision. A site which contains the long-term location of **manufactured homes** that may include services and **facilities** for long-term residents.

Manufactured home park or subdivision, existing. See **Article 11. Environmental and Floodplain.**

Manufactured home sales lot. A site devoted to the display and sale of **manufactured homes**. May include several models for display and a unit to house **administrative** and office functions.

Manufacturing. The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products and the blending of materials including but not limited to oils, plastics, resins, etc.

Market value. See **Article 11. Environmental and Floodplain.**

Master plan. A plan showing **site plans** for Tier 2 conditional zoning requests. See **Section 4.6.2.** for requirements.

Mean sea level. See **Article 11. Environmental and Floodplain.**

Medical office. A **facility** providing medical care to patients, typically on an appointment, out-patient basis, but that does not provide overnight care.

Mental health facility. A **facility** or institution for diagnosing, treating, caring for, or counseling people requiring mental health services in confinement.

Microbrewery. A **facility** for the **production** and packaging of malt beverages of low alcoholic content (less than 30-proof) for distribution, **retail** or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, **retail** sale, or tasting are included in this definition as is customary to the **primary use** of producing beverages.

Microdistillery. A **facility** for the **production** and packaging of beer, liquor, hard cider and other malt beverages for distribution, **retail**, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. Areas for demonstration, education, **retail** sale, or tasting are included in this definition as customary **uses** to the **primary use** of producing beverages.

Minor utility. Public **facilities** in the form of: (a) **structures** (e.g., poles, lines, pipes); (b) minor sewer, water, and storm drainage **structures** and collection system improvements (e.g., **pump stations**, lines, manholes, valves, hydrants, drains, on-site **detention facilities**); (c) new or extended public **streets** (including lane additions); and (d) minor improvements to existing **streets** (e.g., overlays, catch basins, **signs**, control devices, widening, curbs, gutters, sidewalks).

Mini storage. See “Self-storage.”

Mobile home. See “Manufactured home.”

Mobile home park. A site with required improvements and utilities for the long-term parking of **mobile homes** which may include services and **facilities** for the residents.

Modular home. A **dwelling unit** that: (a) is composed of one or more components, each of which was substantially assembled in a **manufacturing** plant and designed to be transported to the site on its own chassis; and (b) is constructed in accordance with the North Carolina **Building Code** (rather than HUD code) for one and **two-family dwelling units**.

Motel. See “Hotel.”

Museum. An institution devoted to the procurement, care, study, and display of objects of lasting interest or value.

13.2.14. N

Natural gas. Facility with the respect to **natural gas** distribution, including distribution pipelines and metering-regulating stations that are operated by a local distribution company.

Nature park. See “Park.”

New construction. See **Article 11. Environmental and Floodplain.**

Nightclub. See “Bar.”

Noise pollution. The emission of sound that reasonably interferes with the enjoyment of life or with any lawful business or activity.

Nonconforming lot of record. See **Article 2. Nonconformities.**

Nonconforming signs. See **Article 2. Nonconformities.**

Nonconforming site elements. See **Article 2. Nonconformities.**

Nonconforming structure. See **Article 2. Nonconformities.**

Nonconforming use. See **Article 2. Nonconformities.**

Non-encroachment area. See **Article 11. Environmental and Floodplain.**

Nuisance. An item, condition, or conduct that endangers health and safety, offends the senses, or interferes with the enjoyment and use of property.

Nursery. See “Greenhouse.”

Nursing care home. A **facility** maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a **hospital** to not more than nine persons.

Nursing care institution. An institutional **facility** maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a **hospital** to more than nine persons.

Nursing home. A **facility** that provides care for persons who have remedial ailments, or other ailments, for which medical and nursing care are indicated, who however, are not sick enough to require general **hospital** care. Nursing care is their primary need, but they will require continuing medical supervision.

13.2.15. O

Open air market. An area, open or partially enclosed, at which vendors gather to sell personal property.

Open space. See **Article 8. Subdivisions: Streets, Open Space, and Utilities.**

Outdoor athletic or entertainment facility. Amusement activities where any portion of the activity takes place outside or in the open. Typical **uses** include batting cages, golf driving ranges, go-cart tracks, outdoor paint ball, **drive-in theater**, outdoor skating rink, and miniature golf courses. This **use** does not include recreation centers or **public parks**.

Outdoor storage. The storage of materials in an unenclosed area. **Outdoor storage** shall not include the temporary storage of vehicles at repair or **sales facilities**.

Outparcel. A parcel adjacent to, surrounded by, or partially surrounded by a **shopping center** tract, which was either part of the original **shopping center** tract or operates and blends into the **shopping center** to the extent that it acts as part of the **shopping center**.

13.2.16. P

Park. A natural or **landscaped area, buildings, or structures** to meet people's needs for active or passive recreation.

Park, public. A natural or **landscaped area, buildings or structures** provided by a unit of government to meet people's needs for active or passive recreation.

Parking aisle. An area within a parking **facility** intended to provide ingress and egress to **parking spaces**.

Parking lot, commercial. Commercial parking **facilities** that provide parking that is not accessory to a specific **use**. A fee may or may not be charged.

Parking space. An off-street space available for the parking of one motor vehicle conforming to the typical **parking lot** standards.

Passive open space. A designated outdoor space for recreation that consists mostly of passive recreation and outdoor recreation. May contain some supporting **structures**.

Personal services. See “**Professional services.**”

Pervious surface. Ground treatments which will allow the infiltration of water, air, and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

Planning Director. See **Article 3. Review Bodies.**

Planning and development regulation jurisdiction. The geographic area of the Town of Garner corporate limits and its **extraterritorial jurisdiction**. Also referred to as the “**planning jurisdiction.**”

Plat. A map or plan of a parcel of land which will be or has been subdivided.

Plat, final. A **plat** of all or part of a **subdivision** in substantial conformance with the preliminary **plat**, prepared by a civil engineer or a land surveyor in accordance with this UDO and North Carolina General Statutes.

Plat, preliminary. A draft **plat** of a proposed **subdivision**, used to determine if the proposed **development** is in general conformance with town standards and ordinances.

Pool. Any artificial basin of water constructed or erected for wading or swimming.

Post-FIRM. See **Article 11. Environmental and Floodplain.**

Pre-FIRM. See **Article 11. Environmental and Floodplain.**

Post-incarceration facility. See “**Correctional facility.**”

Primary Use. A permitted **use** of land or a permitted **use** of a **building** or **structure** on land which is allowed as a matter of right in the district applicable to the land, subject to compliance with the **development** standards applicable to that district.

Primary frontage. See **Article 9. Building Design and Parking.**

Principal building. The primary **building** on a **lot**, or a **building** that houses a **primary use**.

Principally above ground. See **Article 11. Environmental and Floodplain.**

Prison. See “**Correctional facility.**”

Private service laterals for water and sewer. These **facilities** are defined as beginning at the public **street** right-of-way or public utility easement and extending onto private property to a point necessary to serve said property, specifically for water this shall be beyond the water meter location; for sewer this shall be beyond the cleanout location.

Production. See “**Manufacturing.**”

Professional services. A **facility** involved in providing personal or repair services to through traffic as well as the surrounding neighborhood.

Professional services shall include the following **personal services**: beauty, hair, nail, or tanning salon; massage therapy; pack-and-ship **facility**; animal grooming; photography, blueprint, or quick-**sign** service; psychic or medium; security service; taxidermist; catering service or any similar **use**. **Professional services** shall also include the repair services for bicycles and mopeds, canvas products, clocks, computers, jewelry, musical instruments, office equipment, radios, shoes, televisions, furniture, watches or any similar product. Also includes tailors, milliners, upholsterers or locksmiths. Includes the instruction of the arts, such as individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and related items; art classrooms; music studios or classrooms; dance studios or classrooms; martial arts instruction; or similar **uses**. This definition does not include any adult-oriented business or adult entertainment establishment.

Project. Any **use** or **development** requiring a permit from the Inspections and/or Planning departments. Such permits shall include, but are not limited to, **building** permits, zoning permits, or site permits.

Public sewer and other utility system, municipally owned. The existing Town of Garner or City of Raleigh owned water, storm sewer, and sanitary sewer lines, including all pipes, valves, valve boxes, hydrants and other fixtures, equipment, and apparatus of the water main, storm sewer and sanitary sewer pipelines and systems, and all appliances necessary and convenient thereto, and such lines built to the Town of Garner and City of Raleigh standards to be dedicated and accepted by the City of Raleigh or the Town of Garner. The utility lines dedicated to the City of Raleigh shall include only main distribution and collection lines and appurtenances in **street** right-of-way or dedicated recorded easements on private property. Such **facilities** shall be subject to the applicable provisions of this UDO and applicable sections of the Code of the Town of Garner.

Public sewer or water system, non-municipally owned. A sewer or water system designed for and intended to provide services to users and is franchised by the North Carolina Utilities Commission. Such systems and all appurtenances shall be built to the Town of Garner and City of Raleigh standards and specifications according to the applicable provisions of this UDO and the Code of the Town of Garner.

Pump station. A **facility** including pumps and equipment for pumping fluids from one place to another.

Pure tone. Any sound that can be distinctly heard as a single pitch or a set of single pitches.

13.2.17. Q

Quasi-judicial decision. Pursuant to the definition of G.S. § 160D-102(28), a decision involving the finding of facts regarding a specific application of a **development** regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving **variances**, **special use permits**, certificates of appropriateness, and **appeals** of **administrative determinations**. Decisions on the approval of **subdivision plats** and **site plans** are **quasi-judicial** in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

13.2.18. R

Recreational vehicle. A vehicular accommodation, other than a **manufactured home**, designed as temporary accommodations for travel, vacation, or recreation purposes, which is propelled by its own motive power or is mounted on or drawn by another vehicle. **Article 11. Environmental and Floodplain.**

Recreational vehicle (RV) park. Any single parcel of land upon which two or more **recreational vehicles**, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes. **Recreational Vehicle Parks** are referred to in this Ordinance as “**RV Park(s)**.”

Recyclable material collection center. A permanent **facility** designed and used for receiving, separating, storing, converting, baling, or processing of non-hazardous recyclable materials that are not intended for **disposal**. The **use** may include construction debris recycling or other intensive recycling processes such as composting, chipping, and mulching.

Recyclable material collection point. See “**Collection point.**”

Reference level. See **Article 11. Environmental and Floodplain.**

Regulatory flood protection elevation. See **Article 11. Environmental and Floodplain.**

Religious institution. A place of worship or religious **assembly** with customary related **facilities** and **uses**. This may include retreats, convents, seminaries, or other similar **uses** owned or operated by a tax-exempt religious group. Customary **uses** include childcare and book sales.

Remedy a violation. See **Article 11. Environmental and Floodplain.**

Repetitive impulsive noise. Any noise that is composed of impulsive noises that are repeated at sufficiently slow rates such that a **sound level meter** set at fast meter characteristics will show changes in **sound pressure level** greater than 10 **dB(A)**.

Residence, multifamily. Three or more attached residential **dwelling units** in a single **structure**, with either shared entrances or shared parking areas. Units are often stacked and at least one or more units does not have its only individual, ground-level entrance. An apartment or condo with only two units is classified as a **duplex**.

Residence, single-family detached. One **dwelling unit** in a single **structure** on a single **lot**.

Residence, upper-story. A **dwelling unit** located on a floor above a nonresidential **use**.

Resource extraction. The extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as **natural gases**. The term also includes quarrying; well operation; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.

Restaurant, sit-down establishment. An establishment providing food and food service, whereby at least 51 percent of the establishment's revenue is derived from such food **sales** and does not contain a drive-through window. Pickup, curbside, and to-go food **sales** are allowed.

Restaurant, with drive-in or outdoor curb service. A **restaurant** devoted to the preparation and offering of food and beverage for sale to the public for consumption either on or off the premises. Food ordering and delivery can occur prior to arrival, at a counter, drive-through window, or take-out window.

Retail. See "Sales."

Riverine. See **Article 11. Environmental and Floodplain.**

Rowhome. See "Townhouse."

13.2.19. S

Sales. The wholesale or **retail** sale, lease, or rental of new or used products. Sale or rental of items with customary service of rented items is allowed but excludes those services and **sales** classified more specifically by another category.

Sales-oriented use. A **use** that terminates in the sale of a good or service.

Salvage yard. See also **Article 11. Environmental and Floodplain.**

Sanitary landfill. A method for the disposition of nonhazardous waste refuse or material into the land without creating a **nuisance** or hazard to public health and safety.

Satellite dish antenna. A device capable of receiving radio or television signals from orbiting satellites and other extraterrestrial sources and shall include all appurtenant components of the **satellite dish antenna**.

School, primary. An elementary-level educational institution providing full time instruction and including accessory **facilities** traditionally associated with a program of study which meets the requirements of the laws of the state.

School, secondary. A junior high or high school level educational institution providing full time instruction and including accessory **facilities** traditionally associated with a program of study which meets the requirements of State law.

Seasonal outdoor sales. Any business or **use** (primary or accessory) that is conducted outside of a **building**, which may include but not be limited to: **retail sales** of garden supplies and equipment; roadside stands for the sale of fruits and vegetables, plants, flowers, Christmas trees, or fireworks; and other similar businesses or **uses**.

Security or caretaker's quarters. A permanent residence, secondary and accessory to an existing main **dwelling** for persons employed principally on-site for purposes of care and protection of the site.

Self-storage. Self-service storage **uses** provide separate indoor storage areas for individual or business **uses**. The storage areas are designed to allow private access by the tenant for storing or removing personal property. May or may not have an outdoor **vehicle storage** component that is not greater than 25 percent of the enclosed floorspace of the **facility**. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is defined as "**warehouse and freight movement**".

Service drive. See "Frontage road."

Service road. See "Frontage road."

Sewer or water facilities, individual. A sewer or water system or **facility** designed for and intended for private **use** by one or more users, but not requiring a franchise from the North Carolina Utilities Commission, and not being a municipally owned system. However, such **facilities** may require permit approvals by the Wake County Health Department as provided for in this UDO.

Sexually oriented business. An adult bookstore, adult motion picture **theater**, adult mini-motion picture **theater**, or other adult live entertainment business as defined in G.S. § 14-202.10 or an adult cabaret or massage business.

Shopping center. A **building** or group of **buildings** housing multiple businesses (usually as in-line tenants) on a unified tract (i.e. not on a lease **lot** or parcel subdivided out of the original larger **shopping center** parcel), under one or multiple ownerships and/or with common ingress and egress points. Its occupants provide or are intended to provide for the **retail** sale of goods and services (including postal services, etc.) to the public.

Short term rental. The rental of an entire home or residential **dwelling** unit for less than 30 days.

Shrub, large. A deciduous or evergreen shrub that matures at between six to 12 feet or greater in height. Typically low-branching from the ground up, and if evergreen, may be used as screening material.

Shrub, medium. A deciduous or evergreen shrub that matures (or is maintained) at three to six feet in height. If evergreen, it may be used as screening material.

Shrub, small. A deciduous or evergreen shrub that matures (or is maintained) at one to three feet in height.

Sight distance standards (triangle). To ensure that landscape materials do not constitute a traffic hazard, a triangle will be observed at all intersections of **driveways/streets** with adjacent **streets**. These sight triangles shall be kept clear of any such visual obstructions between 2.5 feet and 10.0 feet in height.

Sign. Any device that is sufficiently visible to persons not on the premises and designed to attract or direct the attention of such persons or to communicate information to them.

Sign, canopy. Any **sign** attached to or made a part of a canopy; a canopy being any roof-like **structure** supported by posts or suspended from a wall and extending over an area for the purpose of providing protection against the weather. Such **signs** are limited to two sides of a canopy and may not extend above or below the canopy fascia or **project** any further than necessary for attachment, not to exceed 18 inches.

Sign, changeable copy. A **sign** whose display area is designed so that the characters, letters, or illustrations can be changed or rearranged without otherwise altering the face or surface of the **sign**. In the context of this UDO, a **changeable copy sign** is defined as a permanent **sign**.

Sign, freestanding. A **sign** that is not attached to, suspended from, erected on or supported by a **building** or other **structure** having a principal function other than the support of such **sign** but is instead supported by some **structure**, such as a pole, post, or monolithic base; or is without supporting elements, such as an A-frame. Any **sign** on a **fence** located within the required **building** setback area shall be considered a **freestanding sign**.

Sign, ground. See “Sign, freestanding” and “Sign, monument.”

Sign, marquee. See “Sign, changeable copy.”

Sign, monument. A specific type of **freestanding sign** (often referred to as a **ground sign**), that is a monolithic **structure** in which the bottom (base) of the **sign** is flush with the ground.

Sign, multi-tenant. A **sign** of major significance designed to inform persons off the premises of the businesses which comprise a **shopping center** or business complex.

Sign, off-premises. A commercial **sign** associated with a business, service, commodity, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the **sign** is located.

Sign, temporary. A **sign** that is designed for short-term **use** or is used in connection with a circumstance or event expected to take place or be completed within a reasonably short period of time. If a **sign** display area is permanent but the message is subject to periodic change, that sign shall not be regarded as temporary.

Significant trimming. Any pruning and/or trimming of a tree which removes more than one-third of the branching of the tree and/or results in the loss of more than one-third of the tree’s overall form and shape.

Sign permit. A permit issued by the Planning Director that authorizes the recipient to erect, move, enlarge, or substantially alter a **sign**.

Silviculture. See “Agriculture.”

Single-family residential. Any **development** where: (a) no **building** contains more than one **dwelling unit**; (b) every **dwelling unit** is on a separate **lot**; and (c) where no **lot** contains more than one **dwelling unit** except for an **accessory dwelling unit** where allowed.

Site plan. Pursuant to the definition in G.S. § 160D-102(29), a scaled drawing and supporting text showing the relationship between **lot** lines and the existing or proposed **uses**, **buildings**, or **structures** on the **lot**. The **site plan** may include site-specific details such as **building** areas, **building** height and floor area, setbacks from **lot** lines and **street** rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and **stormwater** control **facilities** that are depicted to show compliance with all legally required **development** regulations that are applicable to the **project** and the **site plan** review.

Site specific development plan. A plan of land **development** submitted to the Town for purposes of obtaining one of the following zoning or land **use** permits or approvals: preliminary **plat**, **special use permit**, conditional zoning district, or **variance**; must describe type and intensity of **use** for a specified parcel or parcels of property.

Solid waste disposal facility. See **Article 11. Environmental and Floodplain.**

Solid waste disposal site. See **Article 11. Environmental and Floodplain.**

Sleeping Unit. Subject to the regulation of G.S. § 160D-706(b), a room or space in which people sleep, which may also include permanent provisions for living and eating, and either sanitation or kitchen **facilities**, but not both. Such rooms and spaces that are also part of a **dwelling unit** are not sleeping units.

Solar farm. An entire tract or portion of a tract that contains a collection of ground-mounted solar panels and related equipment designed to convert sunlight into electrical power for direct on-site consumption or for interconnection with the power grid system for off-site consumption; the size of a **solar farm** may vary from a few acres to hundreds of acres.

Sound level. In **decibels**, a weighted **sound pressure level**, determined by the **use** of metering characteristics and frequency weightings specified in **ANSI Sl.4-1971 Specification for Sound Level Meters** or its successor publication.

Sound level meter. A measuring instrument used to assess noise or **sound levels** by measuring sound pressure. The instrument reads **sound pressure levels** when properly calibrated and is of Type I or better as specified in American National Standards Institute Publication Sl.4-1971 or its successor publication.

Sound pressure level. In **decibels**, 20 times the logarithm to the base ten of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 20 micropascals.

Spa. A place or **building** that provides massage, exercise, non-surgical cosmetic procedures, and related activities with or without such equipment or apparatus.

Special flood hazard area (SFHA). See **Article 11. Environmental and Floodplain.**

Special scenic corridor. An area parallel to the right-of-way of existing and proposed **major and minor thoroughfares** and other designated highways on the adopted or amended Garner Transportation Plan, that are subject to overlay district regulations to preserve natural scenic beauty and aesthetic character, promote design quality, to protect and enhance the public and private investment in and along said highways and to enhance trade, tourism, capital investment, and the general welfare.

Special use permit. Pursuant to the definition in G.S. § 160D-102(30), a permit issued to authorize **development** or land **uses** in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well

as compliance with specific standards. The term includes permits previously referred to as conditional **use** permits or special exceptions.

Start of construction. The point in time at which **substantial improvement** is authorized to commence, meaning the date the **building** permit was issued, provided the “actual start” of construction, repair, reconstruction or improvement was within 180 days of the permit date. The “actual start” means the first placement of “permanent construction” of a **structure** (including a **manufactured home**) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a **manufactured home** on a foundation. “Permanent construction” does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of **streets** and/or walkways; nor does it include excavation for a **basement**, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory **buildings**, such as garages or sheds not occupied as **dwelling** units or not part of the main **structure**. See also **Article 11. Environmental and Floodplain.**

Steady-state noise source. One that exhibits a **sound level** whose variation is within plus or minus five **dB(A)** over any one ten-minute period in a 24-hour day.

Stormwater. The runoff generated by rainfall during a storm event.

Stream. A perennial body of water running over the earth’s surface in a channel or bed and also shown by a single blue line on the most recent version of the U.S. Geological Survey 1:24,000 scale (7.5 minute) topographic maps; or as delineated by the most recent Town of Garner study.

Street. A public **street** or a **street** with respect to which an offer of dedication has been made.

Street, Alley. See **Section 8.3.**

Street, Collector. See **Section 8.3.**

Street, Freeway. See **Section 8.3.**

Street, Local. See **Section 8.3.**

Street, Private. See **Section 8.3.**

Street wall. The **building** facade and or wall which is facing the right-of-way line and the **street**.

Structure. Anything constructed or erected, including but not limited to **buildings**, **fences**, and walls, which requires location on the land. Also, See **Article 11. Environmental and Floodplain.**

Subdivider. Any person who subdivides or develops any land deemed to be a **subdivision** as herein defined.

Subdivision. Pursuant to the regulation of G.S. § 160D-802, the division of land into two or more **lots** for the purpose of sale or **development**.

Subdivision, major. All other **subdivisions** not meeting the definition of **minor subdivision**.

Subdivision, minor. A **subdivision** that does not involve any of the following: (a) the creation of more than a total of five **lots**; (b) the creation of any new public **streets**; (c) the extension of the water or sewer system operated by the Town of Garner or City of Raleigh, or (d) the installation of drainage improvements through one or more **lots** to serve one or more other **lots**.

Subdivision regulation. The control of the division of a tract of land by requiring **development** according to design standards and procedures adopted by the Town of Garner.

Subordinate. Lower in rank, importance, relevance, or impact.

Substantial damage. See **Article 11. Environmental and Floodplain**.

Substantial improvement. Any combination of repair, reconstruction, alteration, or improvement to a **structure**, taking place within any consecutive 12-month period in which the cumulative cost equals or exceeds 50 percent of the present **market value** of the **structure**. The **market value** should be: (a) The appraised value of the **structure** before the initial repair or improvement; or (b) In case of damage, the value of the **structure** prior to the damage occurring. See also **Article 11. Environmental and Floodplain**.

13.2.20. T

Tavern. See “**Bar**.”

Telecommunication facility. Any **structure** designed and constructed primarily for the purpose of supporting one or more personal wireless service **facility antennas**.

Telecommunication facility, concealed. See **Article 6. Use Regulations**.

Temporary use. A **use** established for a fixed time period with the intent that such **use** will terminate automatically upon expiration of the fixed time period unless permission to conduct the **use** is renewed.

Tenth percentile sound level. The **A-weighted sound pressure level** that is exceeded ten percent of the time in any measurement period (such as the level that is exceeded for one minute in a ten-minute period) and is denoted L10.

Terminal, fueling. An establishment engaged primarily in the fueling of tractor-trailer trucks.

Terminal, passenger. A **facility** or location where the principal **use** is the handling, receiving, and transfer of passenger traffic.

Terminal, truck. A **building** or area in which freight brought by truck is assembled and/or stored for routing shipments by trucks.

Text amendment. A change in the wording, context, or substance of this Ordinance or other adopted ordinances.

Theater. An establishment for the live performing arts (excluding movie theaters) with open-air or cinema with seating for audiences. Such establishments may include related customary uses such as food and beverage sales and other concessions.

Theater, drive-in. An open lot devoted primarily to showing motion pictures to patrons seated in vehicles.

Thoroughfare, major. A street serving the principal network for high volumes of traffic or high-speed traffic as shown on the Town of Garner Transportation Plan. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles. Single-family detached residential, duplexes, and townhomes with individual driveways shall not have driveways that directly access a major thoroughfare.

Thoroughfare, minor. A street designed primarily to collect and distribute traffic between local streets or areas and the major thoroughfare network as shown on the Town of Garner Transportation Plan. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles. Residences should not front on a minor thoroughfare.

Townhome. See “Townhouse.”

Townhouse. A form of single-family attached dwelling in which three or more units share common side walls and are often designed in rows and have individual entrances on the ground floor. Units are purchased on a fee-simple basis on small individual parcels of land, fronting on either a public or private street, and have parking located on each lot or attached to each dwelling unit, although garages may be separated from the dwelling. Yards are typically small or shared, and privacy requires careful protection. A townhouse with only two units is classified as a duplex.

Tower. A structure whose principal function is to support an antenna (see also “Satellite dish antenna.”)

Toxic substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their off spring or other adverse health effects.

Transportation impact analysis. See *Article 8. Subdivisions: Streets, Open Space, and Utilities.*

Travel trailer. A **structure** that is: (a) intended to be transported over the **streets** and highways either as a motor vehicle or attached to or hauled by a motor vehicle; and (b) is designed for **temporary use** as sleeping quarters, but that does not satisfy one or more of the definitional criteria of a mobile home.

Tree, ornamental. A small to medium-sized tree growing to 15 to 35 feet in height at maturity, planted for aesthetic purposes such as colorful flowers, interesting bark, or interesting fall foliage.

Tree, overstory. A large tree growing to 35 feet or greater in height or spread at maturity; usually deciduous and planted to provide a canopy of shade.

Tree, screening. A medium to large evergreen tree growing to 12 feet or greater in height at maturity that keeps branches from the ground up. Examples include Thuja ‘Green Giant’, Virginia Pine, Cedar, Leyland Cypress, some Hollies, or vertical growing Junipers.

Tree, street. A deciduous **overstory tree**, installed at a minimum two and one-half-inch **caliper** size, planted a minimum five feet and a maximum of 15 feet from the road right-of-way. Where overhead lines exist, an **ornamental tree** shall be used.

Truck Terminal, Fueling Terminal. The premises used for loading and unloading of trucks upon which storage of cargo is customary to the primary function of motor freight shipment or shipment point and which is designed to accommodate the simultaneous loading or unloading of five or more trucks.

13.2.21. U

Use. The activity or function that actually takes place or is intended to take place on or in a **building, structure, or lot**; including everything that is done to, on, or in a **building, structure, or lot**.

Utility facilities. Any above-ground **structures** or **facilities**, other than **buildings** (unless such **buildings** are used for storage customary to the operation of such **structures** or **facilities**) owned by a governmental entity, a nonprofit organization, corporation, or any entity defined as a public utility for any purpose by G.S. § 62-3 and used in connection with the **production**, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting **structures**.

Utility facilities, community or regional. All **utility facilities** other than neighborhood **facilities**.

Utility facilities, neighborhood. **Utility facilities** that are designed to serve the immediately surrounding neighborhood and that must,

for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such **facilities** are proposed to be located.

13.2.22. V

Variance. Pursuant to the regulation of G.S. § 160D-705, a **development** approval to alleviate unnecessary hardships resulting from carrying out the strict letter of a **zoning regulation**. See also **Article 11**.

Environmental and Floodplain.

Vehicle accommodation area. That portion of a **lot** that is used by vehicles for access, circulation, parking, loading, and unloading. It comprises the total of **circulation areas**, loading, and **unloading areas** and parking areas.

Vehicle sales, rental, service, repair. **Vehicle sales**, rental, service, and repair **uses** provide direct services to motor vehicles. They may include firms that rent or service passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles. Also includes establishments primarily engaged in the repair or maintenance of motor vehicles (inclusive of paint, body, fender), and major engine and engine part overhaul. Typical **uses** include auto and truck rental, lease, and **sales**; boat rental and **sales**; **mobile home** and **recreational vehicle sales**; construction equipment rental **yards**; moving trailer rental, and large implement **sales** or rental. Examples also include automobile rental; automobile **sales**; car washes; quick lubrication services; **vehicle repair**, transmission or muffler shop; towing service; auto body shop; alignment shop; auto upholstery shop; auto detailing; and tire **sales** and mounting.

Vehicular surface area. The paved or non-paved area intended for vehicular circulation or storage. Square footage calculations shall include the total of all **vehicular surface areas** located in the **street**, side, and **rear yards**. This section does not apply to **single-family residential use** or parking **structures**. Any **vehicular surface area**, or portions thereof, built after the adoption of this Section, which area is expanded by 25 percent or more, shall be landscaped as required.

Vehicle towing, storage. A **facility** for the impoundment and temporary storage of vehicles that is operated by someone engaged in the wrecking or towing business.

Vested right. A right pursuant to G.S. § 160D-108 or G.S. § 160D-108.1 to undertake and complete the **development** and **use** of property under the terms and conditions of a certain **development** approval even after changes in **development** regulations.

Veterinarian. A commercial operation that provides medical care for animals.

Violation. Any item or action which does not comply with the standards of this UDO. See also **Article 4. Review Procedures** and **Article 11. Environmental and Floodplain**.

13.2.23. W

Warehouse and freight movement. A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site **sales** activity with the customer present. May include recycling of materials, offices, and repacking and transshipment of by-products.

Warehousing. Facilities characterized by extensive, frequent heavy trucking activity, open storage of material, or **nuisances** such as dust, noise, and odors, but not involved in **manufacturing** or **production**.

Wastewater treatment. The **facility** or group of units used for the treatment of **industrial** or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such **facility** or group of units is discharging into state waters.

Water dependent structure. Any **structure** such as boat ramps, boat houses, docks, and bulkheads for which the **use** requires access to, proximity to, or siting within surface waters to fulfill its basic purpose. Ancillary **facilities** such as **restaurants**, outlets for boat supplies, **parking lots**, and commercial boat storage areas are not water dependent structures.

Water surface elevation (WSE). See **Article 11. Environmental and Floodplain**.

Water treatment. Any **facility** or **facilities** used or available for **use** in the collection, treatment, testing, storage, pumping, or distribution of water for a **public water system**.

Watercourse. See **Article 11. Environmental and Floodplain**.

Watershed. The entire land area contributing surface drainage at a water supply intake.

Watershed administrator. An official or designated person of the Town of Garner responsible for administration and enforcement of the **watershed** provisions of this UDO.

Watershed record. An official record or file of all **development** requests within the **watershed** and the actions taken. This record will be maintained by the **Watershed administrator**.

Wholesale sales. **Wholesale sales** firms are involved in the sale, lease, or rent of products primarily intended for **industrial**, institutional, or commercial businesses. The **uses** emphasize on-site **sales** or order

taking and often include display areas. Businesses may or may not be open to the general public, but **sales** to the general public are limited. Products may be picked up on-site or delivered to the customer.

Written interpretation. A formal interpretation document from the Town of Garner, delivered to an applicant upon their request, explaining a **development** regulation, **administrative** policy, or other adopted standard.

13.2.24. X

13.2.25. Y

Yard, front. The portion of a **lot** bounded by the primary **street** right-of-way, side **lot** lines, and the front line of the **principal building** or **structure** (or **use**, in the absence of a **principal building** or **structure**).

Yard, rear. The portion of a **lot** bounded by side **lot** lines, the rear **lot** line or **street** right- of-way, and the rear line of the **principal building** or **structure** (or **use**, in the absence of a **principal building** or **structure**).

Yard, side. The portion of a **lot** bounded by side **lot** line(s) and the side line of a **principal building** or **structure** (or **use** in the absence of a **principal building** or **structure**), extending the full length of the **building, structure, or use** and not including any **front** or **rear yard**.

13.2.26. Z

Zero-lot-line dwelling. A **development** where the outside wall of the **structure** directly abuts one side property line.

Zoning compliance permit. A document signed by the Administrator which acknowledges that a **use, structure, building, or lot** is authorized based on the provisions of this UDO.

Zoning map amendment. Subject to the regulation of G.S. § 160D-102(34), an amendment to a **zoning regulation** for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes: (a) the initial application of zoning when land is added to the territorial jurisdiction of the Town of Garner; and (b) the application of an overlay zoning district or a conditional zoning district. The term does not include: (a) the initial adoption of a zoning map by a local government; (b) the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and **development** regulation jurisdiction; or (c) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning **text amendments** where there are no changes in the boundaries of the zoning district or land **uses** permitted in the district.

Zoning regulation. A **zoning regulation** authorized by Article 7 of G.S. § 160D.