

**ORDINANCE NO. (2024) 5245**

**AN ORDINANCE TO AMEND ORDINANCE NO. (2022) 5132 ENTITLED  
“THE ‘GARNER FORWARD’ TOWN OF GARNER UNIFIED DEVELOPMENT ORDINANCE  
FOR THE TOWN OF GARNER AND ITS EXTRATERRITORIAL JURISDICTION”  
REGARDING TECHNICAL CORRECTIONS**

WHEREAS, the Town Council has conducted a public hearing and received a written recommendation from the Planning Commission regarding zoning text amendment case # ZTA-23-04 in keeping with the requirements of Section 4.6.3. of the Town of Garner Unified Development Ordinance; and

WHEREAS, the Town Council finds that although primarily mentioned in the context of promoting commercial development, the comprehensive plan discusses the guiding principle of “aligning the development code with our desired ends”, and that whether through consensus or a majority opinion, the successful adoption of a revised regulation may be understood to represent the fulfillment of that principle; and

WHEREAS, the Town Council further finds the request is reasonable and in the public interest because it is consistent with the remainder of the Unified Development Ordinance, corrects errors in the existing Unified Development Ordinance, and in some cases revises the Unified Development Ordinance to comply with state or federal statutes or case law;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF GARNER HEREBY ORDAINS:

**Section One.** That Sections 2.3.2. through 2.3.5. be re-numbered as Sections 2.3.3. through 2.3.6, and that a new Section 2.3.2. “Exceptions” be inserted to read as follows:

2.3.2. Exceptions

The following uses shall not be subject to the requirements of this Section:

- A. Single-Family Detached Uses in the MF-A or MF-B Zoning Districts

**Section Two.** That Section 3.3.2. subsection A. be amended to read as follows:

3.3.2. Membership and Terms

A. Number

Per G.S. § 160D-301, the 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. ETJ area representatives shall have equal rights, privileges, and duties with the other members of the Planning Commission, regardless of whether the matters at issue arise within the town limits or within the

extraterritorial jurisdiction.

**Section Three.** That Section 3.4.2. subsection A. be amended to read as follows:

3.3.2. 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. ETJ area representatives shall have equal rights, privileges, and duties with the other members of the BOA, regardless of whether the matters at issue arise within the town limits or within the extraterritorial jurisdiction.

**Section Four.** That Section 4.3. be amended to read as follows:

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
<i>4.5. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS - SUBDIVISIONS</i>						
...						
<i>4.6. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS – MAP AND TEXT AMENDMENTS</i>						
...						
Text Amendment	Leg	Planning Director/ Planning Commission	Town Council	Superior Court	A	4.6.3.
<i>4.7. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS - PERMITS</i>						
...						
<i>4.9. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS - MISCELLANEOUS</i>						
...						
<i>4.10. SPECIFIC REVIEW PROCEDURES AND DEVELOPMENT APPROVALS - ENVIRONMENTAL</i>						
...						

**Section Five.** That Section 4.4.6. subsections A. and C. be amended to read as follows:

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 (n/a for text amendments);
2. The parcel number and/or street address (n/a for text amendments);
3. A description or summary of the action requested;
4. Current and proposed zoning districts (rezonings only);
5. The time and location of the anticipated public hearing;
6. Identity of the applicant;
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.

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C. Mailed

1. Mailed notice shall include the applicable contents in the published notice along with a map and shall be provided to all property owners and occupants of properties abutting or within 800 feet of the affected parcel as reflected in the Wake County tax records at the time of submittal. When less than an entire parcel of land is subject to the application, the entire parcel shall be used to determine abutting properties and those within 800 feet.

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**Section Six.** That Section 5.6.8., Figure 5.6-K be amended to read as follows:

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

**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, TBD	MF-B
Minimum Lot Size, for the first five dwelling units (Square 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 Fross Density (Dwelling Units per Acre)	20	30	50



**Section Eight.** That Section 6.6.4., subsection E. be amended to read as follows:

6.6.4. Specific Uses

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E. Indoor Athletic or Entertainment Facility

1. Defined

Amusement, sporting or other entertainment activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, escape rooms, video game arcades, laser tag, indoor paint ball, axe throwing, skating rink, banquets, indoor sports and activities of a similar nature. Private gyms, wellness centers and similar uses are included under "Gym, spa, or pool".

...

**Section Nine.** That existing Section 6.9.5., subsection M. be moved to become a new Section 6.12.4., subsection A.3.; and that Section 6.9.5., subsection N. be re-numbered as Section 6.9.5., subsection M.

**Section Ten.** That Section 6.11.4., subsections A. and B. be amended; and that a new Section 6.11.4., subsection D. be inserted to read as follows:

6.11.4. Specific Uses

A. Other Agricultural Uses Not Listed

1. Defined

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 include direct sales of such products at wholesale. For bona fide farms, see *Section 6.11.4.D.*

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D. Bona Fide Farms

1. Defined

A use located in the Town's ETJ as defined in and meeting the requirements of G.S. 160D-903. See definition of "bona fide farm purposes", *Article 13*.

2. Use Standards

- a. Bona fide farm purposes are exempt from Town zoning regulations.
- b. Bona fide farm purposes are subject to floodplain regulations in *Article 11*.
- c. Accessory buildings are subject to building code and UDO regulations except for greenhouses and therapeutic equine facilities.

**Section Eleven.** That Section 6.12.2., subsection A. and Section 6.12.3., subsection B. be amended to read as follows:

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 – inclusive of required sight triangles – 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.

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6.12.3. In Residential Districts

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B. Restricted Uses

1. Accessory Dwelling Units (ADUs)

a. Districts

Subject to approval of a Zoning Compliance Permit per Article 3, ADUs are permitted in the specified districts as follows:

- i. In the RA district, one ADU is allowed per lot;
- ii. 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
- iii. 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.

b. Specific Use and Design Standards

- i. ADUs are only permitted to be used for residential purposes or for purposes accessory to the principal dwelling;
- ii. ADUs shall have permanent access to utilities;
- iii. ADUs must be on a permanent foundation;
- iv. Square footage is less than 50 percent of the square footage of the principal dwelling, with a maximum size of 800 square feet;
- v. 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;
- vi. Two off-street parking spaces are required per ADU in addition to the parking required for the principal dwelling;
- vii. The ADU must be accessible from an existing driveway;
- viii. An ADU may not be sold separately from its principal dwelling unit; and
- ix. 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.

2. Backyard Hens

Backyard hens are allowed as an accessory to residential uses in the RA, R2, R4 and R8 zoning districts subject to the requirements of Section 3-6 of the Town Code of Ordinances.

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**Section Twelve.** That Section 8.2.6., subsection A. be amended to read as follows:

8.2.6. Dedication or Fee-in-Lieu

The procedure for determining if a developer of dwelling units is to dedicate park land or pay a fee-in-lieu of dedication shall be as follows:

A. Developer of Dwelling Units

With the submittal of a site-specific vesting plan, the developer shall indicate whether the developer desires to dedicate park land or pay a fee-in-lieu. If proposing to dedicate park land, the developer shall indicate all areas proposed for dedication on the site-specific vesting plan.

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**Section Thirteen.** That Section 8.3.3., subsection B. be amended; and that a new Section 8.3.12. be added to read as follows:

8.3.3. Layout and Coordination

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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, or road sections from an intersection to a street stub-out or cul-de-sac head.
  - b. Nodes are defined as intersections and cul-de-sac heads.



*A perfect grid network has a connectivity index of 2.0.*

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8.3.12. Stub Completion Policy

The Town Council may adopt and amend from time to time a policy to establish guidelines under which a public street stub connection shall not be completed within the Town of Garner's jurisdiction and when alternative connections shall be made. The most current policy is hereby incorporated by reference.



**Section Fourteen.** That Section 8.4.14., subsection B. be amended to read as follows:

8.4.14. As-built Drawings Required

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- B. 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-built drawings furnished by the developer of all other utilities.

**Section Fifteen.** That Article 9. and Section 9.1. be amended to read as follows:

ARTICLE 9. SITE AND BUILDING DESIGN AND PARKING

9.1. SITE DESIGN STANDARDS

**Section Sixteen.** That Section 9.3.7., subsection H. be removed; and Section 9.3.7., subsections A. and G. be amended to read as follows:

9.3.7. Vehicle Accommodation Areas (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. Dead-end parking areas are prohibited unless a turnaround space is striped, signed and provided.

...

- G. Where head-in, angled, or parallel parking spaces abut a sidewalk or pedestrian way a minimum additional two feet of clearance from the parking shall be provided.

**Section Seventeen.** That Section 10.7.2., subsection E. be amended to read as follows:

10.7.2. Landscaping Islands

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E. Median Islands

1. Median islands shall have a minimum of eight feet inside the curb.
2. Median islands shall be sited between every four single parking rows and continuously along primary internal and external access drives.

3. Median intervals may be expanded in order preserve existing trees of greater than six inches diameter at breast height

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**Section Eighteen.** That Section 10.10.6., subsection A.2. be removed; and that Section 10.10.6., subsection A.3. be re-numbered as a new subsection A.2.

**Section Nineteen.** That a new Section 11.3.4., subsection D.3. be inserted to read as follows:

#### 11.3.4. Tree Canopy Preservation Requirements

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##### D. Tree Canopy Preservation Requirements

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3. For development within the TBD district:  
Where permitted, street trees within adjacent rights-of-way and within 15 feet of the property line may be counted towards the fulfilment of this requirement.

PRESERVED TREE COVER AREA	REPLACEMENT TREE COVER AREA	MINIMUM TOTAL TREE COVER AREA
5.5%	Plus 0% equals	5.5%
4%	Plus 2% equals	6%
2.5%	Plus 4% equals	6.5%
1%	Plus 6% equals	7%
0%	Plus 7.5% equals	7.5%

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**Section Twenty.** That Section 12.3.1. be amended to read as follows:

#### 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	Freestanding	60 square feet	1 per street frontage, 2 maximum	12 feet

(NMX, CMX, TBD, AC, LI, HI)	Wall	10 percent of wall area	1 per street frontage, 3 maximum	n/a
	Projecting	10 square feet	1 per street frontage, 2 maximum	2

**Section Twenty-One.** That Section 13.2. be amended to have specified definitions read as follows:

***Indoor athletic or entertainment facility.*** Amusement, sporting or other entertainment activities carried on wholly within a building. Typical uses include bowling alleys, billiard parlors, escape rooms, video game arcades, laser tag, indoor paint ball, axe throwing, skating rink, banquets, indoor sports and activities of a similar nature. Private gyms, wellness centers and similar uses are included under “Gym, spa, or pool”.

***Site-specific vesting plan.*** A site-specific vesting plan consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by a local government. Unless otherwise expressly provided by the local government, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section (NCGS § 160D-108.1.) that would trigger a vested right shall be finally determined by the local government pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

***Vehicular surface area.*** The area intended for vehicular circulation or storage that is paved with permanent pavement. Square footage calculations shall include the total of all vehicular surface areas located in the street, side, and rear

yards. This definition does not apply to single-family residential use or parking structures.


**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. Where the side lot line is a street right-of-way, that yard may also be more specifically referred to as a corner side yard.

**Section Twenty-Two.** That all ordinances or portions thereof in conflict with this ordinance are hereby repealed.

Duly adopted this 6<sup>th</sup> day of February 2024.

  
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Buddy Gupton, Mayor

ATTEST:   
\_\_\_\_\_  
Stella Gibson, Town Clerk

APPROVED AS TO FORM:   
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Terri Jones, Town Attorney