

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.
 - (d) Not required for change of use meeting off-street parking requirements with a shared parking agreement or approved use of public parking.

Section Two. That Section 5.14.2. subsection F.1. be amended to read as follows:

5.14.2. Commercial Highway (CHO) Overlay District

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.
- d. These building height limitations also do not apply to property within the CHO located west of McCormick Street along U.S. 70 or north of Purser Drive along U.S. 401, unless located within 300 feet of a single-family detached residential use.

Section Three. That Section 5.14.3. subsections F.2. and F.3. be amended to read as follows:

5.14.3. Limited Access Highway (LHO) Overlay District

F. Design Standards

2. Building Height

No building shall exceed 200 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 limited access highway right-of-way, including access ramps and interchanges, shall be 65 feet.

Section Four. That Section 8.2.1. be amended to read as follows:

8.2.1. Purpose

- A. All 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, exercise and relaxation, community character, environmental conservation, and aesthetics.
- B. The regulations in this Section seek to benefit the general public – which includes, but is not limited to, residents, workers and visitors – 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.

Section Five. That Section 8.2.2. be amended to read as follows:

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, save those structures necessary for the purposes identified herein;
 - 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, except as noted in subsection 8.2.2.C.;
 - 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 greater than 50 feet in width and 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.
 5. Indoor recreational amenities (see subsection 8.2.3.C.).
- 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; or
 2. 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, and every development composed exclusively of non-residential uses shall be developed so that at least 5 percent of the total area of the development remains permanently as passive open space. To emphasize consistency with the open and public character of certain portions of the town, wherever a proposed development boundary is within $\frac{1}{4}$ mile of a parcel boundary containing public park land or a Town operations facility, the required percentage of open space shall be increased by 50 percent.
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 passive open space, subject to subsection 8.2.3.B. and the following:
1. in no case shall the developer be required to set aside more than the minimum required percentage of passive open space specified herein;

2. if the tract contains primary or secondary conservation areas, then the specific areas to be set aside as passive 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 passive open space specified, then the choice of additional passive 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 as meeting the goal of establishing a discernible center for the development in the form of a common green or public square.
- 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.

Section Six. That Section 8.2.3. be amended to read as follows:

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

For proposed residential land uses or development with residential uses, 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

For proposed development with 25 dwelling units or more, at least 25 percent of the required open space shall be provided as improved active space. Improved active space must be centrally-located so as to establish either a vista (i.e. street terminus) within the development or to establish a discernible center for the development or phase of a development, and be properly maintained. Active space must be completely designed for active recreation purposes such as playgrounds, tennis courts, ball fields, volleyball courts, open play fields (minimum 50' x 100' of grass area with no more than a 2% cross slope), etc. 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 but may not comprise more than 30% of the active space required.

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 parking areas.

Section Seven. That Section 8.2.4. be amended to read as follows:

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, workers or visitors 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 or similar organization membership fees.
- C. In residential developments, 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.

Section Eight. That Section 8.3.3. be re-titled and amended to add a new subsection B. to read as follows, and to re-order existing subsection B. to subsection C.:

8.3.3. Layout and Connectivity

B. Block Face Lengths

1. Applicability

These regulations shall apply to any side of a local or collector street on which buildings front.

2. Maximum Lengths

A block face is regularly defined as one side of a street between two intersections of other streets. For purposes of this UDO, a block face may also be defined as one side of a street between two spaces equivalent to the width of the Town’s narrowest local street right-of-way and associated building corner side setbacks. Such spaces may be used for alleyways, off-street parking, open space, greenways, etc; but should focus on increasing pedestrian connectivity throughout the development.

ZONING DISTRICT	BLOCK FACE MAXIMUM LENGTH
HI, LI, RA	n/a
R2	1,500 feet
R4, MFA, RMH, NMX	1,000 feet
R8, MF-B, CMX, TBD	800 feet
AC	600 feet

C. Connectivity Index

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Section Nine. That Section 8.3.4. subsection D. be amended to delete subsection 2. and re-order the preceding subsection to read as follows:

8.3.4. Coordination with Surrounding Streets

D. Local Streets

Local streets shall be designed to provide parking unless an alley is provided. See Town’s Engineering Manual.

Section Ten. That Section 9.2.5. be amended to add a new subsection D. to read as follows:

9.2.5. Material Requirements

- D. All primary structures on a single non-residentially zoned parcel, or within a subdivision (one and two-family structures excluded) shall feature one primary building material that is common

between all structures. For purposes of this section, a primary building material shall cover at least 15 percent of the structure's exterior on facades facing a public right-of-way, internal private drive, or parking drive aisle.

Section Eleven. That Section 9.3.3., subsection A. be amended to read as follows:

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 15 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, bicycle parking or electrical vehicle charging stations.
 - 2. No reduction shall be granted for uses in the Residential Use Category as defined in Article 6. *Use Regulations*.

Section Twelve. That Section 9.3.8., subsection A.3. be amended to read as follows:

9.3.8. Shared Parking Standards

- A. Applicability
 - 3. Shared parking is only permitted in the NMX, TBD, AC, CMX, LI, and HI districts, as well as for any non-residential uses in residential zoning districts where both uses participating in the shared parking agreement are non-residential.

Section Thirteen. That Section 10.6.7. subsection A. be amended to add a new subsection 3. to read as follows:

10.6.7. Design Requirements

- A. Perimeter Buffer Width and Types
 - 3. For lots in nonresidential or mixed-use zoning districts less than 2 acres in size, the required buffer width shall be half of the width specified herein.

Section Fourteen. That Section 13.2.2., Section 13.2.18. and Section 13.2.20. be amended to add or amend specified definitions to read as follows:

Block Face. A block face is regularly defined as one side of a street between two intersections of other streets. For purposes of this UDO, a block face may also be defined as one side of a street between two spaces equivalent to the width of the Town's narrowest local street right-of-way and associated building corner side setbacks. Such spaces may be used for alleyways, off-street parking, open space, greenways, etc; but should focus on increasing pedestrian connectivity throughout the development.

Rowhome or Rowhouse. See "Townhouse."

Townhouse. A form of single-family attached dwelling in which two 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.

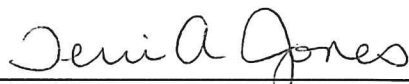
Section Fifteen. That throughout the UDO, corrections of any errors in cross-references, citations, etc. in sections of the original adopted UDO brought about by the amendments within this case are made.

Section Sixteen. That all ordinances or portions thereof in conflict with this ordinance are hereby repealed.

Duly adopted this 16th day of July 2024.


MAYOR

ATTEST: 
TOWN CLERK

APPROVED AS TO FORM: 
TOWN ATTORNEY