DESIGN BURLINGTON

UNIFIED DEVELOPMENT ORDINANCE

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ACKNOWLEDGEMENTS

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TABLE OF CONTENTS

CHAPTER 1. INTRODUCTION 1-1

1.1. Title **1-2**
A. Unified Development Ordinance Text 1-2
B. Official Zoning Map 1-2

1.2. Effective Date **1-2**

1.3. Authority **1-2**
A. General Authority 1-2
B. References to State Law 1-2

1.4. General Purpose and Intent **1-2**

1.5. Applicability **1-3**
A. General Applicability 1-3
B. Application to Governmental Units 1-3
C. No Development until Compliance with all Applicable Law 1-3
D. Minimum Requirements 1-4

1.6. Consistency with Adopted Policy Guidance **1-4**
A. Adopted Policy Guidance 1-4
B. Conformance 1-4

1.7. Procedures Manual **1-4**

1.8. Relationship to Other Laws, Covenants, or Deed Restrictions **1-5**

1.9. Conflict between Laws **1-5**
A. Conflicts with State or Federal Law 1-5
B. Conflicts with Other City Codes or Laws 1-5
C. Conflicts between the Standards in this Ordinance 1-5
D. Conflicts with Private Agreements 1-5
E. Determination of the More Restrictive Standard 1-5

1.10. Transitional Provisions **1-5**
A. Prior Violations 1-5
B. Existing Nonconformities 1-5
C. Prior Approvals 1-5
D. Pending Applications 1-6
E. Existing Uses 1-6
F. Lands Designated CMX-R or CMX-C in Prior Ordinance 1-6

1.11. Zoning District Translations **1-6**

1.12. Vested Rights **1-7**
A. Prior Vesting 1-7
B. Development Approvals 1-7
C. Building Permit 1-8
D. Site-Specific Vesting Plan 1-8
E. Development Agreements 1-8
F. Multi-Phase Development 1-8
G. Vested Rights Certificate 1-8
H. Common Law Vesting 1-8

1.13. Severability **1-8**

CHAPTER 2. PROCEDURES 2-1

2.1. How to Use This Chapter **2-3**

TABLE OF CONTENTS

A. Chapter Organization 2-3
B. Steps in the Review Process 2-3

2.2. Summary Development Table 2-3

2.3. Common Procedures 2-5
A. Overview 2-5
B. Purpose and Intent 2-5
C. Conflict with Specific Procedures 2-5
D. Pre-Application Conference 2-5
E. Neighborhood Information Meeting 2-6
F. Application Filing and Acceptance 2-7
G. Staff Review and Action 2-8
H. Public Notification 2-9
I. Public Meetings and Hearings 2-11
J. Conditions of Approval 2-13
K. Written Notice of Decision 2-14
L. Effect of Development Approval 2-14
M. Continuance, Postponement, or Withdrawal 2-14
N. Limitation on Subsequent Applications 2-15

2.4. Specific Procedures 2-16
A. How to Use this Section 2-16
B. Administrative Adjustment 2-17
C. Appeal 2-19
D. Certificate of Appropriateness 2-22
E. Comprehensive Plan Amendment 2-26
F. Determination 2-28
G. Development Agreement 2-31
H. Erosion Control Permit 2-33
I. Expedited Subdivision 2-35
J. Fence Permit 2-37
K. Final Plat 2-38
L. Floodplain Development Permit 2-41
M. Planned Development 2-43
N. Preliminary Plat 2-47
O. Reasonable Accommodation 2-50
P. Rezoning 2-52
Q. Riparian Buffer Determination of No Practical Alternatives/Authorization Certification 2-57
R. Sign Permit 2-59
S. Site Plan 2-60
T. Special Use Permit 2-63
U. Stormwater Permit 2-65
V. Temporary Use Permit 2-67
W. Text Amendment 2-69
X. Transportation Impact Analysis 2-71
Y. Vested Rights Certificate 2-73
Z. Water Supply Watershed Protection Permit 2-75
AA. Water-Related Variance 2-76
BB. Zoning/Subdivision Variance 2-82

2.5. Enforcement 2-85
A. Purpose 2-85
B. Compliance Required 2-85
C. Statute of Limitations 2-85
D. Violations 2-85
E. Responsible Persons 2-85
F. Enforcement Responsibilities 2-86
G. Enforcement of Specific Environmental Regulations 2-86

TABLE OF CONTENTS

H. Enforcement Procedure 2-86
I. Remedies 2-87
J. Assessment of Civil Penalties 2-89

CHAPTER 3. ZONING DISTRICTS 3-1

3.1. Introductory Provisions 3-4
A. Compliance with Zoning District Standards Required 3-4
B. Zoning Districts Distinguished 3-4
C. Zoning Districts Established 3-4
D. Organization of Zoning District Standards 3-5
E. Generally Applicable Dimensional Standards 3-6
F. Multiple Buildings or Structures on a Lot 3-6

3.2. Official Zoning Map 3-7
A. Generally 3-7
B. Incorporated by Reference 3-7
C. Determination of Official Zoning Map Boundaries 3-7
D. Changes to Official Zoning Map 3-8

3.3. Conventional Zoning District Intent Statements 3-9
A. Residential Zoning Districts 3-9
B. Business Zoning Districts 3-9
C. Special Zoning Districts 3-9

3.4. Central Business (CBD) District 3-10
A. District Purpose and Intent 3-10
B. District Dimensional Standards 3-10
C. Development Examples 3-11
D. Dimensional Example 3-11
E. Lotting Pattern Examples 3-11
F. Development Configuration Example 3-12

3.5. General Business (GB) District 3-13
A. District Purpose and Intent 3-13
B. District Dimensional Standards 3-13
C. Development Examples 3-14
D. Dimensional Example 3-14
E. Lotting Pattern Examples 3-14
F. Development Configuration Example 3-15

3.6. Heavy Industrial (HI) District 3-16
A. District Purpose and Intent 3-16
B. District Dimensional Standards 3-16
C. Development Examples 3-17
D. Dimensional Example 3-17
E. Lotting Pattern Examples 3-17
F. Development Configuration Example 3-18

3.7. High Density Residential (HDR) District 3-19
A. District Purpose and Intent 3-19
B. District Dimensional Standards 3-19
C. Development Examples 3-20
D. Dimensional Example 3-20
E. Lotting Pattern Examples 3-20
F. Development Configuration Example 3-21

3.8. Light Industrial (LI) District 3-22
A. District Purpose and Intent 3-22
B. District Dimensional Standards 3-22

TABLE OF CONTENTS

C. Development Examples 3-23
D. Dimensional Example 3-23
E. Lotting Pattern Examples 3-23
F. Development Configuration Example 3-24

3.9. Low Density Residential (LDR) District 3-25
A. District Purpose and Intent 3-25
B. District Dimensional Standards 3-25
C. Development Examples 3-26
D. Dimensional Example 3-26
E. Lotting Pattern Examples 3-26
F. Development Configuration Example 3-27

3.10. Medium Density Residential (MDR) District 3-28
A. District Purpose and Intent 3-28
B. District Dimensional Standards 3-28
C. Development Examples 3-29
D. Dimensional Example 3-29
E. Lotting Pattern Examples 3-29
F. Development Configuration Example 3-30

3.11. Medium Industrial (MI) District 3-31
A. District Purpose and Intent 3-31
B. District Dimensional Standards 3-31
C. Development Examples 3-32
D. Dimensional Example 3-32
E. Lotting Pattern Examples 3-32
F. Development Configuration Example 3-33

3.12. Mixed Use (MX) District 3-34
A. District Purpose and Intent 3-34
B. District Dimensional Standards 3-34
C. Development Examples 3-35
D. Dimensional Example 3-35
E. Lotting Pattern Examples 3-35
F. Development Configuration Example 3-36

3.13. Neighborhood Business (NB) District 3-37
A. District Purpose and Intent 3-37
B. District Dimensional Standards 3-37
C. District-Specific Standards 3-38
D. Development Examples 3-38
E. Lotting Pattern Examples 3-38
F. Dimensional Example 3-39
G. Development Configuration Example 3-39

3.14. Office Institutional (OI) District 3-40
A. District Purpose and Intent 3-40
B. District Dimensional Standards 3-40
C. Development Examples 3-41
D. Dimensional Example 3-41
E. Lotting Pattern Examples 3-41
F. Development Configuration Example 3-42

3.15. Parks and Conservation (PC) District 3-43
A. District Purpose and Intent 3-43
B. District Dimensional Standards 3-43
C. Development Examples 3-44
D. Dimensional Example 3-44
E. Lotting Pattern Examples 3-44
F. Development Configuration Example 3-45

TABLE OF CONTENTS

3.16. Residential Manufactured Home (RMH) District **3-46**
A. District Purpose and Intent 3-46
B. District Dimensional Standards 3-46
C. Development Examples 3-47
D. Dimensional Example 3-47
E. Lotting Pattern Examples 3-47
F. Development Configuration Example 3-48

3.17. Conditional Zoning Districts **3-49**
A. Purpose and Intent 3-49
B. Classification 3-49
C. Districts Established 3-49
D. Conditions 3-49
E. Applicable Standards 3-50

3.18. Limited Use Zoning Districts **3-52**
A. Purpose and Intent 3-52
B. Classification 3-52
C. Application 3-52
D. Districts Established 3-52
E. Conditions 3-52

3.19. Planned Development (PD) Districts **3-53**
A. Purpose and Intent 3-53
B. General Standards for all Planned Developments 3-53
C. Planned Development Terms and Conditions 3-56
D. Relationship to Overlay Districts 3-56
E. Amendments to Approved Master Plan 3-56
F. Additional Standards in the Planned Development Downtown (PDD) District 3-56

3.20. Overlay Districts **3-63**
A. Generally 3-63
B. Airport Height Overlay (AHO) District 3-64
C. Flood Hazard Overlay (FHO) District 3-67
D. Gateway Corridor Overlay (GCO) District 3-76
E. Local Historic Overlay (LHO) District 3-78
F. Water Supply Watershed Protection Overlay (WPO) District 3-84

CHAPTER 4. USE STANDARDS 4-1

4.1. Chapter Organization **4-2**
A. Uses Distinguished 4-2
B. Chapter Organization 4-2

4.2. Principal Uses **4-2**
A. Use Organization System 4-2
B. Unlisted Uses 4-2
C. Principal Use Table 4-3

4.3. Prohibited Uses **4-10**
A. Prohibited Everywhere 4-10
B. Prohibited by Overlay District Standards 4-10

4.4. Use-Specific Standards **4-11**
A. Residential Use Types 4-11
B. Institutional Use Types 4-26
C. Commercial Use Types 4-38
D. Industrial Use Types 4-48
E. Agricultural Uses 4-54

TABLE OF CONTENTS

4.5. Accessory Uses **4-56**
A. Purpose 4-56
B. Organization of These Standards 4-56
C. Procedure For Establishment 4-56
D. General Standards for Accessory Uses and Structures 4-56
E. Common Accessory Use Table 4-57
F. Specific Standards for Selected Accessory Uses 4-59

4.6. Temporary Uses **4-70**
A. Purpose 4-70
B. Applicability 4-70
C. General Standards for Temporary Uses and Structures 4-70
D. Standards for Specific Temporary Uses 4-71

CHAPTER 5. DEVELOPMENT STANDARDS **5-1**

5.1. Off-Street Parking and Loading **5-3**
A. Purpose and Intent 5-3
B. Applicability 5-3
C. Exemptions 5-3
D. Off-Street Parking Requirements 5-3
E. Parking Lot Configuration 5-11
F. Accessible Parking Spaces 5-13
G. Compact Parking Spaces 5-13
H. Stacking Spaces 5-13
I. Bicycle Parking 5-15
J. Parking Alternatives 5-16
K. Off-Street Loading 5-17

5.2. Access and Circulation **5-19**
A. Purpose and Intent 5-19
B. Applicability 5-19
C. Exemptions 5-19
D. Access to Lots 5-19
E. Compliance with Requirements for Streets 5-21
F. Driveways 5-21
G. Sight Distance Triangles 5-24
H. Parking Lot Connections 5-26
I. On-Site Pedestrian Walkways 5-27
J. Compliance with Requirements for Sidewalks 5-28
K. Compliance with Requirements for Greenways 5-28

5.3. Landscaping **5-29**
A. Section Organization 5-29
B. Purpose And Intent 5-29
C. Applicability 5-29
D. Exemptions 5-30
E. Landscape Plan Required 5-30
F. Plant Material Specifications 5-30
G. Landscaping Placement 5-32
H. Features Allowed Within Required Landscaping Areas 5-34
I. Parking Lot Landscaping 5-35
J. Perimeter Buffers 5-38
K. Streetscape Buffers 5-44
L. Street Trees 5-45
M. Planting Flexibility 5-47
N. Time of Installation 5-48
O. Required Maintenance 5-48

TABLE OF CONTENTS

P. Site Inspection 5-49
Q. Replacement of Required Vegetation 5-49

5.4. Screening 5-51
A. Purpose and Intent 5-51
B. Using These Standards 5-51
C. Applicability 5-51
D. Exemptions 5-51
E. General Requirements 5-52
F. Views to be Screened 5-55

5.5. Design Standards and Guidelines 5-56
A. Section Contents 5-56
B. Commercial Design Standards 5-56
C. Mixed-Use Design Standards 5-69
D. Multi-Family Residential Design Standards 5-76
E. Single-Family Residential Design Guidelines 5-83

5.6. Signage 5-88
A. Section Organization 5-88
B. Purpose and Intent 5-88
C. Applicability 5-88
D. Exclusions 5-89
E. Prohibited Sign Types 5-89
F. General Standards Applicable to All Signs 5-90
G. Removal of Dilapidated or Obsolete Signs 5-92
H. Shared Ground Sign 5-93
I. Nonconforming Signage 5-93
J. Sign Standards by Sign Type 5-93

5.7. Exterior Lighting 5-110
A. Purpose and Intent 5-110
B. Applicability 5-110
C. Exemptions 5-110
D. Timing of Review 5-110
E. Prohibited Lighting 5-110
F. Lighting Plan 5-111
G. Exterior Lighting Standards 5-111
H. Maximum Illumination Levels 5-112
I. Nonconforming Lighting 5-113

CHAPTER 6. SUBDIVISIONS 6-1

6.1. Introductory Provisions 6-3
A. How to Use These Standards 6-3
B. Purpose and Intent 6-3
C. Applicability 6-3
D. Exemptions 6-3
E. Compliance with Other Standards 6-3
F. Approval of Subdivision Plats Required 6-4
G. Recordation of Subdivision Plats Required 6-4
H. Issuance of Permits Following Plat Approval 6-4
I. Subdividing in Violation 6-4

6.2. Subdivision Design Standards 6-5
A. Subdivision Name 6-5
B. Reasonable Relationship 6-5
C. Lot Configuration 6-5
D. Access to Lots 6-6

TABLE OF CONTENTS

E. Monuments 6-6
F. Easements 6-6
G. Landscaping 6-7
H. Cluster Mailboxes 6-7

6.3. Streets 6-8
A. Compliance with Guiding Documents 6-8
B. Street Classification 6-8
C. Street Rights-of-Way 6-9
D. Dedication and Construction 6-9
E. Payment in-Lieu of Providing Road Improvements 6-10
F. Private Streets 6-10
G. Street Design 6-10
H. Street Names 6-14
I. Street Drainage 6-14
J. Street Signs 6-14
K. Traffic Control Signs and Signals 6-15
L. Street Lights 6-15
M. Vehicular Gates 6-15
N. Bridges 6-15
O. Dams 6-15

6.4. Sidewalks 6-16
A. Location 6-16
B. Configuration 6-16
C. Credit for Trails 6-16
D. Payment in-Lieu of Providing Sidewalks 6-16

6.5. Utilities and Infrastructure 6-17
A. Potable Water Systems 6-17
B. Sewage Systems 6-18
C. Fire Protection 6-18
D. Underground Utilities 6-18

6.6. Greenways 6-19
A. Required Greenway Dedication and Construction 6-19
B. Payment in-lieu of Providing Greenways 6-19
C. Greenway Configuration 6-19
D. Density Credits 6-19
E. Open Space Set-Aside Credits 6-19
F. Maintenance 6-19

6.7. Performance Guarantees 6-20
A. Purpose and Intent 6-20
B. Eligible Facilities and Features 6-20
C. Ineligible Public Infrastructure 6-20
D. Maximum Term of Guarantee 6-20
E. Form of Guarantee 6-20
F. Administration of Guarantees 6-21
G. Amount of Guarantee 6-21
H. Expiration of Guarantee 6-22
I. Renewal of Guarantee 6-22
J. Release or Reduction of Guarantee 6-22
K. Improper Release of Performance Guarantees 6-22
L. Forfeiture of Guarantee 6-22
M. As-Built Plans Required 6-22

6.8. Fee-in-Lieu 6-24
A. Fee in-Lieu of Required Sidewalk, Greenway, Bikeway, and Roadway Improvements 6-24

6.9. Owner Associations 6-25

TABLE OF CONTENTS

A. Purpose 6-25
B. Applicability 6-25
C. Creation Required 6-25
D. Responsibilities of Association 6-25
E. Procedure for Association Establishment 6-25
F. Documentation Requirements 6-26
G. Membership Requirements 6-26
H. Transfer of Maintenance Responsibility 6-26
I. Failure to Maintain Is a Violation 6-27

6.10. Conservation Subdivision 6-28
A. Purpose and Intent 6-28
B. Applicability 6-28
C. Procedure 6-28
D. Conservation Subdivision Standards 6-29
E. Delineation of Conservation and Development Areas 6-30
F. Evaluation Criteria for Conservation Subdivision Layout 6-32

CHAPTER 7. ENVIRONMENT 7-1

7.1. Open Space Set-Aside 7-3
A. How to Use These Standards 7-3
B. Purpose and Intent 7-3
C. Applicability 7-3
D. Minimum Open Space Set-Aside Requirements 7-3
E. Open Space Set-Aside Configuration 7-4
F. Ownership of Open Space Set-Asides 7-7
G. Maintenance of Open Space Set-Asides 7-7

7.2. Reforestation 7-8
A. Purpose and Intent 7-8
B. Applicability 7-8
C. Exemptions 7-8
D. Requirements 7-8
E. Tree Protection Devices 7-11
F. Credit Towards Other Ordinance Requirements 7-12
G. Maintenance 7-12

7.3. Riparian Buffers 7-14
A. Authority 7-14
B. Purpose and Intent 7-14
C. Jurisdiction 7-14
D. Exemptions 7-14
E. Relationship to Other Ordinances 7-14
F. Riparian Area Protection within the Jordan Reservoir Watershed 7-15
G. Potential Uses and Associated Requirements 7-17
H. Permits Procedures, Requirements, and Approvals 7-25
I. Compliance and Enforcement 7-29

7.4. Stormwater 7-32
A. Authority 7-32
B. Findings 7-32
C. Purpose and Intent 7-32
D. Applicability 7-33
E. Exemptions 7-33
F. Effective Date 7-33
G. Pre-Existing Development and redevelopment 7-33
H. Determination 7-34
I. Stormwater Design Manual 7-34

TABLE OF CONTENTS

J. Standards 7-34
K. Maintenance 7-38
L. Enforcement and Violations 7-42

7.5. Soil Erosion and Sedimentation 7-47
A. Purpose 7-47
B. Scope and Exclusions 7-47
C. Mandatory Standards for Land-Disturbing Activity 7-48
D. Erosion and Sedimentation Control Plans 7-49
E. Basic Control Objectives 7-54
F. Design and Performance Standards 7-54
G. Storm Water Outlet Protection 7-55
H. Borrow and Waste Areas 7-56
I. Access and Haul Roads 7-56
J. Operations in Lakes or Natural Watercourses 7-56
K. Responsibility for Maintenance 7-56
L. Additional Measures 7-56
M. Existing Uncovered Areas 7-57
N. Fees 7-57
O. Performance Guarantees 7-57
P. Plan Appeals 7-57
Q. Inspections and Investigations 7-57
R. Penalties 7-58
S. Injunctive Relief 7-59
T. Restoration After Non-Compliance 7-60
U. Severability 7-60

7.6. Sustainability Incentives 7-61
A. How to Use These Incentives 7-61
B. Purpose and Intent 7-61
C. Applicability 7-61
D. Type of Incentives 7-61
E. Procedure 7-61
F. Menu of Sustainable Development Practices 7-62
G. Failure to Install or Maintain Sustainable Development Practices 7-65

CHAPTER 8. MEASUREMENT AND DEFINITIONS 8-1

8.1. Rules of Language Construction 8-2
A. Meanings and Intent 8-2
B. Headings, Illustrations, and Text 8-2
C. Lists and Examples 8-2
D. Computation of Time 8-2
E. Time-Related Language 8-2
F. References to this Ordinance 8-2
G. References to Other Regulations or Publications 8-2
H. References to North Carolina General Statutes 8-2
I. Delegation of Authority 8-3
J. Joint Authority 8-3
K. Technical and Non-Technical Terms 8-3
L. Public Officials and Agencies 8-3
M. Mandatory and Discretionary Terms 8-3
N. Conjunctions 8-3
O. Tenses, Plurals, and Gender of Words 8-3
P. Oath 8-3
Q. Term not Defined 8-3

8.2. Table of Abbreviations 8-4

TABLE OF CONTENTS

8.3. Rules of Measurement **8-7**
A. Purpose 8-7
B. Measurements, Generally 8-7
C. Lot Dimensions 8-8
D. Setbacks 8-10
E. Setback Encroachments 8-11
F. Residential Density 8-13
G. Gross Floor Area (GFA) 8-13
H. Height 8-14
I. Lot Coverage 8-15
J. Slope and Elevation 8-15
K. Parking Space Computation 8-16
L. Landscaping 8-17
M. Signage Measurement 8-18
N. Building Façade Type 8-21
O. Exterior Lighting 8-22
P. Fence and Wall Height 8-23

8.4. Definitions **8-25**

CHAPTER 9. NONCONFORMITIES **9-1**

9.1. Nonconformities, Generally **9-2**
A. Purpose and Intent 9-2
B. Determination of Nonconformity Status 9-2
C. Continuation, Minor Repairs, and Maintenance Allowed 9-2
D. Change of Tenancy or Ownership 9-2

9.2. Nonconforming Uses **9-3**
A. Declared Incompatible 9-3
B. Increasing Elevation 9-3
C. Extension or Expansion 9-3
D. Conversion to Another Nonconforming Use 9-3
E. Restoration Following Casualty Damage 9-3
F. Cessation 9-4

9.3. Nonconforming Structures **9-5**
A. Applicability 9-5
B. Continuation and Replacement 9-5
C. Alteration and Expansion 9-5
D. Cessation 9-5

9.4. Nonconforming Lots of Record **9-6**
A. Applicability 9-6
B. Nonconforming Lot Width or Area 9-6
C. Nonconformity Affects Required Setbacks 9-6
D. Expansion or Enlargement 9-6
E. Governmental Acquisition of Land 9-6

9.5. Nonconforming Signs **9-7**
A. General 9-7
B. Prohibited Actions 9-7
C. Maintenance of Nonconforming Signage Allowed 9-7
D. Replacement of Nonconforming Signage 9-7
E. Discontinuance of Business Activity 9-7

9.6. Nonconforming Site Features **9-9**
A. Applicability 9-9
B. Determination of Cost and Assessed Value 9-9

TABLE OF CONTENTS

C. Expansion of Buildings or Structures 9-9
D. Physically Constrained Properties - Comply to Maximum Extent Practicable 9-10

CHAPTER 10. AUTHORITIES 10-1

10.1. Overview 10-2

10.2. City Council 10-2
A. Application Review and Decision 10-2
B. Other Powers and Duties 10-2
C. Conflict of Interest 10-2
D. Rules of Procedure 10-2

10.3. Planning and Zoning Commission (P&Z) 10-2
A. Powers and Duties 10-2
B. Composition 10-3
C. Rules of Procedure 10-4

10.4. Board of Adjustment (BOA) 10-5
A. Powers and Duties 10-5
B. Composition 10-5
C. Rules of Procedure 10-6

10.5. Historic Preservation Commission (HPC) 10-8
A. Powers and Duties 10-8
B. Composition 10-9
C. Rules of Procedure 10-9

10.6. Technical Review Committee (TRC) 10-11
A. Powers and Duties 10-11
B. Composition 10-11
C. Meetings 10-11

10.7. City Staff 10-12
A. Planning Director 10-12
B. City Engineer 10-12
C. Stormwater Administrator 10-14
D. Transportation Director 10-14

USING THIS UDO

This document is the City of Burlington's Unified Development Ordinance (or "UDO"). It contains the rules that control how land can be used in the City's jurisdiction (land within the City limits and the City's extra-territorial jurisdiction), what kinds of uses may be located in particular locations, how new development must be configured, and the rules for review of development applications.

The following paragraphs explain some of the attributes of this document.

This UDO updates and replaces the City's prior Zoning Ordinance, Land Development Regulations, and selected appendices from the City Code of Ordinances (Soil Erosion & Sedimentation Control, Riparian Buffers, Flood Damage Prevention, etc.). While this document implements the City's adopted policy guidance, like Destination Burlington (the City's comprehensive plan), the UDO is a legal document and is not advisory in nature (like the comprehensive plan).

The City's zoning map is the graphical depiction of the location of the zoning districts and is adopted by reference into this UDO. There are zoning district translation provisions in Chapter 1 of this document that describe how the prior zoning districts are translated to corresponding zoning districts in this UDO.

This document contains 10 chapters that consolidate similar kinds of provisions, like procedures, zoning districts, use standards, or development standards. The second page of each chapter is a table of contents for the chapter. Each table of contents entry is a dynamic hyper link that will advance the digital version of the document to the selected section (a section is selected by clicking on a term with the mouse). Underlined text shows cross references to other sections or subsections in the document. As with the table of contents entries, users of the digital version of this document will be able to click on a cross reference, and the digital document will automatically scroll to the location in the document being cross referenced.

This UDO document includes a text formatting system comprised of numbered section and subsection headings that are designed to help code users understand how the text in the document is organized. Section headings include different color backgrounds and subsection headings use underlining to help them be more visible. The document also includes a number of other features such as procedural flowcharts, a glossary of abbreviations, and tables that summarize information.

The top of almost every page in the document includes a listing of the chapter number and name, as well as the appropriate section number and reference found on that particular page. Users may use the tops of pages to navigate the document. Page numbers are included at the bottom of each page. Page numbers include the chapter number. Some chapters (like Chapter 2: Procedures) also include an introductory section that explains how the regulations in the chapter are structured and how to use them effectively.

The last section of this UDO includes an index that identifies key words and concepts used in the UDO. As with table of contents entries, users of the digital version of the document may select a particular term with their mouse and the document will automatically scroll to that location.

The City has also prepared a separate Procedures Manual that is a companion to this UDO. The Procedures Manual includes the application forms, submittal requirements, review schedules, and other details pre-application conference information, subdivision certifications, and related information for applicants.

These changes are designed to make the UDO more user-friendly, predictable, and easy to use.

UDO users should be sure they are using the most recent version of this document and the associated Official Zoning Map, which can be obtained by contacting the City of Burlington's Planning and Community Development Department at 336.222.5110 or via the City's webpage at www.burlingtonnc.gov.

TABLE OF AMENDMENTS

UDO AMENDMENTS			
Ordinance Number	**Ordinance Date**	**Name**	**Location**
UDOTA-01-20	12.3.19	First round of amendments	Contact City of Burlington Planning and Community Development Department at 336.222.5110 for copies of text amendments
UDOTA-02-20	3.17.20	Second round of amendments	
UDOTA-03-20	10.20.20	Third round of amendments	
UDOTA-01-21	3.4.21	Fourth round of amendments	
UDOTA-02-21	5.4.21	Fifth round of amendments	
UDOTA-01-22	1.4.22	Sixth round of amendments	

CHAPTER 1. INTRODUCTION

1.1. Title **1-2**
A. Unified Development Ordinance Text 1-2
B. Official Zoning Map 1-2

1.2. Effective Date **1-2**

1.3. Authority **1-2**
A. General Authority 1-2
B. References to State Law 1-2

1.4. General Purpose and Intent **1-2**

1.5. Applicability **1-3**
A. General Applicability 1-3
B. Application to Governmental Units 1-3
C. No Development until Compliance with all Applicable Law 1-3
D. Minimum Requirements 1-4

1.6. Consistency with Adopted Policy Guidance **1-4**
A. Adopted Policy Guidance 1-4
B. Conformance 1-4

1.7. Procedures Manual **1-4**

1.8. Relationship to Other Laws, Covenants, or Deed Restrictions **1-5**

1.9. Conflict between Laws **1-5**
A. Conflicts with State or Federal Law 1-5
B. Conflicts with Other City Codes or Laws 1-5
C. Conflicts between the Standards in this Ordinance 1-5
D. Conflicts with Private Agreements 1-5
E. Determination of the More Restrictive Standard 1-5

1.10. Transitional Provisions **1-5**
A. Prior Violations 1-5
B. Existing Nonconformities 1-5
C. Prior Approvals 1-5
D. Pending Applications 1-6
E. Existing Uses 1-6
F. Lands Designated CMX-R or CMX-C in Prior Ordinance 1-6

1.11. Zoning District Translations **1-6**

1.12. Vested Rights **1-7**
A. Prior Vesting 1-7
B. Development Approvals 1-7
C. Building Permit 1-8
D. Site-Specific Vesting Plan 1-8
E. Development Agreements 1-8
F. Multi-Phase Development 1-8
G. Vested Rights Certificate 1-8
H. Common Law Vesting 1-8

1.13. Severability **1-8**

1.1. TITLE

A. UNIFIED DEVELOPMENT ORDINANCE TEXT

This Ordinance shall be officially known as the "Unified Development Ordinance of the City of Burlington" and may be referred to as "the Unified Development Ordinance," "this Ordinance," and several abbreviated references ("the UDO," "this UDO," or "UDO.")

B. OFFICIAL ZONING MAP

The zoning map referenced in this Ordinance is officially titled as the "Zoning Map, City of Burlington, North Carolina, GIS Generated" and may be referred to as "the Official Zoning Map."

1.2. EFFECTIVE DATE

This Ordinance shall be in full force and effect on November 1, 2019, and repeals and replaces the following regulations:

1. The City of Burlington Zoning Ordinance, as originally adopted on June 16, 1971, and subsequently amended;
2. The Land Subdivision Regulations for the City of Burlington, as originally adopted on August 21, 1979, and subsequently amended;
3. The Flood Damage Prevention Ordinance (Appendix B of the City Code of Ordinances), as originally adopted on August 15, 2006, and subsequently amended;
4. The Stormwater Ordinance (Appendix D of the City Code of Ordinances), as originally adopted on June 19, 2007, and subsequently amended;
5. The Riparian Buffer Protection Ordinance (Appendix E of the City Code of Ordinances) as originally adopted November 16, 2010, and subsequently amended; and
6. The Soil Erosion and Sedimentation Control Ordinance (Chapter 31.5 of the City Code of Ordinances) as originally adopted on July 18, 2006, and subsequently amended.

1.3. AUTHORITY

(AMENDED 10.20.20 UDOTA-03-20)

A. GENERAL AUTHORITY

This Ordinance consolidates the City's zoning, subdivision, stormwater, riparian buffer protection, flood damage prevention, and soil erosion and sedimentation regulations, as authorized by the North Carolina General Statutes. It is adopted in accordance with:

1. The North Carolina General Statutes, including, but not limited to:
   a. Chapter 160A, Article 8 (Police Powers);
   b. Chapter 160A, Article 15 (Streets, Traffic, and Parking);
   c. Chapter 160D (Local Planning and Development Regulation);
   d. Chapter 143, Article 21 (Water and Air Resources);
   e. Chapter 113A, Article 4 (Sedimentation and Pollution Control);
2. The Burlington City Charter;
3. Other relevant laws, including but not limited to:
   a. All other relevant laws of the State of North Carolina; and
   b. Any special legislation enacted by the General Assembly.

B. REFERENCES TO STATE LAW

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes, the North Carolina Administrative Code, or any other adopted State law, and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

1.4. GENERAL PURPOSE AND INTENT

The purpose of this Ordinance is to promote the public health, safety, morals, and general welfare of the community, and to ensure that all development within the City's jurisdiction is generally consistent with goals and objectives of the plans and policies adopted by the City to address its growth and development. More specifically, this Ordinance is intended to:

1. Foster convenient, compatible, and efficient relationships among land uses;
2. Support orderly growth and development within the City's jurisdiction;
3. Support and encourage a strong and diverse economy;

4. Better manage and lessen congestion in the streets;
5. Coordinate the development of streets with other public facilities;
6. Ensure the provision of adequate open space between uses for light, air, and fire safety;
7. Secure the safety of landowners and residents from flooding, fire, seismic activity, and dangers presented from extreme weather events, to the extent possible;
8. Encourage urban densities in appropriate locations, such as downtown;
9. Facilitate the adequate and economic provision of transportation, water, sewage, schools, parks, and other public services;
10. Ensure the construction of necessary community service facilities;
11. Protect water quality within the Watershed Critical Areas and the General Watershed Areas of designated water supply watersheds;
12. Preserve the neighborhood character and quality of residential communities while providing increased housing choices indicated in adopted policy guidance, as appropriate;
13. Maintain and enhance the character of distinct areas in the City, such as gateways and commercial corridors, through an emphasis on design and form standards;
14. Require appropriate setbacks for buildings and other structures to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes, and ensure adequate distance from dust, noise, and fumes created by vehicular traffic;
15. Add flexibility and provide incentives for beneficial redevelopment, development that incorporates sustainable features, and increased pedestrian-orientation;
16. Protect existing established development and neighborhoods from incompatible infill and redevelopment;
17. Protect open space, natural resources, and rural character, where appropriate;
18. Continue to provide a sustainable balance of land uses to assist with the fiscal wellbeing of the City and to ensure a diverse tax base;
19. Improve city-wide and regional connectivity through greenways, trails, bicycle lanes and paths, and sidewalks;
20. Address the dedication and reservation of areas for recreation;
21. Manage the City's stormwater and surface waters sustainably;
22. Focus on multi-modal complete streets and the design of streetscapes;
23. Ensure the dedication and reservation of sufficient land for public rights-of-way and utilities; and
24. Promote redevelopment of former industrial lands as catalyst sites ready for investment.

1.5. APPLICABILITY

(AMENDED 10.20.20 UDOTA-03-20)

A. GENERAL APPLICABILITY

The provisions of this Ordinance shall apply to the development of all land within the corporate limits and the Extraterritorial Jurisdiction (ETJ) of the City of Burlington, as shown on the adopted Official Zoning Map, unless the development is expressly exempted by a specific section or subsection of this Ordinance.

B. APPLICATION TO GOVERNMENTAL UNITS

Except as stated elsewhere, this Ordinance shall apply to:

1. **The City of Burlington**
   Development by the City or its agencies or departments.
2. **County and State Government**
   Development of buildings by state or county agencies or departments, public colleges or universities, or other political subdivisions of the State, in accordance with the standards in Section 160D-913 of the North Carolina General Statutes.
3. **The Federal Government**
   Development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services, to the full extent permitted by federal law. For those activities of the Federal Government exempted from these regulations, compliance is strongly encouraged.

C. NO DEVELOPMENT UNTIL COMPLIANCE WITH ALL APPLICABLE LAW

1. **No Land Developed**
   Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable City, State, and federal regulations.

2. No Grading or Excavation
Unless exempted, no land shall be subjected to clearing, grading, filling, or excavated without compliance with this Ordinance and all other applicable City, State, and federal regulations.

3. No Use or Occupancy
No person shall use, occupy, or divide any land or a building or authorize or permit the use, occupancy, or division of land or a building under their control, except in accordance with this Ordinance and all other applicable City, State, and federal regulations.

4. No Building Constructed
No building or structure, or portion thereof, shall be erected, used, occupied, maintained, moved, or altered except in conformity with the applicable regulations in this Ordinance and all other applicable City, State, and federal regulations.

5. No Sale or Transfer
No lots in a subdivision may be sold or titles to land transferred until all the requirements of this Ordinance have been met, except as authorized by Section 160D-807 of the North Carolina General Statutes.

6. No Double Counting of Required Areas
No land area or other required space counted as part of a required yard, setback, lot area, parking area, or similar feature of one lot may be counted towards the requirements of another lot.

D. MINIMUM REQUIREMENTS

In the application of this Ordinance, all provisions shall be considered as minimum requirements and shall not be deemed to limit or repeal any other powers or authority granted under the North Carolina General Statutes.

1.6. CONSISTENCY WITH ADOPTED POLICY GUIDANCE

(AMENDED 10.20.20 UDOTA-03-20)

A. ADOPTED POLICY GUIDANCE

The administration, enforcement, and amendment of this Ordinance shall be accomplished in accordance with the City's adopted planning policy framework. This includes the most recently adopted Comprehensive Plan, the Downtown Burlington Master Plan, the Recreation and Parks Master Plan, the Greenways and Bikeways Plan, the Pedestrian Plan, and all other applicable City-adopted policy guidance.

B. CONFORMANCE

1. Advisory
Adopted policy guidance is advisory in nature and does not carry the effect of law. Consistency with adopted policy guidance is not a requirement for the continuing validity of any provision of this Ordinance, except as provided in Section 160D-604 and Section 160D-605 of the North Carolina General Statutes.

2. Consistency
This Ordinance is intended to ensure that all development within the City is consistent with the goals, objectives, policies, strategies, and actions contained in the City's adopted policy guidance.

3. Amendment upon Inconsistency

a. To the extent this Ordinance or the Official Zoning Map is or becomes inconsistent with the City's adopted policy guidance, it should be amended to remain consistent.

b. Consistency with adopted policy guidance is not a prerequisite for approval of a rezoning or planned development application, and the future land use map portion of the comprehensive plan shall be deemed amended when the City Council approves a rezoning or planned development applications that is inconsistent with the future land use map in accordance with Section 160D-605 of the North Carolina General Statutes.

1.7. PROCEDURES MANUAL

1. The Procedures Manual is a separate document that supplements the procedures and requirements in this Ordinance with application forms, submittal requirements, certification statements for inclusion on plans or plats, the City staff member or review authority designate to receive and process an application, the timing of review, and other resource information for applicants.
2. The Planning Director shall maintain the Procedures Manual.

3. Material in the Procedures Manual is supplemental and is not intended to replace any of the standards or requirements of this Ordinance.

1.8. RELATIONSHIP TO OTHER LAWS, COVENANTS, OR DEED RESTRICTIONS

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights, provided such agreements or vested rights were lawfully established and remain in effect.

1.9. CONFLICT BETWEEN LAWS

A. CONFLICTS WITH STATE OR FEDERAL LAW

If a provision of this Ordinance is inconsistent with State or federal law, the more restrictive provision controls, to the extent permitted by law.

B. CONFLICTS WITH OTHER CITY CODES OR LAWS

If a provision of this Ordinance is inconsistent with another provision found in other adopted ordinances of the City, the more restrictive provision shall govern, unless the terms of the more restrictive provision specifies otherwise.

C. CONFLICTS BETWEEN THE STANDARDS IN THIS ORDINANCE

1. **Generally**
   In cases where two or more standards in this Ordinance conflict with one another, the more restrictive standard shall control.
2. **Authorized Deviations or Incentives**
   Development configured in accordance with an allowable deviation or incentive authorized by this Ordinance shall not be considered to conflict with other standards in this Ordinance.

D. CONFLICTS WITH PRIVATE AGREEMENTS

In cases where the standards in this Ordinance conflict with private agreements, covenants, or deed restrictions and the standards in this Ordinance are more restrictive, the standards in this Ordinance shall control.

E. DETERMINATION OF THE MORE RESTRICTIVE STANDARD

The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

1.10. TRANSITIONAL PROVISIONS

(AMENDED 10.20.20 UDOTA-03-20)

The standards in this section address existing violations, nonconformities, and applications in process at the time this Ordinance is adopted.

A. PRIOR VIOLATIONS

1. Violations of the previous ordinance shall continue to be violations under this Ordinance, unless the development complies with this Ordinance and is no longer considered to be in violation, or the ability to address the violation has lapsed in accordance with Section 2.5.C, Statute of Limitations.
2. Violations of this Ordinance shall be subject to the penalties and enforcement provisions in CHAPTER 2. PROCEDURES, of this Ordinance.

B. EXISTING NONCONFORMITIES

If any use, structure, lot, or sign, legally existed on November 1, 2019, but does not fully comply with the standards of this Ordinance, the use, structure, lot, or sign, is considered nonconforming under this Ordinance and shall comply with the requirements in CHAPTER 9. NONCONFORMITIES.

C. PRIOR APPROVALS

1. Any development approvals granted before November 1, 2019, shall remain valid until their expiration date.
2. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired.

3. If an approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance.
4. An applicant shall be deemed to have initiated an approved development upon the subsequent application for and diligent pursuit of other required City, State, or federal permits or approvals.
5. Timelines for the commencement or expiration of development in accordance with an approved application shall be suspended in the event of legal challenge.
6. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of CHAPTER 9. NONCONFORMITIES.

D. PENDING APPLICATIONS

1. **Complete Applications**
   Applications accepted as complete prior to November 1, 2019, may be decided in accordance with either the regulations in affect at the time the application was determined complete or the regulations in this Ordinance, as requested by the applicant in accordance with Section 2.3.F.9, Permit Choice.
2. **If Approved**
   To the extent such a complete application is approved and proposes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions of CHAPTER 9. NONCONFORMITIES.
3. **Filed, but Not Complete Applications**
   Applications that have been filed prior to November 1, 2019, but not determined to be complete by the Planning Director as of that date shall be reviewed and decided in accordance with this Ordinance.

E. EXISTING USES

1. If a use was a lawfully established permitted use before November 1, 2019, and is subsequently made a special use in Table 4.2.C, Principal Use Table, the use shall be considered by the City as a lawfully-established nonconforming use.
2. Any modifications to the use or the site after November 1, 2019, shall require approval of a special use permit in accordance with Section 2.4.T, Special Use Permit.

F. LANDS DESIGNATED CMX-R OR CMX-C IN PRIOR ORDINANCE

1. As identified in Table 1.11, Zoning District Translation, lands zoned CMX-R or CMX-C prior to November 1, 2019, shall be translated to the new Mixed Use (MX) general district. Existing development shall be subject to the MX district standards.
2. In cases where existing development within a CMX-R or CMX-C district is subject to an approved condition that waives or reduces a particular development standard, that waiver or reduction shall remain in effect until such time as the existing use or development ceases or the land is subject to an approved rezoning in accordance with Section 2.4.P, Rezoning, or special use permit in accordance with Section 2.4.T, Special Use Permit.

1.11. ZONING DISTRICT TRANSLATIONS

(AMENDED 10.20.20 UDOTA-03-20)

On November 1, 2019, land zoned with a zoning district classification from the previous ordinance shall be translated or reclassified to one of the zoning district classifications in this Ordinance as set forth in CHAPTER 3. ZONING DISTRICTS, Table 1.11, Zoning District Translation, summarizes the translation or reclassification of the zoning districts used in the previous ordinance to the zoning districts used in this Ordinance. For example, the table shows that all lands classified as R-30 Single-Family Residential in the previous ordinance under the column titled "Former Zoning District" are now classified LDR Low Density Residential as shown under the column titled "Current Zoning District."

TABLE 1.11: ZONING DISTRICT TRANSLATION

FORMER ZONING DISTRICT		CURRENT ZONING DISTRICT	
CONVENTIONAL RESIDENTIAL DISTRICTS			
R-30	Single-Family Residential	LDR	Low Density Residential

TABLE 1.11: ZONING DISTRICT TRANSLATION

Former Zoning District		Current Zoning District	
R-15	Residential	MDR	Medium Density Residential
R-12	Residential		
R-9	Residential		
R-6	Residential	HDR	High Density Residential
MF-A	Multifamily Residential		
MF-B	Multifamily Residential		
R-M	Residential – Mobile Home	RMH	Residential Manufactured Home
CONVENTIONAL BUSINESS DISTRICTS			
OI	Office Institutional	OI	Office Institutional
R-OI	Restricted Office Institutional		
B-1	Neighborhood Business	NB	Neighborhood Business
B-2	General Business	GB	General Business
B-3	Central Business	CBD	Central Business
I-2	Light Industrial	LI	Light Industrial
I-1	Planned Industrial		
I-1A	Planned Industrial-Residential	MI	Medium Industrial
I-3	Heavy Industrial	HI	Heavy Industrial
CONVENTIONAL SPECIAL DISTRICTS			
(new)		PC	Parks and Conservation
CMX-R	Conditional Mixed Use (Residential)	MX	Mixed Use
CMX-C	Conditional Mixed Use (Commercial)		
CONDITIONAL ZONING DISTRICTS			
CR	Conditional Residential	CR	Conditional Residential
COI	Conditional Office-Institutional	COI	Conditional Office-Institutional
CB	Conditional Business	CB	Conditional Business
CI	Conditional Industrial	CI	Conditional Industrial
(new)		PD	Planned Development
		PDD	Planned Development-Downtown

1.12. VESTED RIGHTS

(AMENDED 10.20.20 UDOTA-03-20)

Vested rights shield prior-approved development from the requirement to comply with changes in this Ordinance or other Town requirements except those directly-related to the protection of public safety. Vested rights are applied in accordance with Section 160D-108(d) of the North Carolina General Statutes, and the following.

A. PRIOR VESTING

Amendments, supplements, repeals, or other changes in zoning regulations and zoning boundaries shall not be applicable or enforceable without the consent of the landowner with regard to lots for which building permits, multi-phased development approvals, or vested rights have been established (pursuant to State law) prior to the enactment of the ordinance making the change(s), so long as the vested rights remain valid and unexpired.

B. DEVELOPMENT APPROVALS

Except for building permits, site-specific vesting plans, development agreements, and multi-phase developments, any development approval under this Ordinance shall be vested from changes in this

Ordinance for a period of one year from the date of approval, provided the development subject to the approval complies with all applicable terms and conditions.

C. BUILDING PERMIT

The issuance of a building permit establishes a vested right to development for a period of six months, as long as the building permit complies with the terms and conditions of approval of that building permit.

D. SITE-SPECIFIC VESTING PLAN

1. Development approvals identified by this Ordinance as site-specific vesting plans shall be granted a vested right to develop for a maximum period of two years from the date of the approval, provided the development subject to the approval complies with all applicable terms and conditions.
2. The following types of development approvals shall be considered site-specific vesting plans:
   a. Concept plans associated with a conditional rezoning approved in accordance with Section 2.4.P, Rezoning;
   b. Final plats approved in accordance with Section 2.4.K, Final Plat;
   c. Planned developments approved in accordance with Section 2.4.M, Planned Development;
   d. Preliminary plats approved in accordance with Section 2.4.N, Preliminary Plat;
   e. Site plans approved in accordance with Section 2.4.S, Site Plan; and
   f. Special use permits approved in accordance with Section 2.4.T, Special Use Permit.
3. Site-specific vesting plans meeting the definition of a multi-phase development shall be vested in accordance with Section 1.12.F, Multi-Phase Development.

E. DEVELOPMENT AGREEMENTS

Development agreements (see Section 2.4.G, Development Agreement) shall be subject to a reasonable vested period as outlined in the approved development agreement.

F. MULTI-PHASE DEVELOPMENT

1. A multi-phase development plan that occupies at least 25 acres of land area, is subject to a master plan that depicts the types and intensities of all uses as part of the approval, and includes more than one phase shall be considered as a multi-phase development plan that is granted a vested right to develop for a period of seven years from the date of approval of the first site plan associated with the development.
2. Vesting shall commence upon approval of the site plan for the first phase of the development.
3. The vested right shall remain in affect provided the development does not expire and provided it complies with all the applicable terms and conditions of the approval.

G. VESTED RIGHTS CERTIFICATE

Site-specific vesting plans that do not quality as a multi-phase development may have a vesting period exceeding two years upon approval of a vested right certificate in accordance with Section 2.4.Y, Vested Rights Certificate.

H. COMMON LAW VESTING

A common law vested right is established only when the following can be demonstrated by the landowner:

1. There is an affirmative governmental act by the City in the form of an approval of a permit or development approval under this Ordinance; and
2. The landowner relies on this affirmative governmental act in good faith and makes substantial expenditures to develop the land; and
3. It would be inequitable to prevent the landowner from proceeding to develop the land consistent with the terms and conditions of the permit or development approval relied upon.

1.13. SEVERABILITY

The legislative intent of the City Council in adopting this Ordinance is that all provisions shall regulate development in accordance with the existing and future needs of the City as established in this Ordinance, and promote the public health, safety, and general welfare of the landowners and residents of Burlington. If any section, subsection, sentence, boundary, or clause of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases are declared invalid.

CHAPTER 2. PROCEDURES

2.1. How to Use This Chapter **2-3**
A. Chapter Organization 2-3
B. Steps in the Review Process 2-3

2.2. Summary Development Table **2-3**

2.3. Common Procedures **2-5**
A. Overview 2-5
B. Purpose and Intent 2-5
C. Conflict with Specific Procedures 2-5
D. Pre-Application Conference 2-5
E. Neighborhood Information Meeting 2-6
F. Application Filing and Acceptance 2-7
G. Staff Review and Action 2-8
H. Public Notification 2-9
I. Public Meetings and Hearings 2-11
J. Conditions of Approval 2-13
K. Written Notice of Decision 2-14
L. Effect of Development Approval 2-14
M. Continuance, Postponement, or Withdrawal 2-14
N. Limitation on Subsequent Applications 2-15

2.4. Specific Procedures **2-16**
A. How to Use this Section 2-16
B. Administrative Adjustment 2-17
C. Appeal 2-19
D. Certificate of Appropriateness 2-22
E. Comprehensive Plan Amendment 2-26
F. Determination 2-28
G. Development Agreement 2-31
H. Erosion Control Permit 2-33
I. Expedited Subdivision 2-35
J. Fence Permit 2-37
K. Final Plat 2-38
L. Floodplain Development Permit 2-41
M. Planned Development 2-43
N. Preliminary Plat 2-47
O. Reasonable Accommodation 2-50
P. Rezoning 2-52
Q. Riparian Buffer Determination of No Practical Alternatives/Authorization Certification 2-57
R. Sign Permit 2-59
S. Site Plan 2-60
T. Special Use Permit 2-63
U. Stormwater Permit 2-65
V. Temporary Use Permit 2-67
W. Text Amendment 2-69
X. Transportation Impact Analysis 2-71
Y. Vested Rights Certificate 2-73
Z. Water Supply Watershed Protection Permit 2-75
AA. Water-Related Variance 2-76
BB. Zoning/Subdivision Variance 2-82

2.5. Enforcement **2-85**
A. Purpose 2-85
B. Compliance Required 2-85
C. Statute of Limitations 2-85
D. Violations 2-85

E. Responsible Persons 2-85
F. Enforcement Responsibilities 2-86
G. Enforcement of Specific Environmental Regulations 2-86
H. Enforcement Procedure 2-86
I. Remedies 2-87
J. Assessment of Civil Penalties 2-89

2.1. HOW TO USE THIS CHAPTER

(AMENDED 10.20.20 UDOTA-03-20)

A. CHAPTER ORGANIZATION

1. This chapter includes all the development application review provisions, and is comprised of the following three sections:
   a. A section setting out the summary table of review procedures;
   b. A section containing a set of common (or standard) procedures; and
   c. A section with the specific procedures.
2. The summary table in Section 2.2, Summary Development Table, describes all the specific development application review procedures in this Ordinance and the review authorities who decide them.
3. Section 2.3, Common Procedures, describes the common procedures, or the set of standardized development review procedures that apply to every type of development application. For example, pre-application conferences, application submittal, application completeness determination, staff review and report, public notification, public meeting or hearing procedures, and notification of decision steps are identical for each type of development application, and as such, are listed only once. In some cases, there are minor deviations from the common procedures for some types of specific development applications. In those cases, the provisions for the specific development application review procedure control.
4. Section 2.4, Specific Procedures, describes the steps in each type of application review process, the review criteria specific to that type of procedure, and any other provisions that apply in addition to or instead of the common procedures.

B. STEPS IN THE REVIEW PROCESS

An applicant seeking development approval under this Ordinance should first consult the summary table of review procedures in Section 2.2, Summary Development Table, to determine which review authorities are involved with the application. Then, an applicant should review the common procedures in Section 2.3, Common Procedures, to understand the steps in the application process. Finally, an applicant should review the individual specific procedure related to their application type in Section 2.4, Specific Procedures.

2.2. SUMMARY DEVELOPMENT TABLE

Section 2.2, Summary Development Table, lists each of the specific development review procedures under this Ordinance and the review authority (ies) involved in the decision-making process. Review authorities are listed in columns across the top of the table and procedures are listed in rows down the side. Cells in the middle show actions taken by a particular review authority as part of the review process. Blank cells ("·") indicate that a particular review authority has no role in the particular procedure.

TABLE 2.2: SUMMARY DEVELOPMENT TABLE

Type of Action: A=Appeal (initial); D=Decision; C=Comment; R=Recommendation
Pre-Application Conference: M=Mandatory; O=Optional; N/A=Not Applicable
Type of Hearing:| |= Public Meeting; [ ]=Legislative Public Hearing; { }=Quasi-judicial Public Hearing

Procedure	UDO Section Number	Pre-Application Conference	Review Authority									
			City Engineer	Planning Director	Stormwater Administrator	Transportation Director	Board of Adjustment	City Council	Historic Preservation Commission	Planning & Zoning Commission	Technical Review Committee	Superior Court
Administrative Adjustment (AMENDED 1.4.22 UDOTA-01-22)	2.4.B	O	·	D	·	·	{A}	·	·	·	·	·
Certificate of Appropriateness	2.4.D	O	·	D /1/	·	·	{A}	·	{D} /1/	·	·	·
Comprehensive Plan Amendment	2.4.E	O	·	R	·	·	·	[D]	·	|R|	·	A
Determination /2/ (AMENDED 10.20.20 UDOTA-03-20)	2.4.F	N/A	D	D	D	D	{A}	·	·	·	·	·
Development Agreement	2.4.G	M	·	R	·	·	·	[D]	·	|R|	·	A
Erosion Control Permit	2.4.H	M /3/	D	·	·	·	{A} /4/	·	·	·	·	·
Expedited Subdivision (AMENDED 10.20.20 UDOTA-03-20) (AMENDED 1.4.22 UDOTA-01-22)	2.4.I	N/A	·	D	·	·	·	·	·	·	·	A
Fence Permit (AMENDED 1.4.22 UDOTA-01-22)	2.4.J	N/A	·	D	·	·	{A}	·	·	·	·	·
Final Plat (AMENDED 1.4.22 UDOTA-01-22)	2.4.K	N/A	C	D	C	C	·	·	·	·	·	A
Floodplain Development Permit	2.4.L	M /5/	D	·	·	·	{A}	·	·	·	·	·
Planned Development	2.4.M	M	·	·	·	·	·	[D]	·	|R|	·	A
Preliminary Plat	2.4.N	M	·	·	·	·	·	·	·	·	D	A
Reasonable Accommodation (AMENDED 1.4.22 UDOTA-01-22)	2.4.O	M	·	D	·	·	{A}	·	·	·	·	·
Rezoning	2.4.P	M	·	R	·	·	·	[D]	·	|R|	·	A
Riparian Buffer Determination … /6/ (AMENDED 10.20.20 UDOTA-03-20)	2.4.Q	O	·	·	D	·	·	·	·	·	·	·
Sign Permit (AMENDED 1.4.22 UDOTA-01-22)	2.4.R	N/A	·	D	·	·	{A}	·	·	·	·	·
Site Plan	2.4.S	M	·	·	·	·	{A}	·	·	·	D	·
Special Use Permit	2.4.T	M	·	·	·	·	{D}	·	·	·	·	A
Stormwater Permit	2.4.U	O	·	·	D	·	{A}	·	·	·	·	·
Temporary Use Permit (AMENDED 1.4.22 UDOTA-01-22)	2.4.V	N/A	·	D	·	·	{A}	·	·	·	·	·
Text Amendment	2.4.W	O	·	R	·	·	·	[D]	·	|R|	·	A
Transportation Impact Analysis	2.4.X	M	·	·	·	D	{A}	·	·	·	·	·
Vested Rights Certificate	2.4.Y	O	·	R	·	·	·	[D]	·	·	·	A
Water Supply Watershed Protection Permit	2.4.Z	O	·	·	D	·	{A}	·	·	·	·	·
Water-Related Variance /7/	2.4.AA	M	D /8/	·	D /8/	·	{D} /9/	·	·	·	·	A
Zoning/Subdivision Variance	2.4.BB	M	·	·	·	·	{D}	·	·	·	·	A

TABLE 2.2: SUMMARY DEVELOPMENT TABLE

Type of Action: A=Appeal (initial); D=Decision; C=Comment; R=Recommendation
Pre-Application Conference: M=Mandatory; O=Optional; N/A=Not Applicable
Type of Hearing:| |= Public Meeting; [ ]=Legislative Public Hearing; { }=Quasi-judicial Public Hearing

Procedure	UDO Section Number	Pre-Application Conference	Review Authority									
			City Engineer	Planning Director	Stormwater Administrator	Transportation Director	Board of Adjustment	City Council	Historic Preservation Commission	Planning & Zoning Commission	Technical Review Committee	Superior Court

NOTES:
(AMENDED 10.20.20 UDOTA-03-20)
/1/ The Planning Director shall decide applications for a certificate of appropriateness constituting "minor work".
/2/ The Stormwater Administrator determines the provisions pertaining to stormwater and watersheds; the Planning Director determines the zoning and subdivision-related standards (including vesting status); the City Engineer determines erosion control, flood damage prevention, and infrastructure-related provisions (including construction-related provisions); the Transportation Director determines the provisions related to transportation impact analysis, as well as street, sidewalk, driveway, and greenway placement.
/3/ Pre-application conference optional in cases when less than 10 acres of ground area are disturbed.
/4/ An applicant may appeal the decision of the BOA to the NC Sedimentation Control Commission.
/5/ Pre-application conferences are required when FEMA approval of a special flood hazard area designation is needed; otherwise, pre-application conferences are optional.
/6/ Full application title: Riparian Buffer Determination of No Practical Alternatives/Request for Authorization Certification. Appeals shall be to the Director of the North Carolina Division of Water Quality.
/7/ Water-related variances include variances from the special flood hazard area standards, the stormwater standards, the riparian buffer standards, and the water supply watershed standards.
/8/ The City Engineer decides water-related variance applications from the special flood hazard area standards.
/9/ The Stormwater Administrator decides applications for minor water supply watershed and riparian buffer variances. Major water supply watershed and riparian buffer variances require approval by the Board of Adjustment prior to consideration by the NC Environmental Management Commission. The Board of Adjustment shall review and decide all water-related variance applications for stormwater standards.

2.3. COMMON PROCEDURES

A. OVERVIEW

1. This section describes the common (or standard) procedural steps and rules generally applicable to development applications reviewed under this Ordinance, except where identified in Section 2.4, Specific Procedures.
2. The flow charts of specific procedures in Section 2.4, Specific Procedures, depict procedural steps that apply to the review of the particular type of development application.

B. PURPOSE AND INTENT

This common procedures section establishes the procedures used by the City for the processing of applications for development permits or approvals. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, City residents, City staff, and elected and appointed officials during the review of development applications.

C. CONFLICT WITH SPECIFIC PROCEDURES

In instances where the standards in this section are in conflict with the standards for a specific application review procedure set out in Section 2.4, Specific Procedures, the standards in Section 2.4, Specific Procedures, shall control.

D. PRE-APPLICATION CONFERENCE

1. Purpose

The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application prior to undertaking significant expenditure in the preparation of design or construction documents. A pre-application conference is also an opportunity for City staff to become familiar with,

and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to the standards in this Ordinance.

2. Applicability

a. Pre-Application Conference Required

A pre-application conference between the applicant and City staff is required before submittal of some applications, in accordance with Section 2.2, Summary Development Table.

b. Discussions Non-Binding

Discussions at a pre-application conference are not binding on the City and do not constitute submittal or review of an application.

3. Scheduling

Applicants shall contact the appropriate review authority identified in the Procedures Manual to schedule a pre-application conference.

4. Fees

The initial pre-application conference is free of charge. Any subsequent pre-application conferences associated with the same application require payment of a pre-application fee in accordance with the City's fee schedule.

E. NEIGHBORHOOD INFORMATION MEETING

1. Purpose

The purpose of the neighborhood information meeting is to inform landowners and occupants of nearby lands about a development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the development proposal as a means of resolving potential conflicts and outstanding issues with nearby landowners, where possible.

2. Applicability

a. A neighborhood information meeting is optional for any proposed development application.

b. A neighborhood information meeting may be required by the Planning and Zoning Commission or City Council prior to taking action on the development application.

c. The Planning and Zoning Commission or City Council may require a neighborhood information meeting to be conducted by a simple majority vote on a motion.

3. Procedure

In cases when a neighborhood information meeting is conducted, compliance with the procedure described in this section is encouraged:

a. Timing

The meeting should be held at a time of day when the maximum number of neighbors may attend.

b. Form

The neighborhood information meeting can take the form of a meeting or gathering between the applicant, or the applicant's representative, and landowners or other interested parties. Multiple meetings may take place, but notification for meeting each should be provided.

c. Notification

i. The applicant should provide notification of the neighborhood information meeting in accordance with the notification provisions in the Procedures Manual.

ii. Failure of a party to receive notice of the meeting shall not invalidate the application.

d. Information Provided

The applicant should provide the following information to those attending a meeting:

i. The purpose of the neighborhood information meeting;

ii. A description of the proposed development;

iii. The development review procedure(s) the application will follow;

iv. The potential for changes to the applicant's development proposal as it proceeds through the review process;

v. Sources of further information about the development review process; and

vi. Any additional information that would promote understanding of the development proposal.

e. Conduct of Meeting

At the meeting, the applicant should explain the development proposal and the proposed application, respond to questions and concerns neighbors raise about the application, and propose ways to resolve conflicts and concerns.

f. Staff Attendance

City staff shall not attend a neighborhood meeting in a professional capacity. Nothing shall limit a City staff member from attending a neighborhood meeting as an interested citizen.

g. Written Summary

The applicant should submit a written summary of the neighborhood information meeting on the appropriate form included in the Procedures Manual.

F. APPLICATION FILING AND ACCEPTANCE

(AMENDED 10.20.20 UDOTA-03-20)

1. Authority to File Applications

Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be filed by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.

2. Application Content

City staff shall establish the application content and forms, which shall be maintained by the Planning Director in the Procedures Manual.

3. Application Fees

a. The City Council shall establish application fees, which shall be identified in the City's adopted fee schedule, and may amend and update those fees as necessary.

b. No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

4. Submittal and Review Schedule

The Procedures Manual contains specific rules for application filing and review schedules (including time frames for review) for the various types of development applications.

5. Application Filing

a. Applications shall be filed with the City in the form established in the Procedures Manual, along with the appropriate application fee.

b. An application shall not be considered submitted until it has been determined to be complete in accordance with Section 2.3.F.6, Completeness Determination.

6. Completeness Determination

On receiving a development application, the review authority designated for completeness review in the Procedures Manual shall determine, within seven days from the date of filing, whether the application is complete or incomplete. A complete application is one that:

a. Contains all information and materials identified in the Procedures Manual as required for filing of the particular type of application;

b. Is in the form and number of copies required by the Procedures Manual;

c. Is legible and printed to scale (where appropriate);

d. Is signed by the person(s) with the authority to file the application;

e. Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;

f. Is accompanied by the fee established for the particular type of application; and

g. Does not precede a pre-application conference, if one is required.

7. Application Incomplete

If the application is incomplete, the designated review authority shall notify the applicant of the deficiencies. The applicant may correct the deficiencies and refile the application for completeness determination in accordance with Section 2.3.F.6, Completeness Determination.

8. Application Complete

On determining that the application is complete, it shall be considered as submitted, and the City shall commence review in accordance with the procedures and standards of this Ordinance.

9. Permit Choice

a. In cases where the applicable provisions of this Ordinance are amended between the time that a development application is declared complete (see Section 2.3.F.6, Completeness Determination) and the time written notification of decision on the application is provided (see Section 2.3.K, Written Notice of Decision), the applicant may choose which version of this Ordinance shall apply to their application, in accordance with Section 160D-108(b) and Section 143-755 of the North Carolina General Statutes.

b. The City shall notify applicants, in writing, when a choice under this section is available, and the applicant shall respond, in writing, with their choice of the applicable provisions. The applicant's decision shall be final, and review under a different set of requirements may only be accomplished through a withdrawal and re-filing of a new application.

c. In cases where an applicant has had an opportunity to exercise permit choice under this section, and subsequently places their application on hold, or fails to respond to requests for further information from the City for a period of six months or more, review of the application shall be discontinued, and the requirements in effect at the time application review recommences shall apply.

G. STAFF REVIEW AND ACTION

(AMENDED 10.20.20 UDOTA-03-20)

1. Staff Review

a. Applications shall be reviewed during the review cycle in place when the application is determined to be complete.

b. When an application is determined complete, it shall be distributed to all appropriate staff and review agencies for review and comment, and the preparation of a staff report, in accordance with City policy.

c. If deficiencies in complying with applicable standards of this Ordinance are identified, the designated City staff member responsible for processing the application shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

2. Staff Report and Recommendation

a. The designated City staff member responsible for processing the application shall prepare a written staff report on any application to be reviewed or decided by the City Council or the Board of Adjustment.

b. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance, and recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, in accordance with Section 2.4, Specific Procedures.

c. The staff report shall not include a recommendation from City staff on variance applications or appeals.

d. In cases where the staff finds an application does not comply with the provisions of this Ordinance the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.

e. The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.

f. A staff report is not required for applications decided by the Planning Director, Stormwater Administrator, City Engineer, Transportation Director, or the Technical Review Committee, though one may be prepared.

3. Distribution of Application and Staff Report

The designated City staff member responsible for processing the application shall take the following actions within a reasonable time period before the application is scheduled for review:

a. Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with Section 2.3.H, Public Notification;

b. Transmit the application, related materials, and staff report to the appropriate review authority(ies);

c. Transmit a copy of the staff report and any related materials to the applicant; and

d. Make the application, related materials, and staff report available for examination by the public.

4. Applications Subject to Decision by City Staff

In cases where a development application is decided by the Planning Director, Stormwater Administrator, City Engineer, Transportation Director, Technical Review Committee, or other designated City staff, the appropriate City staff member(s) shall approve or disapprove the application based on the review standards set forth in this Ordinance.

5. Conflict of Interest

A City staff member shall not make a decision on an application where:

a. The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or

b. In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

H. PUBLIC NOTIFICATION

(AMENDED 10.20.20 UDOTA-03-20)

1. Public Meeting Distinguished

Public meetings conducted in accordance with this Ordinance are not public hearings, and do not require the provision of mailed or posted notice in accordance with this section.

2. Public Hearing Scheduling

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

3. Public Notification

a. All development applications subject to public notification shall comply with the appropriate standards in Sections 160D-406, 160D-601, 160D-602, or 160D-1005 in the North Carolina General Statutes, as appropriate.

b. Table 2.3.H, Public Notification Requirements, summarizes the provisions related to public notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

TABLE 2.3.H: PUBLIC NOTIFICATION REQUIREMENTS

Application Type	Review Authority	Type of Required Notification "X" = Required		
		Published Notice	Mailed Notice	Posted Notice [1]
Appeal	Board of Adjustment	X	X [2]	·
Certificate of Appropriateness	Historic Preservation Commission	·	X [3]	·
Comprehensive Plan Amendment	City Council	X [4]	·	·
Development Agreement	City Council	X [4]	X [2]	X
Planned Development	City Council	X [4]	X [2]	X
Reasonable Accommodation	Board of Adjustment	X [4]	X [2]	X
Rezoning	City Council	X [4]	X [2]	X
Special Use Permit	Board of Adjustment	X	X [2]	X
Text Amendment	City Council	X [4]	·	·
Vested Rights Certificate	City Council	X [4]	X [2]	
Water-related Variance	City Council	X	X [2]	X
Zoning/Subdivision Variance	Board of Adjustment	X	X [2]	X

TABLE 2.3.H: PUBLIC NOTIFICATION REQUIREMENTS

Application Type	Review Authority	Type of Required Notification "X" = Required		
		Published Notice	Mailed Notice	Posted Notice [1]

NOTES:
[1] Posted notice provided between 10 and 25 calendar days before the hearing.
[2] Mailed notice provided to affected landowners in accordance with the Procedures Manual between 10 and 25 calendar days before the hearing.
[3] Mailed notice provided to affected landowners in the LHO district within 100 feet of the subject property between 10 and 25 calendar days before the hearing.
[4] Published notice provided once a week for two successive weeks, with first notice between 10 and 25 calendar days before the hearing.

c. Published Notice Requirements

When the North Carolina General Statutes require that public notice be published, the designated review authority shall have the required notice published in a newspaper that is regularly published once per week and has general circulation in the City.

d. Mailed Notice Requirements

When the North Carolina General Statutes require that public notice be mailed, the designated review authority shall provide the required mailed public notice in accordance with the following:

i. Mailed notice specified in Table 2.3.H, Public Notification Requirements, shall be mailed to:

a) The landowner;
b) The applicant, if different from the landowner; and
c) All landowners entitled to receive notice in accordance with Section 160D-602(a) of the North Carolina General Statutes, whose address is known by reference to the latest county tax listing.

ii. Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section 2.3.H.4, Notice Content, and the North Carolina General Statutes.

iii. A copy of the mailed notice shall be maintained in the offices of the designated review authority for public inspection during normal business hours.

iv. Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the City publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section 2.3.H.3.d, Mailed Notice Requirements.

e. Posted Notice Requirements

When the North Carolina General Statutes require that public notice be posted, the designated review authority shall provide the required posted public notice in accordance with the following:

i. A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.

ii. The content and form of the notice shall comply with Section 2.3.H.4, Notice Content, and the North Carolina General Statutes.

4. Notice Content

a. Unless expressly indicated otherwise, all notices by mail or publication shall:

i. Identify the date, time, and place of the public hearing;

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

iii. Describe the nature and scope of the proposed development or action; and

iv. Identify the means to contact a City official for further information.

b. With respect to development agreements, public notice must include the location of the land subject to the development agreement, the proposed uses on the land, and where a copy of the proposed development agreement may be obtained.

5. Constructive Notice

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

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

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

b. Failure of a party to receive written notice shall not invalidate subsequent action.

c. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements.

d. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

I. PUBLIC MEETINGS AND HEARINGS

(AMENDED 10.20.20 UDOTA-03-20)

1. Public Meetings

Section 2.2, Summary Development Table, identifies the kinds of development applications subject to a required public meeting, which shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

a. Procedure

i. Applications subject to a recommendation by the Planning and Zoning Commission, as depicted in Section 2.2, Summary Development Table, shall be heard by the Planning and Zoning Commission during a public meeting, not a public hearing.

ii. Public meetings shall be noticed in accordance with Section 143-318.12 of the North Carolina General Statutes.

iii. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.

iv. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

b. Voting

i. A decision of approval review authority shall be in accordance with their rules of procedure.

ii. A review authority member shall recuse themselves from voting on an application where:

a) The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or

b) In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

iii. A tie vote by members of the review authority shall be forwarded without a recommendation.

c. Timing

Unless an application is deferred or continued in accordance with Section 2.3.M, Continuance, Postponement, or Withdrawal, a recommendation on an application heard by the Planning and Zoning Commission shall be made within 30 days from the date of the initial meeting where it is considered.

d. Failure to Recommend

If the review authority fails to make a recommendation in the time allotted, the application shall be forwarded to the City Council without a recommendation from the review authority.

2. Legislative Public Hearings

Section 2.2, Summary Development Table, identifies the kinds of development applications decided following a legislative public hearing, which shall be conducted in accordance with the following requirements:

a. Procedure

i. Legislative public hearings shall not be conducted until after provision of required public notification in accordance with Section 2.3.H, Public Notification.

ii. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.

iii. Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

b. Voting

i. The City Council shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section 2.4, Specific Procedures.

ii. A City Council member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance with Section 160D-109 of the North Carolina General Statutes.

iii. A City Council member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.

iv. A decision of the City Council on an application shall be decided in accordance with their rules of procedure.

c. Application Revision

i. An applicant may revise an application during a public hearing in response to recommendations or suggestions of the City Council.

ii. The City Council may approve an application modified during a public hearing provided that all changes are properly identified in the motion of approval by the City Council and that any conditions of approval are consented to, in writing, by the applicant.

iii. In cases where an application has been modified during a public hearing, the applicant shall submit any necessary site plans, plats, or other construction documents depicting the modification to the appropriate City staff prior to issuance of any development permit approvals.

d. Remand

The City Council may remand the application to the Planning and Zoning Commission and/or City staff for further consideration of new information or specified issues or concerns, if appropriate. In addition, the City Council may, in accordance with Section 2.3.E, Neighborhood Information Meeting, require the applicant to conduct a neighborhood information meeting before rendering a decision on the application.

e. Record

i. A recording may be made of all public hearings and the recordings shall be maintained in accordance with City policy.

ii. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

3. Quasi-Judicial Public Hearings

Section 2.2, Summary Development Table, identifies the kinds of development applications decided following a quasi-judicial public hearing, which shall be conducted in accordance with State law and the review authority's rules of procedure and the following requirements:

a. Notice Required

Quasi-judicial public hearings shall not be conducted until after provision of required public notification in accordance with Section 2.3.H, Public Notification.

b. Opportunity to Present Testimony and Evidence

The applicant, the City, and any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, City staff, and the City staff's representatives.

c. Limitation on Evidence

i. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.
ii. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.
iii. Only evidence presented during the public hearing may be relied upon in making a decision on the application.

d. Ex Parte Communication

Ex parte communications between an applicant or an affected party and a member of the decision-making body are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

e. Voting

i. Generally

The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in Section 2.4, Specific Procedures.

ii. Clearly State Factors for Decision

Unless stated otherwise in this Ordinance, the decision shall clearly state the factors considered in making the decision and the basis or rationale for the decision.

iii. Conflicts of Interest

a) A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
b) Impermissible violations of due process include, but are not limited to:
   i) A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
   ii) Undisclosed ex parte communications;
   iii) A close family, business, or other associational relationship with a member; or
   iv) A direct, substantial, and readily identifiable financial impact on the member.
c) If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall, by majority vote, rule on the objection.

f. Application Revision

i. An applicant may revise an application during a public hearing in response to recommendations or suggestions of the review authority.
ii. The review authority may approve an application modified during a public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
iii. In cases where an application has been modified during a public hearing, the applicant shall submit any necessary site plans, plats, or other construction documents depicting the modification to the appropriate City staff prior to issuance of any development permit approvals.

g. Delay of Decision

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

h. Remand

The review authority may remand the application to City staff or the appropriate body for further consideration of new information or specified issues or concerns, if appropriate.

i. Record

i. A recording may be made of all public hearings and the recordings shall be maintained in accordance with City policy.
ii. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

J. CONDITIONS OF APPROVAL

(AMENDED 10.20.20 UDOTA-03-20)

1. Unless expressly authorized in the specific procedures in Section 2.4, Specific Procedures, conditions of approval for conditional rezonings and for applications reviewed through the quasi-judicial process shall be limited to those deemed necessary to ensure compliance with the review standards for the particular type of application, or to prevent or minimize adverse effects from the proposed development on surrounding lands.
2. All conditions of approval shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding development.
3. All conditions of approval shall be set forth in writing in the notice of decision or development permit approval and may be supplemented with plans or maps.
4. Conditions of approval associated with a conditional rezoning may be proposed by the applicant, City staff, the Planning and Zoning Commission, or the City Council, but only those conditions mutually approved by the City Council and the applicant may be included as part of the application approval.
5. All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.
6. No condition shall be made part of the application which:
   a. Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
   b. Establishes a minimum size of a dwelling unit;
   c. Establishes a minimum value of buildings or improvements;
   d. Excludes residents based upon income; or
   e. Obligates the City to perform in any manner relative to the approval or the development of the land.

K. WRITTEN NOTICE OF DECISION

(AMENDED 3.17.20 UDOTA-02-20)

1. Content

The notification of decision on an application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

a. The land or matter subject to the application;
b. A reference to any approved plans, as appropriate;
c. The approved use(s), if any; and
d. Any conditions of approval or other applicable requirements.

2. Timing

Except where otherwise stated in this Ordinance, the review authority shall provide the applicant written notification of a decision or action within 10 business days after a final decision on a development application.

3. Copy of Decision

a. In addition to providing the notification of a decision on an application to an applicant, the review authority shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
b. The review authority shall also make a copy of the notice of decision available to the public in the offices of the Planning and Community Development Department during normal business hours.

L. EFFECT OF DEVELOPMENT APPROVAL

1. Approval Limited

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.

2. Permit Prerequisite

In the event a permit or development approval is a prerequisite to another permit or development approval (e.g., administrative adjustment or variance approval prior to a site plan approval), development may not take place until all prerequisite approvals are obtained. Approval of one development application does not guarantee approval of any subsequent development application.

M. CONTINUANCE, POSTPONEMENT, OR WITHDRAWAL

(AMENDED 10.20.20 UDOTA-03-20)

An applicant may request that a review authority's consideration of a development application be continued, postponed, or withdrawn by submitting a written request to the appropriate review authority.

1. Procedure for Applications Subject to a Public Hearing

a. In cases where an applicant seeks a continuance or postponement of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the designated review authority processing the application shall consider and decide the request.

b. If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance or postponement shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification shall not be required.

c. A request for continuance or postponement may be approved in cases where the applicant needs additional time to conduct a neighborhood information meeting, prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the City's adopted policy guidance or the requirements of this Ordinance, or for good cause, as determined by the review authority.

2. Withdrawal

a. An applicant may withdraw an application at any time.

b. Application fees for withdrawn applications shall not be refunded.

N. LIMITATION ON SUBSEQUENT APPLICATIONS

(AMENDED 10.20.20 UDOTA-03-20)

1. Legislative Decisions

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit. For the purposes of this section, "the same or similar development" shall mean:

a. The same use type(s) in the same approximate location(s) as the denied application; or

b. The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.

2. Quasi-Judicial Decisions

There is no time limit on resubmitting an application that is denied during a quasi-judicial public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

2.4. SPECIFIC PROCEDURES

A. HOW TO USE THIS SECTION

1. Generally

This section sets out the standards and related procedural information for each of the specific development application types listed in Section 2.2, Summary Development Table. Section 2.3, Common Procedures, establishes the generic steps in the application process used for all development applications. Applicants should review both sections - the common procedures in their entirety, and the relevant specific procedure in this section in order to understand all the applicable requirements.

2. Structure of Specific Procedures

a. Specific procedures are listed in alphabetical order in this section.

b. Each of the specific procedures in this section follows a standardized format, comprised of the following subsections:

- **i.** Purpose for the procedure;
- **ii.** Applicability and the types of development exempted from the procedure;
- **iii.** The review standards;
- **iv.** How the approved application may be amended (if applicable);
- **v.** If and how the approval may expire; and
- **vi.** How decisions on a particular application are appealed.

c. In addition to the standard subsections described in (b) above, the provisions for a specific procedure may also include additional standards or requirements unique to a particular application. For example, the certificate of appropriateness procedure (Section 2.4.D, Certificate of Appropriateness) includes additional provisions for demolition of a historic structure.

3. Procedural Flowchart

a. The steps in the review process for each specific procedure are set out in the procedural flowchart associated with the procedure. The procedural flowchart uses a symbol for each step in the process with text inside the symbol describing the step in greater detail. Some boxes may include cross references to other parts of the Ordinance.

b. The procedural flowchart is color coded to depict differing responsibilities. For example, white boxes indicate actions or responsibilities of the applicant. Boxes with dashed lines show optional steps an applicant may choose to undertake. Light grey boxes indicate actions of City staff. Dark grey boxes show public hearings or public meetings (as appropriate).

C. Applicants seeking greater detail on the steps in the review process should consult Section 2.3, Common Procedures, and the Procedures Manual.

B. ADMINISTRATIVE ADJUSTMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for the administrative adjustment procedure is to establish a clear procedure and measurable review criteria for the consideration of requests for minor deviations to certain numeric standards in this Ordinance (like district dimensional standards). The intent of the procedure is to provide relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by this Ordinance, only in cases where the adjustment does not interfere with a proposed development's compatibility with its surroundings.

FIGURE 2.4.B: ADMINISTRATIVE ADJUSTMENT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Planning Director May be filed as a stand-alone application or as part of another application (like a site plan) for the same site
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**STAFF REVIEW** The Planning Director may consult with other review authorities or City departments
5	**PLANNING DIRECTOR DECISION** If submitted as part of another application, a decision on the administrative adjustment shall be rendered first
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

2. Applicability

a. Except where otherwise prohibited, an administrative adjustment may be requested for a modification or deviation to any of the following:

- **i.** A zoning district dimensional standard in CHAPTER 3. ZONING DISTRICTS.
- **ii.** A numeric use-specific standard in CHAPTER 4. USE STANDARDS.
- **iii.** A numeric requirement in CHAPTER 5. DEVELOPMENT STANDARDS.
- **iv.** A numeric requirement in CHAPTER 6. SUBDIVISIONS, or
- **v.** A numeric requirement in Section 8.3, Rules of Measurement.

b. In no instance shall an administrative adjustment application seek to reduce any of the following:

- **i.** The required minimum lot area in a zoning district;
- **ii.** Increases in the maximum allowable residential density on a lot;
- **iii.** The minimum required separation distance between two use types;
- **iv.** The requirements specified in a transportation impact analysis;
- **v.** Reductions to the standards pertaining to flood protection; or
- **vi.** A numeric standard in CHAPTER 7. ENVIRONMENT.

3. Administrative Adjustment Amount

An administrative adjustment may allow a deviation from a numeric standard by up to 10 percent in the CBD district, as identified on the Official Zoning Map. The maximum amount of deviation authorized by an administrative adjustment in all other zoning districts is five percent.

4. Administrative Adjustment Procedure

The administrative adjustment procedure is described in Figure 2.4.B, Administrative Adjustment Procedure, as supplemented by the Procedures Manual.

5. Decision by Planning Director

The decision on an administrative adjustment shall be made by the Planning Director based on the standards in Section 2.4.B.6, Administrative Adjustment Review Standards.

6. Administrative Adjustment Review Standards

An administrative adjustment may be approved if the applicant demonstrates all of the following:

a. The administrative adjustment is consistent with the type and maximum thresholds for an administrative adjustment established in this section;

b. The administrative adjustment:

i. Is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general; or
ii. Is necessary to allow for proper functioning of on-site private or public infrastructure; or
iii. Saves healthy existing trees; or
iv. Avoids significant revision to existing drainage patterns; or
v. Preserves environmentally sensitive lands; or

c. The administrative adjustment will not pose a danger to the public health or safety;
d. The administrative adjustment will not negatively impact the function or performance of on-site wastewater or stormwater control mechanisms;
e. Adverse impacts resulting from the administrative adjustment will be fully mitigated; and
f. The development standard being adjusted is not the subject of a previously approved administrative adjustment or condition of approval on the same site.

7. Amendment

Amendment of an administrative adjustment may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Expiration

If an administrative adjustment is associated with another permit or development approval, the expiration of the administrative adjustment shall be the same as the permit or development approval with which it is associated.

9. Appeal

Appeal of a decision on an administrative adjustment shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

C. APPEAL

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This appeal procedure is proposed to establish a clear and predictable procedure for persons with standing to appeal a decision or determination of this Ordinance, the Official Zoning Map, or a condition of approval by a review authority.

2. Applicability

a. Decisions by City Staff Subject to These Standards

Certain appeals of decisions or determinations by the Planning Director or other City official made pursuant to this Ordinance shall be reviewed and decided by the Board of Adjustment in accordance with Table 2.2, Summary Development Table, and this section.

b. Decisions by City Council or Board of Adjustment not Subject to These Standards

i. Appeals of quasi-judicial decisions made by the City Council or the Board of Adjustment shall be taken to the Superior Court for the appropriate county, in accordance with Sections 160D-1401 or 160D-1402 of the North Carolina General Statutes, as appropriate.

ii. Challenges to legislative decisions made by the City Council are made through requests for declaratory judgement by the Superior Court for the county where located, in accordance with Section 160D-1401 of the North Carolina General Statutes.

c. Original Civil Actions not Subject to These Standards

i. Persons with standing, as defined by Section 160D-1403.1 of the North Carolina General Statutes, may bring an original civil action in Superior Court without first being heard by the Board of Adjustment for appeals of some administrative decisions, determinations of vested rights, and notices of violation in cases where the applicant claims the decision or a provision in this Ordinance is:

a) Unconstitutional;
b) Beyond statutory authority;
c) Pre-empted by State law; or
d) A taking of all property value.

ii. Direct appeals of determinations of this Ordinance by a City official to Superior Court are not permitted and must first be heard by the Board of Adjustment, in accordance with this section.

FIGURE 2.4.C: APPEAL PROCEDURE
(AMENDED 12.3.19 UDOTA-01-20)

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**FILE NOTICE OF APPEAL** Filed with City staff member making decision being appealed - Must be received within 30 days of decision being appealed
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination Application must include: - Error/decision being appealed - Date of error/decision - Grounds for appeal - All related support material
4	**STAFF REVIEW** Upon acceptance of complete application, the appropriate staff member transmits record of appeal to the BOA
5	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
6	**BOARD OF ADJUSTMENT REVIEW & DECISION** Quasi-judicial public hearing - See Section 2.3.I, Public Meetings and Hearings - Decision in writing, signed by Chair or authorized party - Decision effective upon date of filing in the office of the Planning & Community Development Department
7	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail Provided to applicant, landowner, and anyone requesting a copy prior to date of decision

3. Appeal Procedure Distinguished

The appeal procedure is described in Figure 2.4.C, Appeal Procedure, as supplemented by the Procedures Manual.

4. Application

a. A property owner or other person with standing shall initiate an appeal by filing a notice of appeal with the Planning Director within 30 days of the date they receive the written notice of decision being appealed.

b. Receipt of written notice of decision provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

5. Decision by Board of Adjustment

a. The decision shall be based on the competent, material, and substantial evidence in the record of the appeal, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in Section 2.4.C.6, Appeal Review Standards.

b. The decision shall be one of the following:

i. Affirmation of the decision or determination (in whole or in part);
ii. Modification of the decision or determination (in whole or in part); or
iii. Reversal of the decision or determination (in whole or in part).

c. A vote to reverse or modify a decision or determination shall require approval of a majority of the Board of Adjustment members, excluding any members who have been recused from voting due to a conflict of interest.

d. Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.

e. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

f. The decision of the Board of Adjustment shall be effective upon the filing of the written decision in the offices of the Planning and Community Development Department.

6. Appeal Review Standards

a. The BOA is limited to the following determinations in considering the appeal, which shall be based on:

i. Whether the decision-maker erred in the determination of this Ordinance; and
ii. Whether the decision-maker erred in determining whether a standard of this Ordinance was met.

b. The BOA shall not hear any evidence or make any decision based on hardships or special conditions except as part of an application for a variance.

7. Effect

a. The filing of an appeal shall stay all of the following:

i. Any further proceedings or actions conducted by the applicant except in cases where such stoppage would cause imminent peril to life or property, as determined by the Planning Director;
ii. The accumulation of any further fees or fines associated with violation of this Ordinance; and
iii. The application of any further remedies for violation of this Ordinance by the City.

b. In cases where the City official from whose decision an appeal is taken certifies to the BOA that a stay would cause imminent peril to life or property or would seriously interfere with enforcement of this Ordinance, administrative proceedings shall not be stayed except through issuance of a restraining order by a court of competent jurisdiction.

c. In the event enforcement proceedings are not stayed, the appellant may file a request for an expedited hearing of the appeal in accordance with Section 160D-405(f) of the North Carolina General Statutes, and the Board of Adjustment shall meet to consider the appeal with 15 days of the date the request is filed.

d. Nothing shall prevent the Board of Adjustment from staying the issuance of any final approval of development applications, including building permits, affected by the issue being appealed in accordance with Section 160D-405(f) of the North Carolina General Statutes.

8. Amendment

A decision on an appeal shall not be amended.

9. Expiration

A decision on an appeal shall not expire.

10. Appeal

a. Any decision by the Board of Adjustment shall be subject to review by the Superior Court of the county where located by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.

b. The landowner or applicant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Any other person with standing to appeal shall file a petition for review with the Clerk of Court within 30 days from receipt, by any source, actual or constructive notice of the decision being appealed.

d. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

D. CERTIFICATE OF APPROPRIATENESS

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This Certificate of Appropriateness (COA) procedure is adopted in accordance with the standards in Sections 160D-940 through 160D-951 of the North Carolina General Statutes, and is intended to ensure that any exterior work or other development visible from the public realm maintains the integrity and character of the City's Local Historic Overlay (LHO) district or historic landmarks as a means of supporting property values within the district while also protecting the City's historical resources for future generations.

2. Applicability

a. Emergencies

Immediate restoration of utility service or emergency tree removal shall be exempted from the requirements of this section.

b. Routine Maintenance

The requirements in this section shall not apply to routine maintenance on public rights-of-way, public property, or private property as described in Section 2.B.1 of the City's Architectural and Historic Standards.

c. Minor Work

Activities described as "minor work" on public rights-of-way, public property, or private property as described in Section 2.B.2 of the City's Architectural and Historic Standards shall obtain a COA, which shall be reviewed and decided by the Planning Director.

d. COA Required

All other development activity (including demolition) taking place on land within an LHO district or a designated landmark site, but not considered as routine maintenance or minor work shall obtain approval of a COA by the Historic Preservation Commission in accordance with this section, Section 3.20.E, Local Historic Overlay (LHO) District, and the Architectural and Historic Standards.

3. Timing

If required by this section, a COA must be obtained prior to issuance of a building permit or commencement of development activity impacting any portion of a building, structure, or site visible from the public realm.

4. Certificate of Appropriateness Procedure

The certificate of appropriateness procedure is described in Figure 2.4.D.4, Certificate of Appropriateness Procedure, as supplemented by the City's Architectural and Historic Standards, and the Procedures Manual.

FIGURE 2.4.D: CERTIFICATE OF APPROPRIATENESS PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Planning Director Application must identify if the proposed development is or is not minor work
3	**COMPLETENESS DETERMINATION** Section 2.3.F.6, Completeness Determination Application must include: sketches, drawings, photographs, specifications, and descriptions that show the proposed development
4	**STAFF REVIEW**
5	**STAFF DECISION – MINOR WORK** The Planning Director shall review and decide the application in accordance with Section 2.4.D.6, Certificate of Appropriateness Review Standards If the application for minor work is disapproved, it shall be forwarded to the Historic Preservation Commission for a final decision
6	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
7	**HISTORIC PRESERVATION COMMISSION REVIEW & DECISION** Quasi-judicial public hearing - See Section 2.3.I, Public Meetings and Hearings The Historic Preservation Commission shall decide an application within 75 days of filing, unless extended
8	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

5. Decision by the Historic Preservation Commission

a. The decision shall be based on the standards in Section 2.4.D.6, Certificate of Appropriateness Review Standards.

b. The decision shall be one of the following:

i. Approval of the certificate of appropriateness in part, or as submitted;
ii. Approval of a modified certificate of appropriateness; or
iii. Denial of the certificate of appropriateness in part or as submitted.

c. The Historic Preservation Commission shall not deny an application except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, appurtenant features, or signs that are incompatible with the applicable historic district standards.

6. Certificate of Appropriateness Review Standards

a. A certificate of appropriateness shall be approved if the applicant demonstrates the proposed development complies with the applicable standards for the historic district or structure and is in character with the district as described in Section 3.20.E.4, Architectural and Historic Standards.

b. In making its decision on the application, the Historic Preservation Commission shall not consider the interior arrangement of a building or structure, unless consent has been given by the owner of a landmark structure in accordance with Section 160D-947(b) of the North Carolina General Statutes and Section 3.20.E.3.e, Designation of Interior Features.

7. Delay in Relocation, Demolition, or Destruction

a. Requests for a COA to relocate, demolish, or destroy a building, structure, or site within an LHO may not be denied be the Historic Preservation Commission. However, the effective date of a COA authorizing the relocation, demolition, or destruction of a designated building, structure, or site within the LHO may be delayed for a period of up to 365 days from the date of approval, except the maximum period of delay authorized by this section shall be reduced by the Historic Preservation Commission where the landowner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from the property by virtue of the delay.

b. During this period, the Historic Preservation Commission shall negotiate with the landowner and with any other parties in an effort to find a means of preserving the building, structure, or site.

c. If the Historic Preservation Commission finds a building, structure, or site within the LHO has no special significance or value toward maintaining the character of the district, it shall waive all or part of the period and authorize demolition or removal before expiration of the time period.

d. If the Historic Preservation Commission has voted to recommend designation of land as an LHO, and final designation has not yet been made by the City Council, the relocation, demolition, or destruction of any building, structure, or site located in the proposed LHO may be delayed by the Historic Preservation Commission for a period of up to 180 days or until the City Council takes final action on the designation, whichever occurs first.

e. An application for a COA authorizing the demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied, except where the Historic Preservation Commission finds the landowner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

8. Demolition by Neglect

a. Defined

Demolition by neglect occurs when the exterior features of a protected structure in the LHO or a designated landmark are found to be in a severely deteriorated condition, including, but not limited to, the following:

i. Deterioration of exterior walls (including missing or partially missing portions of siding), foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling;
ii. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling;
iii. Deterioration of external chimneys that causes leaning, sagging, bulging, listing, or buckling;
iv. Deterioration or crumbling of exterior plasters or mortars;
v. Ineffective waterproofing of exterior walls, roofs, and foundations, including fenestration glazing, or broken windows or doors;
vi. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint or other protective covering, or weathering due to lack of paint or other protective covering;
vii. Rotting, holes, and other forms of decay;

viii. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling;
ix. Heaving, subsidence, or cracking of steps;
x. Deterioration of fences, gates, walls, and accessory structures, such as instability, loss of shape or form, crumbling, or loss of features; or
xi. Deterioration of any exterior feature so as to create or permit the creation of any condition hazardous or unsafe to life, health, or property.

b. Prohibited

i. The exterior features of any protected structure shall be preserved by the owner against decay and deterioration and kept free from structural defects in accordance with these standards.
ii. Actions constituting demolition by neglect shall be a violation of this Ordinance subject to the remedies in this section and Section 2.5, Enforcement.

c. Petition for Determination of Demolition by Neglect

Petitions requesting a determination that a protected structure requires correction or repair to prevent demolition by neglect can be filed with the Historic Preservation Commission in one of four ways:

i. By the appropriate historic district's neighborhood association;
ii. With the signature of ten adult individuals who either reside or own property in the appropriate historic district (only one signature per address will count toward the ten signatures required);
iii. From a City or County building or housing inspector; or
iv. By Historic Preservation Commission staff.

d. Procedure

The Historic Preservation Commission shall consider all petitions for determination of demolition by neglect in accordance with the procedure for a certificate of appropriateness.

e. Safeguards from Undue Economic Hardship in Cases of Demolition by Neglect

i. When a claim of undue economic hardship is made, the burden of proof shall be upon the owner and any parties in interest to provide evidence to support the claim, which shall include:

a) Nature of ownership (individual, business, or nonprofit) or legal possession, custody, control, and a description of the property;
b) Financial resources of the owner and any parties in interest;
c) Cost of repairs;
d) Assessed value of the land and improvements;
e) Real estate taxes for the previous two years;
f) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance;
g) Annual debt service, if any, for the previous two years;
h) Any listing of the property for sale or rent, price asked, and offers received, if any. For income-producing property:
i) Annual gross income from the property for the previous two years;
ii) Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed;
iii) Annual cash flow, if any, for the previous two years;

ii. In the event that any of the required information is not reasonably available, the owner and any parties in interest shall describe the reasons why such information cannot be obtained.
iii. Within 60 days of the Historic Preservation Commission's hearing on the claim, the Historic Preservation Commission shall make a finding of undue or no undue economic hardship, and shall record the reasons for its findings.
iv. In the event of a finding of no undue economic hardship, the Planning Director shall issue a citation requiring the property to be repaired within a specified timeframe.

a) In the event of a finding of undue economic hardship, the finding may be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to:

b) Property tax relief as may be allowed under North Carolina law;
c) Loans or grants from the City or other public, private, or nonprofit sources;
d) Acquisition by purchase or eminent domain; or
e) Changes in applicable zoning regulations, or relaxation of these provisions sufficient to mitigate the undue economic hardship.

v. The Planning Director shall issue a citation for the steps to be taken by the owner in accordance with the provisions of the Historic Preservation Commission's recommended plan.

f. Other City Powers
Nothing in this section shall affect the City's authority to declare a building unsafe or process a violation of the City's minimum housing code.

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

10. Expiration

a. Unless otherwise stated in the approval of a COA, it shall expire and be null and void if a building permit is not issued or construction or installation commenced for development approved by the certificate within 18 months of the date of issuance.
b. If work on development approved under a COA is started then discontinued for a period exceeding six months, the COA shall expire and become null and void.
c. The Planning Director may authorize a renewal of an expired COA for a period of six months.

11. Appeal

a. Appeal of a decision on a COA shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes, and Section 2.4.C, Appeal.
b. The State may appeal a decision of the Historic Preservation Commission to the North Carolina Historic Commission in accordance with Section 121-12(a) of the North Carolina General Statutes.

E. COMPREHENSIVE PLAN AMENDMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose of the comprehensive plan amendment procedure is to provide a uniform means for amending the adopted comprehensive plan whenever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.

2. Comprehensive Plan Amendment Procedure

The comprehensive plan amendment procedure is described in Figure 2.4.E.2, Comprehensive Plan Amendment Procedure, as supplemented by the Procedures Manual.

3. Decision by City Council

a. The decision shall be based on the recommendation of the Planning and Zoning Commission and the standards in Section 2.4.E.4, Comprehensive Plan Amendment Review Standards.

b. The decision shall be one of the following:

- **i.** Adoption of the amendment as proposed;
- **ii.** Adoption of a revised amendment;
- **iii.** Denial of the amendment; or
- **iv.** Remand of the amendment application to the Planning and Zoning Commission for further consideration.

4. Comprehensive Plan Amendment Review Standards

Amending the comprehensive plan is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt or deny a proposed comprehensive plan amendment, the City Council may consider whether and the extent to which the proposed plan amendment is appropriate and is consistent with the City's adopted policy guidance.

5. Amendment

A comprehensive plan amendment shall not be amended.

6. Expiration

A comprehensive plan amendment shall not expire.

7. Challenge

a. The decision of the City Council with regard to a comprehensive plan amendment application may be challenged by the filing of a declaratory judgement action in the Superior Court of Alamance County in accordance with Section 160D-1401 of the North Carolina General Statutes.

b. The appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

FIGURE 2.4.E: COMPREHENSIVE PLAN AMENDMENT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional - See Section 2.3.E, Neighborhood Information Meeting
3	**FILE APPLICATION** Filed with Planning Director - Application may be initiated by any review authority or anyone who may file an application (see Section 2.3.F.1, Authority to File Applications)
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**STAFF REVIEW** Includes preparation of a staff report
6	**PLANNING AND ZONING COMMISSION REVIEW AND RECOMMENDATION** Public meeting - See Section 2.3.I, Public Meetings and Hearings
7	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
8	**CITY COUNCIL REVIEW AND DECISION** Legislative public hearing - See Section 2.3.I, Public Meetings and Hearings
9	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

F. DETERMINATION

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this determination procedure is to provide a process where an applicant may request documentation from a City staff member regarding the meaning of language in this Ordinance, boundaries on the Official Zoning Map, the classification of an unlisted use type, the presence of vested rights, or the meaning of conditions attached to a prior application approval.

FIGURE 2.4F: DETERMINATION PROCEDURE
(AMENDED 10.20.20 UDOTA-03-20)

STEP	ACTION
1	**FILE APPLICATION** Filed with the appropriate review authority (see Section 2.4.F.2, Applicability)
2	**COMPLETENESS DETERMINATION** Section 2.3.F.6, Completeness Determination
3	**STAFF REVIEW** Review authorities may consult with other City staff member or the City Attorney, as necessary
4	**REVIEW AUTHORITY DECISION** The review authority responsible for processing the determination request shall render the decision - Formal determinations shall be made in writing
5	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

2. Applicability

a. City Engineer

The City Engineer shall provide determinations on the portions of this Ordinance pertaining to infrastructure (water lines, sewer lines, etc.); construction-related aspects associated with streets, sidewalks, and driveways; erosion control; and special flood hazard area standards.

b. Transportation Director

The Transportation Director shall provide determinations on the portions of this Ordinance pertaining to transportation impact analysis, and the placement or location of streets, sidewalks, driveways, and greenways.

c. Stormwater Administrator

The Stormwater Administrator shall provide determinations on the portions of this Ordinance pertaining to stormwater and watershed related provisions.

d. Planning Director

The Planning Director shall determine all other aspects of this Ordinance, including boundaries on the Official Zoning Map, prior conditions of approval, and the vesting status of a prior development application approval.

3. Determinations Distinguished

a. Formal Determinations

- **i.** Formal determinations shall be in writing and prepared in accordance with this section.
- **ii.** Only formal determinations are subject to appeal as an administrative decision.

b. Advisory Opinions

- **i.** Any written or oral opinions that do not meet the strict requirements of this section are advisory opinions.
- **ii.** Advisory opinions have no binding effect and are not considered formal determinations subject to appeal.

4. Determination Procedure

The determination procedure is described in Figure 2.4.F.4, Determination Procedure, as supplemented by the Procedures Manual.

5. Decision by City Staff

- **a.** The Planning Director, City Engineer, Transportation Director, or Stormwater Administrator, as appropriate, shall provide determinations of this Ordinance or the Official Zoning Map in accordance with Section 2.4.F.6, Determination Standards.
- **b.** A review authority interpreting the Ordinance in accordance with this section may request additional information as necessary.
- **c.** Prior to rendering a determination, a review authority may consult with the City Attorney or other City officials.

6. Determination Standards

a. Official Zoning Map Boundaries

Determination of district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 3.2.C, Determination of Official Zoning Map Boundaries.

b. Unlisted Uses

Determination of whether an unlisted use is similar to a use identified in Table 4.2.C, Principal Use Table, may be based on consistency with the City's adopted policy guidance and the following standards:

i. The function, product, or physical characteristics of the use;
ii. The impact on adjacent lands created by the use;
iii. The type, size, and nature of buildings and structures associated with the use;
iv. The type of sales (retail, wholesale) and the size and type of items sold and displayed on the premises;
v. The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
vi. The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
vii. Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
viii. Any dangerous, hazardous, toxic, or explosive materials associated with the use;
ix. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes; and
x. Any prior applicable determinations made by City staff or decisions made by the Board of Adjustment.

c. Undefined Term

i. If a term in this Ordinance is undefined or the meaning is unclear, a review authority may determine the term's meaning based upon appropriate definitions in any of the following sources:

a) Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
b) The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
c) The North Carolina General Statutes;
d) The North Carolina Administrative Code;
e) The North Carolina Building Code;
f) Black's Law Dictionary; or
g) Other professionally-accepted source.

ii. In cases where a review authority determines that a proposed use differs substantially from any other listed use, the proposed use may be subject to the standards and requirements in Section 2.4.T, Special Use Permit.

d. Text Provisions and Prior Approvals

Determination of this Ordinance and approved applications shall be based on the standards in Section 8.1, Rules of Language Construction, and the following considerations:

i. When the legislative intent of a provision is unclear, the review authority shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision—as established in Section 8.4, Definitions, and by the common and accepted usage of the term;
ii. The legislative intent of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
iii. The general purposes served by this Ordinance, as set forth in Section 1.4, General Purpose and Intent; and
iv. Consistency with the City's adopted policy guidance.

e. Vested Rights

The determination of whether or not certain development activity or a development application approval is vested from changes in this Ordinance and the duration of the vesting shall be based on the following:

i. The standards in Section 160D-108 of the North Carolina General Statutes;
ii. The standards in Section 1.12, Vested Rights;
iii. The standards in Section 2.4.Y, Vested Rights Certificate; and
iv. Prior judicial determination from comparable cases, as determined in the sole discretion of the Planning Director.

f. Stormwater

The Stormwater Administrator has authority to determine the standards in Section 7.4, Stormwater. The Stormwater Administrator shall keep on file a record of all written determinations of Section 7.4, Stormwater.

7. Effect

a. General

i. A determination shall be binding on subsequent decisions by the Planning Director or other administrative officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the determination is modified in accordance with this section, the determination is later determined to have been made in error, or the text of this Ordinance is amended.
ii. The Planning Director shall maintain a record of written determinations that shall be available in the Planning and Community Development Department for public inspection, on reasonable request, during normal business hours.

b. Approval of Unlisted Use

i. After the Planning Director determines the use category or use type in which the unlisted use is best classified, then the unlisted use shall be subject to all applicable requirements of that use category or use type.
ii. After making a determination of an unlisted use, the Planning Director shall determine whether the unlisted use is likely to be common or recur frequently, and whether its omission is likely to lead to uncertainty and confusion. On determining that the unlisted use is likely to be common and would lead to confusion if unlisted, the Planning Director shall initiate an application for an amendment to the text of this Ordinance. Until final action is taken on the text amendment, the Planning Director's decision shall be binding.
iii. If after making a determination of an unlisted use, the Planning Director determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the determination shall be binding without further action or amendment of this Ordinance.

8. Amendment

Determinations shall not be amended, but shall instead be replaced by a new determination.

9. Expiration

Determinations shall not expire.

10. Appeal

Appeal of a determination shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

G. DEVELOPMENT AGREEMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for the development agreement procedure is to establish a flexible process for the establishment and review of large-scale development projects likely to build out over several years. This procedure is intended to:

a. Provide more regulatory certainty;
b. Establish a schedule for development;
c. Coordinate the provision of public facilities; and
d. Ensure greater community compatibility.

2. Applicability

The City Council may enter into a development agreement with a developer for a development of any size and for any reasonable duration, provided the duration is specified in the agreement. All development agreements shall be subject to Sections 160D-1001 through 160D-1012 of the North Carolina General Statutes, and the provisions of this section.

3. Development Agreement Procedure

The development agreement procedure is described in Figure 2.4.G, Development Agreement Procedure, as supplemented by the Procedures Manual.

4. Decision by City Council

a. The decision shall be based on the recommendation of the Planning and Zoning Commission and the standards in Section 2.4.G.5, Development Agreement Review Standards.

b. The decision shall be one of the following:

i. Enter into the development agreement, as submitted;
ii. Enter into the development agreement, subject to changes agreed to in writing by the developer; or
iii. Not enter into the development agreement.

5. Development Agreement Review Standards

a. For consideration of the City to participate in a development agreement, a development subject to the agreement shall comply with the applicable standards in Section 160D-1006 of the North Carolina General Statutes; and

b. The development shall demonstrate the impact on existing and future provisions of capital improvements by the City, including all of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreation, and health systems and facilities.

c. The City may not exercise any authority or make any commitment that is unauthorized by general or local act, and may not impose any unauthorized tax or fee.

6. Annual Review

FIGURE 2.4.G: DEVELOPMENT AGREEMENT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional - See Section 2.3.E, Neighborhood Information Meeting
3	**FILE APPLICATION** Filed with Planning Director
4	**COMPLETENESS DETERMINATION** Section 2.3.F.6, Completeness Determination
5	**STAFF REVIEW** Includes preparation of a staff report prepared in consultation with City legal staff
6	**PLANNING AND ZONING COMMISSION REVIEW AND RECOMMENDATION** Public meeting - See Section 2.3.I, Public Meetings and Hearings
7	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
8	**CITY COUNCIL REVIEW AND DECISION** Legislative public hearing - See Section 2.3.I, Public Meetings and Hearings
9	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
10	**RECORDATION** With the Register of Deeds in the county (ies) where located within 14 days of approval

During any period of time in which a permit or development approval subject to a development agreement is active, the Planning Director shall review the development at least once every year for compliance with the agreement and file a report with the City Council.

7. Amendment

a. Mutual Consent

A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

b. Modifications are Amendments

Consideration of a proposed modification of a development agreement shall be reviewed and considered in accordance with Section 160D-1003 of the North Carolina General Statutes, and the procedures and standards established for the original approval of a development agreement.

8. Expiration

A development agreement shall run for the duration of its term unless the agreement is terminated.

9. Challenge

a. The decision of the City Council with regard to a development agreement application may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located in accordance with Section 160D-1401 of the North Carolina General Statutes.

b. The appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

H. EROSION CONTROL PERMIT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this erosion control permit procedure is to regulate land-disturbing activity in order to limit damages associated with accelerated erosion and sedimentation into watercourses and onto other lands in the City in accordance with the standards in Article 4 of Chapter 113A of the North Carolina General Statutes, and Section 7.5, Soil Erosion and Sedimentation, of this Ordinance.

2. Applicability

a. Land-disturbing activities occupying one acre or more in area (regardless of the number of different lots or ownership patterns) shall be subject to an erosion control permit issued in accordance with this section.

b. Land-disturbing activities occupying less than one acre are exempted from the requirement to obtain an erosion control permit, but shall still be subject to the standards in Section 7.5, Soil Erosion and Sedimentation.

c. Site plans submitted to the Technical Review Committee for review shall include details on the location and function of erosion and sedimentation control devices in accordance with Section 2.4.H, Erosion Control Permit.

3. Erosion Control Permit Procedure

The erosion control permit procedure is described in Figure 2.4.H.3, Erosion Control Permit Procedure, as supplemented by the Procedures Manual.

4. Decision by City Engineer

The decision on an erosion control permit shall be made by the City Engineer based on the standards in Section 2.4.H.5, Erosion Control Permit Review Standards.

5. Erosion Control Permit Review Standards

An erosion control permit shall be approved provided it complies with the following:

a. All relevant standards in Section 7.5, Soil Erosion and Sedimentation;

b. All applicable State and federal requirements in place at the time of application acceptance;

c. All other applicable requirements of this Ordinance; and

d. Provided the land-disturbing activity is not associated with a development that is already in violation of the soil erosion and sedimentation control standards in Section 7.5, Soil Erosion and Sedimentation.

FIGURE 2.4.H: EROSION CONTROL PERMIT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Required for sites that disturb 10 or more acres of land area, otherwise optional See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with City Engineer Required for land-disturbing activity occupying one or more acres
3	**COMPLETENESS DETERMINATION** Section 2.3.F.6, Completeness Determination
4	**STAFF REVIEW** Site plans shall include details on erosion control and sedimentation devices configured in accordance with this Ordinance, regardless of whether an erosion control permit is required
5	**CITY ENGINEER DECISION** Erosion control permits or approval of proposed erosion control and sedimentation devices shall take place prior to any land disturbing activity
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
7	**APPLY FOR OTHER APPLICABLE PERMITS** as appropriate

6. Performance Guarantee

All required erosion control measures depicted in a sedimentation and erosion control plan shall be installed and inspected by the City, and final stabilization shall be subject to a performance guarantee in accordance with Section 6.7, Performance Guarantees.

7. Amendment

Amendment of a soil erosion and sedimentation control permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Revocation

An erosion control permit may be revoked by the City Engineer, following written notice to the violator, for any of the following reasons:

a. Failure or refusal to comply with all applicable State laws or soil erosion and sedimentation control requirements of this Ordinance;
b. Conduct of land-disturbing activities that represent a substantial departure from an approved permit, plan, or specification; and
c. False or misrepresented information providing as part of the application.

9. Expiration

Unless otherwise stated in the approval of an erosion control permit, it shall expire and be null and void if the work authorized by the permit is not commenced within three years of the date of issuance.

10. Appeal

Appeal of a decision on an erosion control permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 113A, Article 4 of the North Carolina General Statutes, and Section 7.5.P, Plan Appeals.

I. EXPEDITED SUBDIVISION

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose and Intent

The purpose for this expedited subdivision review procedure is to allow certain land divisions to be reviewed via an expedited review procedure based on their small size and limited likelihood to create significant impacts on surrounding lands.

2. Applicability

a. The standards in this section shall apply to divisions of land meeting all the following criteria:

- **i.** The proposed division of land is not exempted from the subdivision standards of this Ordinance in accordance with Section 160D-802 of the North Carolina General Statutes;
- **ii.** The proposed division will not result in more than three lots (including any residual or "parent" parcel);
- **iii.** The area of land subject to the division shall be comprised of at least five acres under common ownership;
- **iv.** No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years; and
- **v.** A proposed permanent means of ingress and egress to each lot is recorded.

b. Divisions of land not meeting all these standards shall be reviewed as a preliminary plat, or final plat, as appropriate.

c. Expedited subdivisions are not exempted from applicable zoning district dimensional requirements.

FIGURE 2.4.I: EXPEDITED SUBDIVISION PLAT PROCEDURE

STEP	ACTION
1	**FILE APPLICATION** Filed with Planning Director - Required prior to conveyance of lots
2	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination - Application shall include copies of any protective covenants or deed restrictions - Plat shall include all required certifications as described in the Procedures Manual
3	**STAFF REVIEW AND COMMENT**
4	**PLANNING DIRECTOR DECISION** Decision shall be made in writing
5	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
6	**RECORDATION** With the Register of Deeds in the county (ies) where located within 10 days of approval

3. Expedited Subdivision Procedure

a. The expedited subdivision procedure is described in Figure 2.4.I.3, Expedited Subdivision Procedure, as supplemented by the Procedures Manual.

b. Expedited subdivision plats shall be prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.

c. Except for subdivisions where all lots shall be served by a central wastewater system, applications for an expedited subdivision shall include an evaluation from the appropriate county health department indicating that an on-site wastewater system may be used on each lot included in the subdivision.

4. Decision by Planning Director

The Planning Director shall review and decide the application in accordance with Section 2.4.I.5, Expedited Subdivision Review Standards.

5. Expedited Subdivision Review Standards

a. An expedited subdivision plat shall be approved if the application complies with the following:

- **i.** The expedited subdivision plat is on a sheet or sheets suitable for recording with the Register of Deeds in the county where the subdivision is located;
- **ii.** The expedited subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
- **iii.** The expedited subdivision plat complies with all applicable standards in this Ordinance and Section 47-30 of the North Carolina General Statutes;
- **iv.** The expedited subdivision plat includes all required certifications;
- **v.** The applicant has secured all required State and federal permit approvals;

vi. All lots have been certified by the appropriate county health department as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;

vii. All lots in the expedited subdivision comply with the applicable dimensional requirements for the zoning district where located;

viii. The lot is served by a permanent means of ingress and egress that is depicted on the plat; and

ix. No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years.

b. Expedited subdivisions of land located within the special flood hazard area shall comply with the standards in Section 3.20.C, Flood Hazard Overlay (FHO) District.

6. Recordation

a. Once an expedited subdivision plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The subdivision plat may not be recorded without this and all other required certifications.

b. Following certification, the City shall record the plat and all associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the final plat in accordance with Section 2.4.H.9, Expiration, shall render the plat null and void. Land may not be conveyed or construction started until the expedited subdivision is recorded.

7. Effect

a. Approval of the expedited subdivision plat allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the expedited subdivision plat.

b. Land subject to an expedited subdivision approval shall not be further subdivided as an expedited subdivision within ten years of the date of the prior expedited subdivision approval.

8. Amendment

Amendment of an expedited subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

9. Expiration

An expedited subdivision plat shall be null and void unless it is recorded in the office of the Register of Deeds of the county where it is located within 10 days of approval.

10. Challenge

a. Decisions of the Planning Director with regard to an expedited subdivision application may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located in accordance with Section 160D-1403 of the North Carolina General Statutes.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

J. FENCE PERMIT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this fence permit procedure is to regulate the placement and configuration of fences and privacy walls in accordance with the standards in Section 5.3.H.2, Fences and Walls, so as to ensure compliance with all applicable screening requirements while at the same time ensuring that a proposed fence or wall does not negatively impact adjacent lands or environmental resources.

2. Applicability

a. The standards in this section shall apply to fences and privacy walls proposed within the City's jurisdiction.

b. Fences or walls located in an LHO district shall be subject to approval of a certificate of appropriateness (see Section 2.4.D, Certificate of Appropriateness) prior to consideration of a fence permit.

c. Fences or walls located within a designated special flood hazard area shall be subject to approval of a floodplain development permit (see Section 2.4.L, Floodplain Development Permit) prior to consideration of a fence permit.

d. Retaining walls and tree protection fencing shall be reviewed in accordance with the standards in Section 2.4.S, Site Plan.

e. Silt fences are reviewed and permitted as part of an erosion control permit (see Section 2.4.H, Erosion Control Permit).

3. Fence Permit Amendment Procedure

The fence permit procedure is described in Figure 2.4.J, Fence Permit Procedure, as supplemented by the Procedures Manual.

FIGURE 2.4.J: FENCE PERMIT PROCEDURE

STEP	ACTION
1	**FILE APPLICATION** Filed with Planning Director - Fences in the LHO require a COA first - Fences in a flood hazard area require a floodplain development permit first - Retaining walls and tree protection fencing are reviewed as site plans
2	**COMPLETENESS DETERMINATION** Section 2.3.F.6, Completeness Determination
3	**STAFF REVIEW** Fences and walls submitted as part of a site plan require a review for a fence permit - Silt fences are reviewed as part of an erosion control permit
4	**PLANNING DIRECTOR DECISION**
5	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

4. Decision by Planning Director

The decision on a fence permit shall be made by the Planning Director based on the standards in Section 2.4.J.5, Fence Permit Review Standards.

5. Fence Permit Review Standards

A fence permit application shall be approved provided it complies with the following:

a. The standards in Section 5.3.H.2, Fences and Walls;
b. The standards in Section 5.2.G, Sight Distance Triangles;
c. The standards in Section 5.4, Screening (if applicable);
d. All standards or conditions of any prior applicable permits and development approvals; and
e. All other applicable requirements of this Ordinance and in the City Code of Ordinances.

6. Amendment

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

7. Expiration

A fence permit shall expire and become null and void six months after the date of issuance if no substantial construction activity has taken place.

8. Appeal

Appeal of a decision on a fence permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

K. FINAL PLAT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this final plat procedure is to ensure proposed subdivisions of land have been completed in substantial conformity with a preliminary plat (as applicable) and all applicable regulations of this Ordinance prior to the conveyance of lots. These standards are intended to ensure preparation and recordation of a plat document of sufficient detail and data so as to enable the City or another landowner to readily determine and accurately reproduce the location, bearing, radius (as applicable) and length of the elements of a subdivision. The elements include, but shall not be limited to the following:

a. Every street or private accessway;
b. Lot lines;
c. Easement boundaries;
d. Lands or resources dedicated or reserved for use by the general public;
e. Land or resources owned in common by residents of the subdivision; and
f. Unbuildable resource or conservation lands.

2. Applicability

(AMENDED 12.3.19 UDOTA-01-20)

a. The standards in this section shall apply to the following two types of subdivision:

i. A subdivision subject to a preliminary plat; and
ii. A subdivision of land that does not include any public streets or extension of public water or wastewater service.

b. Subdivisions meeting the characteristics of an expedited subdivision in accordance with Section 2.4.I.2, Applicability, shall be reviewed in accordance with Section 2.4.I, Expedited Subdivision.

3. Final Plat Procedure

The final plat procedure is described in Figure 2.4.K, Final Plat Procedure, as supplemented by the Procedures Manual.

4. Decision by Planning Director

The decision on a final plat shall be made by the Planning Director based on the standards in Section 2.4.K.5, Final Plat Review Standards.

5. Final Plat Review Standards

A final plat shall be approved if it complies with the following:

a. The final plat is on a sheet or sheets suitable for recording with the county Register of Deeds;
b. The final plat is prepared and sealed by a licensed professional land surveyor;
c. The final plat complies with the standards in Section 47-30 of the North Carolina General Statutes;
d. The final plat includes all required certifications in the Procedures Manual;
e. All required infrastructure improvements (e.g., streets, sewer lines, water lines, drainage, etc.) depicted on the preliminary plat are installed, inspected, and accepted by the City, or are subject to a performance guarantee (see Section 6.7, Performance Guarantees);

FIGURE 2.4.K: FINAL PLAT PROCEDURE

STEP	ACTION
1	**FILE APPLICATION** Filed with Planning Director - Required prior to conveyance of lots - May not be submitted prior to approval of a preliminary plat for subdivisions that include public streets, water, or sewer infrastructure
2	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination - Application shall include copies of any protective covenants or deed restrictions - Final plat may depict all or only a portion of the land subject to a preliminary plat - Final plat shall include all required certifications as described in the Procedures Manual
3	**STAFF REVIEW AND COMMENT** Final plats are reviewed by the City Engineer and the Stormwater Administrator
4	**PLANNING DIRECTOR DECISION** Decision shall be made in writing - Application shall not be decided until all required dedications and easements are complete - Application shall not be decided until all proposed public infrastructure (including storm drains) is installed or subject to a performance guarantee (see Section 6.7, Performance Guarantees)
5	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
6	**RECORDATION** With the Register of Deeds in the county (ies) where located within 10 days of approval

f. All required easements and rights-of-way are properly depicted on the final plat;
g. If no public wastewater service is associated with the subdivision, all lots have been certified by the Alamance County or Guilford County Health Department (as appropriate) as capable of accommodating the wastewater generated from the proposed use;
h. The final plat is in substantial conformance with the preliminary plat (if applicable);
i. The applicant has secured all required State, federal, and other applicable County permit approvals;
j. The final plat complies with all standards and conditions of any applicable permits and development approvals; and
k. The final plat complies with all other applicable requirements in this Ordinance and the City Code of Ordinances.

6. Recordation

a. Once a final plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The final plat may not be recorded without this and all other required certifications.
b. Following certification, the City shall record the final plat and all associated protective covenants and deed restrictions in the office of the Register of Deeds in the county where the development is located. Failure to record the final plat in accordance with Section 2.4.K.10, Expiration, shall render the plat null and void.

7. Acceptance of Public Infrastructure

a. Approval and recordation of a final plat constitutes an offer of dedication by the owner of the public of the right-of-way of each public street, or alley, and any other public infrastructure shown on the plat.
b. Approval of the final plat does not constitute acceptance for maintenance responsibility of any improvements within a right-of-way or easement and the City assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so.
c. Improvements within rights-of-way or easements, such as streets, drainage facilities, or sidewalks may be accepted for maintenance by the Town, when deemed appropriate, in the Town's sole discretion.
d. The City Council may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes when the lands or facilities are located within the ETJ.
e. Acceptance of dedication of lands or facilities located within the ETJ but outside the corporate limits of the City shall not place on the City any duty to open, operate, repair or maintain any street, utility line, or other land or facility, and the City shall not be held responsible in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

8. Effect

(AMENDED 12.3.19 UDOTA-01-20)

a. Approval of a final plat allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the final plat.
b. Development located outside the Burlington corporate limits shall comply with the standards in Section 40-40 of the City Code of Ordinances as well as all other ordinances and City policies related annexation and the extension of utilities.

9. Amendment

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

10. Expiration

a. A final plat shall be null and void unless it is recorded in the office of the Register of Deeds for the county where the development is located within 10 days of approval.
b. If a final plat is not recorded within four years of the associated preliminary plat approval, or if there is a lapse of more than four years between the recording of different sections or phases, then the preliminary plat shall expire. In such cases, the City may record a notice of expiration in the office of the Register of Deeds for the county where the development is located.
c. An expired preliminary plat may be resubmitted in accordance with Section 2.4.N, Preliminary Plat, and shall be reviewed in accordance with the standards of this Ordinance.

11. Challenge

a. The decision of the Planning Director with respect to a final plat application may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located in accordance with Section 160D-1403 of the North Carolina General Statutes.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

L. FLOODPLAIN DEVELOPMENT PERMIT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this floodplain development permit procedure is to establish a development review procedure for development within the flood hazard overlay (FHO) district in order to reduce the potential for damage to land, development, and loss of life from flooding or floodwaters in areas subject to periodic inundation.

2. Applicability

The following forms of development shall obtain a floodplain development permit in accordance with this section prior to or concurrent with an application for a site plan or building permit, as appropriate:

a. Development proposed on land in a FHO as defined by the National Flood Insurance Program (NFIP); and

b. Development that is proximate to and may be impacted by unmapped streams or where regulatory flood elevations are not delineated in the NFIP, in accordance with Section 3.20.C.15, Standards for Floodplains Without Established Base Flood Elevations.

3. Floodplain Development Permit Procedure

The floodplain development permit procedure is described in Figure 2.4.L, Floodplain Development Permit Procedure, as supplemented by the Procedures Manual.

4. Decision by City Engineer

The decision on a floodplain development permit shall be made by the City Engineer based on the standards in Section 2.4.L.5, Floodplain Development Review Standards.

5. Floodplain Development Review Standards

A floodplain development permit shall be approved if it complies with the following:

a. The permit is issued prior to the commencement of development; and

b. The development complies with all applicable standards in Section 3.20.C, Flood Hazard Overlay (FHO) District.

FIGURE 2.4.L: FLOODPLAIN DEVELOPMENT PERMIT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Required when FEMA approval of special flood hazard area designation is needed; otherwise optional See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with City Engineer
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**STAFF REVIEW**
5	**CITY ENGINEER DECISION** In cases where streams are not mapped or regulatory flood elevations are not known, these aspects shall be determined prior to approval of a permit
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
7	**APPLY FOR ELEVATION CERTIFICATE** as appropriate

6. Effect

Approval of a floodplain development permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with development following issuance of a building permit.

7. Elevation and Floodproofing Certificates Required

Unless exempted in accordance with Section 3.20.C, Flood Hazard Overlay (FHO) District, the reference elevation of land subject to a floodplain development permit and an associated elevation or floodproofing certificate shall be reviewed and approved by the Floodplain Administrator in accordance with Section 3.20.C.7, Elevation and Floodproofing Certificates.

8. Amendment

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

9. Revocation

A floodplain development permit may be revoked by the Floodplain Administrator, following written notice to the violator, for any of the following reasons:

a. Failure or refusal to comply with all applicable State laws or flood damage prevention requirements of this Ordinance;
b. Conduct of development activities that represent a substantial departure from an approved permit, plan, or specification; and
c. False or misrepresented information providing as part of the application.

10. Expiration

(AMENDED 12.3.19 UDOTA-01-20)

A floodplain development permit shall expire and become null and void if the development it authorizes is not commenced within six months of permit issuance or if activity associated with the permit becomes inactive for a period of one year or longer.

11. Appeal

Appeal of a decision on a floodplain development permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

M. PLANNED DEVELOPMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this planned development procedure is to provide a uniform means for amending the Official Zoning Map to establish a Planned Development (PD) or Planned Development-Downtown (PDD) zoning district in a manner similar to a conditional rezoning (see Section 2.4.P.5, Rezoning Applications). The planned development district creates opportunities for master planned development that is developed under unified control in accordance with more flexible standards and procedures that are conducive to creating mixed-use, pedestrian-oriented development that makes efficient use of land while protecting natural resources. It is the intent of these standards to allow an applicant to propose a wide variety of allowable uses and the flexible application of some of the development standards in CHAPTER 5. DEVELOPMENT STANDARDS, in return for a higher quality of development with more amenities than might otherwise result from a strict application of the standards in this Ordinance.

2. Applicability

a. The Planned Development (PD) district may be established on any land in the City's jurisdiction except the area eligible for designation as the Planned Development Downtown (PDD) district.

b. Only the land area within the designated Planned Development Downtown (PDD) district eligibility area on the Official Zoning Map may be designated with the PDD district designation in accordance with this section.

3. Planned Development Procedure

The planned development procedure is treated as a rezoning, and is described in Figure 2.4.M.3, Planned Development Procedure, as supplemented by the Procedures Manual.

4. Application

(AMENDED 12.3.19 UDOTA-01-20)

a. Applications for a planned development may only be initiated by all the owner(s) of land subject to the application, or their authorized agents.

b. The application shall include a master plan depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing.

c. The application shall also include a statement of terms and conditions document that identifies how the proposed development will meet or exceed the standards in Section 3.19, Planned

FIGURE 2.4.M: PLANNED DEVELOPMENT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional (see Section 2.3.E, Neighborhood Information Meeting)
3	**FILE APPLICATION** Filed with Planning Director - Must include a master plan and a statement of terms and conditions - May require filing of a TIA - May only be filed by all landowners, agents, or contract purchasers
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**TECHNICAL REVIEW COMMITTEE REVIEW AND COMMENT** PD or PDD master plan reviewed by Technical Review Committee
6	**PLANNING AND ZONING COMMISSION REVIEW AND RECOMMENDATION** Public meeting - Must comment on application's consistency with the City's adopted policy guidance
7	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
8	**CITY COUNCIL REVIEW AND DECISION** Legislative public hearing - Must include a written statement of reasonableness and consistency with the City's adopted policy guidance
9	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

Development (PD) Districts, how any required environmental mitigation will take place, and outline how public facilities will be provided to serve the planned development.

d. If a planned development master plan includes sufficient detail to be considered as a site plan or a preliminary plat and the master plan is approved, then the applicant shall not be required to undergo subsequent site plan or preliminary plat review.

e. Applications seeking to establish or modify a PDD district designation shall articulate how the proposed development will maintain compliance with the requirements in Section 3.19.F.2, Statement of PDD Design Principles.

f. To ensure unified control, the application shall also include a copy of the title to all land that is part of the proposed PD or PDD zoning district classification.

g. The application shall include a transportation impact analysis for review, when required by Section 2.4.X, Transportation Impact Analysis.

5. Review by Planning and Zoning Commission

a. Planned development applications shall be reviewed by the Planning and Zoning Commission during a public meeting.

b. After conclusion of a public meeting, the Planning and Zoning Commission shall make a recommendation on the application in accordance with Section 2.4.M.8, Planned Development Review Standards.

c. In making its recommendation, the Planning and Zoning Commission shall prepare a written statement regarding the application's consistency with the City's adopted policy guidance.

d. During its review, the Planning and Zoning Commission may suggest revisions to a planned development application, consistent with the provisions of Section 2.4.M.9, Conditions of Approval. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

6. Changes to Application

The applicant may make changes, including changes recommended by the Planning and Zoning Commission or the City Council, to the application for a planned development district at any time prior to the City Council's decision. The applicant may only propose changes in accordance with the following:

a. Changes shall be made in writing to the Planning Director; and

b. Changes shall be signed by all landowners or their agents.

7. Decision by City Council

(AMENDED 12.3.19 UDOTA-01-20)

a. The decision shall be based on the legislative discretion of the City Council, taking into consideration the recommendation of the Planning and Zoning Commission and the standards in Section 2.4.M.8, Planned Development Review Standards.

b. In making its decision, the City Council shall adopt a written statement of reasonableness and consistency with the City's adopted policy guidance in accordance with Section 160D-605 of the North Carolina General Statutes.

c. In cases where the City Council approves a planned development application, they deem to be inconsistent with the future land use map portion of the City's adopted policy guidance, the future land use map shall be automatically amended for consistency with the approved planned development application and no application for a comprehensive plan amendment shall be required.

8. Planned Development Review Standards

a. The advisability of amending the Official Zoning Map to establish a planned development district is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor.

b. In determining whether to adopt or deny a planned development application, the City Council may consider the standards in Section 2.4.P.10, Rezoning Review Standards, and the standards for the district in Section 3.19, Planned Development (PD) Districts.

9. Conditions of Approval

a. Only conditions mutually agreed to in writing by the owner(s) of the property that is the subject of a planned development application may be approved as part of an application establishing a planned development district.

b. Conditions shall be limited to those that address conformance of development and use of the site with City regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.

c. Conditions shall be in writing and may be supplemented with text or plans and maps.

d. No condition shall be made part of the application which:

i. Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;

ii. Establishes a minimum size of a dwelling unit;

iii. Establishes a minimum value of buildings or improvements;

iv. Excludes residents based on income; or

v. Obligates the City to perform in any manner relative to the approval of the planned development district or development of the land.

e. All conditions of approval shall be consented to, in writing, by all owners of land subject to the conditions.

10. Designation on Official Zoning Map and Future Land Use Map

a. Designation of a PD or PDD zoning district on the Official Zoning Map shall note the ordinance number approving the PD zoning classification.

b. In cases where the City Council approve a planned development application, they deem to be inconsistent with adopted policy guidance, the future land map shall be amended with a note referencing the planned development application approval.

11. Effect

(AMENDED 12.3.19 UDOTA-01-20)

a. Lands rezoned to a PD or PDD district shall be subject to the approved master plan, the approved terms and conditions, and the statement of design principles, if applicable.

b. The master plan, terms and conditions, and statement of design principles are binding on the land as an amendment to the Official Zoning Map.

c. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the master plan in accordance with the appropriate procedures and standards set forth in this Ordinance.

d. Any permits or approvals shall comply with the master plan, the terms and conditions, and the statement of design principles, if applicable.

e. Only those portions of the development subject to an approved master plan, terms and conditions, and the statement of design principles (if applicable) shall be included in development activities.

f. Development located outside the Burlington corporate limits shall comply with the standards in Section 40-40 of the City Code of Ordinances as well as all other ordinances and City policies related annexation and the extension of utilities.

12. Amendment

Amendments to a planned development application approval shall be considered as minor modifications or major modifications in accordance with the following:

a. Minor Modifications

i. Subsequent plans and permits for development within a PD or PDD district may include minor modifications to the approved master plan map or statement of terms and conditions, provided the development continues to meet the minimum requirements of this Ordinance. Minor modifications are limited to changes that have no material effect on the character of the planned development or changes that address technical considerations that could not reasonably be anticipated at the time of the planned development approval.

ii. The following minor modifications may be approved by the Planning Director, or Technical Review Committee in the case of a change to a PDD district, in consultation with other appropriate City staff:

a) Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;

b) Changes to the configuration of parking areas, but not the number of parking spaces;

c) Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;

d) Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
e) Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character; and
f) Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

iii. The Technical Review Committee may determine that a proposed change to an approved PDD rises to the level of a significant change requiring an amendment in accordance with Section 2.4.M.12.b, Major Modification Considered Amendments.

iv. In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

b. Major Modification Considered Amendments

i. Changes that materially affect the basic concept of the planned development master plan map or basic parameters establishing the terms and conditions or that exceed the scope of a minor modifications are considered major modifications or amendments. Amendments include, but are not limited to:

a) Changes in the range of allowable use types;
b) Changes in density or intensity;
c) Decreases in open space;
d) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
e) Change in the location of any public easement.

ii. Major modifications are treated as amendments that shall only be reviewed and considered in accordance with the procedures and standards established for the original approval of a planned development application.

13. Expiration

If no application for approval of a preliminary plat or site plan for any part of the approved master plan is submitted within three years after approval of the planned development, the City may initiate a rezoning application to rezone the land back to its prior zoning classification or any other general zoning classification, as determined to be appropriate. Such time period shall not be extended with transfer of ownership.

14. Challenge

a. The decision by the City Council with regard to a planned development application may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located.

b. Appellants shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

N. PRELIMINARY PLAT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this preliminary plat procedure is to establish a fair, consistent and predictable procedure for the review of requests to divide land into a series of lots for development or sale in ways that promote the health, safety, and welfare. The intent of these standards is to ensure:

- **a.** Orderly growth and development;
- **b.** Coordination of transportation and utility networks;
- **c.** Preservation of open space for purposes of recreation or natural resource protection;
- **d.** Protection from flooding, damaging sedimentation, and decreased surface water quality; and
- **e.** Distribution of population in ways that supports infrastructure investment and diminishes the impact of traffic and overcrowding.

2. Applicability

Unless exempted by Section 160D-802(a) of the North Carolina General Statutes, all divisions of land involving two or more lots along with the provision of or changes to streets or other public infrastructure (e.g., water lines, sewer lines, storm sewer, etc.) shall be considered preliminary plats subject to the standards of this section.

3. Application

- **a.** A preliminary plat shall be prepared by a licensed professional surveyor, registered professional landscape architect, or licensed professional engineer.
- **b.** The application shall include a transportation impact analysis for review, when required by Section 2.4.X, Transportation Impact Analysis.

4. Preliminary Plat Procedure

The preliminary plat procedure is described in Figure 2.4.N.4, Preliminary Plat Procedure, as supplemented by the Procedures Manual.

FIGURE 2.4.N: PRELIMINARY PLAT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional (see Section 2.3.E, Neighborhood Information Meeting)
3	**FILE APPLICATION** Filed with Planning Director - Must be professionally prepared - May require filing of a TIA
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**TECHNICAL REVIEW COMMITTEE REVIEW AND DECISION** Approval may be conditional and subject to further revision by applicant - If denied, the reasons for denial shall be provided in writing, and applicant shall have the opportunity to revise the preliminary plat
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
7	**APPLY FOR OTHER REQUIRED PERMITS** as appropriate

5. Decision by Technical Review Committee

- **a.** The decision on a preliminary plat shall be made by the Technical Review Committee based on the standards in Section 2.4.N.6, Preliminary Plat Review Standards.
- **b.** If a preliminary plat application is denied, then the reasons for denial shall be stated in writing. The applicant may revise and resubmit a preliminary plat that has been denied.

6. Preliminary Plat Review Standards

- **a.** An application for a preliminary plat shall be approved, if it complies with the following:
  - **i.** The preliminary plat includes all required certifications and other pertinent information as indicated in the Procedures Manual;
  - **ii.** All lots have been certified by Alamance County or Guilford County Health Department (as appropriate) as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
  - **iii.** The preliminary plat is in substantial conformance with all applicable requirements in CHAPTER 6. SUBDIVISIONS;

iv. The name of the subdivision shall not duplicate or be similar to the name of an existing subdivision in Alamance County or Guilford County;

v. Street names used in the subdivision shall not duplicate or be similar to the names of streets in an existing subdivision in Alamance County or Guilford County;

vi. All standards or conditions of any prior applicable permits and development approvals; and

vii. The preliminary plat complies with all other applicable requirements in this Ordinance and the City Code of Ordinances.

b. Preliminary plats of land located within the special flood hazard area shall comply with the standards in Section 3.20.C, Flood Hazard Overlay (FHO) District.

7. Effect

a. General

(AMENDED 12.3.19 UDOTA-01-20)

i. Approval of a required preliminary plat shall not constitute the approval for recording a subdivision with the Register of Deeds, or approval for the conveyance of lots.

ii. Approval of a required preliminary plat authorizes the submittal of infrastructure permits, and soil erosion and sedimentation control plans.

iii. Nothing shall prohibit the landowner or the subdivider, as appropriate, from entering into contracts to sell or lease land by reference to an approved preliminary plat in accordance with Section 160D-807(c) of the North Carolina General Statutes, but conveyance of ownership may not take place until after recordation of a final plat in accordance with Section 2.4.K, Final Plat.

b. Lands Outside the Corporate Limits

(AMENDED 12.3.19 UDOTA-01-20)

Preliminary plats for development located outside the Burlington corporate limits shall comply with the standards in Section 40-40 of the City Code of Ordinances as well as all other ordinances and City policies related annexation and the extension of utilities.

c. Infrastructure Permit

(AMENDED 12.3.19 UDOTA-01-20)

i. Infrastructure permits for all public improvements associated with the preliminary plat shall be approved prior to street and utility construction and prior to the approval of a final plat in accordance with the applicable standards in CHAPTER 6. SUBDIVISIONS.

ii. In the case of a multi-phase subdivision, infrastructure permits shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.

d. Erosion Control Permit

An approved preliminary plat authorizes the submittal of soil erosion and sedimentation control plans and the issuance of an erosion control permit in accordance with Section 2.4.H, Erosion Control Permit (as applicable).

e. Stormwater Permit

An approved preliminary plat authorizes the submittal of stormwater management plans and the issuance of a stormwater permit in accordance with Section 2.4.U, Stormwater Permit (as applicable).

f. Performance Guarantees

All public improvements that have not been installed by the developer, and inspected and accepted by the City shall comply with the requirements in Section 6.7, Performance Guarantees, prior to the recordation of a final plat.

g. As-Built Plans

As-built plans for all public improvements shall be submitted in accordance with Section 6.7.M, As-Built Plans Required.

8. Amendment

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

9. Expiration

An approved preliminary plat shall be valid for four years from the date of approval.

10. Challenge

a. Decisions of the Technical Review Committee on a preliminary plat application may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located in accordance with Section 160D-1403 of the North Carolina General Statutes.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

O. REASONABLE ACCOMMODATION

1. Purpose

This section provides a procedure for reasonable accommodation of eligible persons in cases where the strict application of the standards of this Ordinance would deprive them of their right to equal opportunity to use a dwelling under the federal Fair Housing Act.

2. Eligible Person

a. For the purposes of this section, an eligible person is a person who meets the definition of a disabled or handicapped person under federal law.

b. A person recovering from substance abuse is considered a person with a disability or handicap provided they are not currently engaging in the illegal use of controlled substances.

3. Reasonable Accommodation Procedure

The reasonable accommodation procedure is described in Figure 2.4.O.3, Reasonable Accommodation Procedure, as supplemented by the Procedures Manual.

4. Application

a. An application for reasonable accommodation may be made by any of the following:

i. A person with a disability or handicap, or their legal representative; or

ii. A provider of housing for persons with disabilities or handicaps.

b. An application for reasonable accommodation shall also include the following:

i. The basis for the claim that the applicant or persons receiving services from the applicant is considered disabled or handicapped under federal law;

ii. The Ordinance provision from which the reasonable accommodation is being requested; and

iii. An explanation of why the reasonable accommodation is necessary to make specific land or development available for the applicant.

FIGURE 2.4.O: REASONABLE ACCOMMODATION PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional - See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Planning Director - Must be filed by a person with a disability or a housing provider
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination - Must identify the basis for the claim and the provision from which accommodation is being requested
4	**STAFF REVIEW** The Planning Director may consult with City Attorney during application review
5	**PLANNING DIRECTOR DECISION**
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

5. Decision by Planning Director

The decision on a reasonable accommodation request shall be made by the Planning Director based on the standards in Section 2.4.O.6, Reasonable Accommodation Review Standards.

6. Reasonable Accommodation Review Standards

a. A reasonable accommodation application shall be approved on a finding the proposed accommodation:

i. Will be used by an individual or individuals with a disability or handicap protected under federal law;

ii. Is the minimum needed to provide accommodation; and

iii. Is reasonable and necessary.

b. For the purposes of this section, an accommodation is reasonable if it would not undermine the legitimate purposes of this Ordinance, it does not constitute a substantial alteration of this Ordinance or other City standard, and it will not impose significant financial and administrative burden upon the City.

c. For the purposes of this section, an accommodation is necessary if it would provide direct or meaningful improvement of the effects of the particular disability or handicap, and would afford handicapped or disabled persons equal opportunity to use housing in the City.

7. Effect

A reasonable accommodation shall not affect an applicant's obligation to comply with other applicable standards in this Ordinance that are not the subject of the reasonable accommodation application.

8. Amendment

Amendment of an application for reasonable accommodation may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

9. Expiration

Approval of a reasonable accommodation shall describe the conditions or events that would terminate the reasonable accommodation or cause it to expire.

10. Appeal

(AMENDED 10.20.20 UDOTA-03-20)

Appeals of a decision on a reasonable accommodation application shall be reviewed and decided by the Board of Adjustment de novo (i.e., a new record shall be made), and in accordance with Section 160D-405 of the North Carolina General Statutes and Section 2.4.C, Appeal.

P. REZONING

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-01-22)

1. Purpose

This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map whenever the public necessity, general welfare, the City's adopted policy guidance, or appropriate land use practices justify or require doing so.

2. Applicability

This procedure sets out the requirements for amendments to the zoning district designation of land within the City's jurisdiction as well as for land coming into the City's jurisdiction via annexation in accordance with the standards in Sections 160D-701 through 160D-706 of the North Carolina General Statutes.

3. Rezoning Procedures Distinguished

(AMENDED 1.4.22 UDOTA-01-22)

a. This rezoning procedure shall be used in the consideration of conventional rezoning applications, conditional rezoning applications, and limited use rezoning applications.

b. Conditional rezoning applications are legislative rezoning applications that include conditions agreed to by the applicant and the City that seek to either further limit development beyond that allowed within a specific conventional zoning district, or that seek reductions or deviations from some standards as authorized in this Ordinance.

c. Limited use rezonings are legislative rezoning applications that include conditions agreed to by the applicant and the City that seek solely to reduce the range of allowable use types permitted in a conventional zoning district.

d. Applications filed as a conventional rezoning, conditional rezoning, or limited use rezoning may not be converted to any other form of rezoning application during the review process and shall instead be withdrawn and resubmitted as a new application.

4. Rezoning Procedure

(AMENDED 1.4.22 UDOTA-01-22)

The rezoning procedure (conventional, conditional, and limited use) is described in Figure 2.4.P, Rezoning Procedure, as supplemented by the Procedures Manual.

5. Rezoning Applications

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-01-22)

a. Generally

In no instance shall the City accept third-party rezoning applications submitted by persons who are not owners of the land subject to the application.

FIGURE 2.4.P: REZONING PROCEDURE
(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 10.20.20 UDOTA-03-20)

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional (See Section 2.3.E, Neighborhood Information Meeting)
3	**FILE APPLICATION** Filed with Planning Director - Must indicate whether application is for a conditional, conventional, or limited use rezoning - Conditional rezoning requires a concept or site plan - Conditional rezoning applications shall list all proposed principal and use types in Table 4.2.C, Principal Use Table, for the district being established - Limited use rezonings must include text-based conditions that identify the use types not to be permitted in the district
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**TECHNICAL REVIEW COMMITTEE REVIEW AND COMMENT ON CONDITIONAL REZONINGS** Review of concept plan by Technical Review Committee may be required prior to City Council review
6	**PLANNING AND ZONING COMMISSION REVIEW AND RECOMMENDATION** Public meeting - Must comment on application's consistency with the City's adopted policy guidance
7	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
8	**CITY COUNCIL REVIEW AND DECISION** Legislative public hearing - Must include a written statement of reasonableness and consistency with the City's adopted policy guidance
9	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

b. Additional Requirements for Conditional Rezoning Applications

i. Applications for a conditional rezoning that seek to modify, reduce, or waive one or more standards of this Ordinance shall indicate which standards are subject to the request and why the modification, reduction, or waiver is necessary.

ii. Applications for a conditional rezoning seeking to waive or reduce a dimensional requirement, development standard, or use-specific standard shall include a site plan or a concept plan. Conditional rezoning applications seeking only to reduce the range of allowable use types are not required to file a site plan or concept plan but may include such plan at the applicant's discretion.

iii. Applications for a conditional rezoning shall include a detailed written description of the range of potential principal and accessory uses, which shall be treated as a proposed condition included with the application.

iv. In cases where a concept plan is filed with a conditional zoning application it shall be intended for illustrative purposes in order to assist City Council in considering the proposed development conditions. Following approval of the conditional rezoning application, the applicant shall be required to file a site plan in accordance with Section 2.4.S, Site Plan, for approval prior to building permit issuance.

c. Additional Requirements for Limited Use Rezoning Applications

i. Applications for a limited use rezoning shall identify which conventional zoning district will be the basis of the application and shall include a text-only description of the range of use types that are permitted in the conventional zoning district that will be prohibited in the limited use zoning district.

ii. In no instance shall an application for a limited use zoning district include conditions that seek to reduce or deviate from any dimensional or development standard that applies in the parallel conventional zoning district.

iii. A limited use rezoning application shall not include a site plan, concept plan, or graphical depiction of proposed development or conditions.

6. Review of Conditional Rezoning Applications by the Technical Review Committee

(AMENDED 12.3.19 UDOTA-01-20)

Site plans or concept plans associated with a conditional rezoning application shall be reviewed by the Technical Review Committee prior to consideration of the rezoning application by the Planning and Zoning Commission.

7. Review by Planning and Zoning Commission

(AMENDED 1.4.22 UDOTA-01-22)

a. Conventional, conditional, and limited use rezoning applications shall be reviewed by the Planning and Zoning Commission during a public meeting.

b. After conclusion of a public meeting, the Planning and Zoning Commission shall make a recommendation on the application in accordance with Section 2.4.P.10, Rezoning Review Standards.

c. In making its recommendation, the Planning and Zoning Commission shall prepare a written statement regarding the application's consistency with the City's adopted policy guidance.

d. During its review, the Planning and Zoning Commission may suggest revisions to a conditional or limited use rezoning application, consistent with the provisions of Section 2.4.P.11, Conditions Associated with a Conditional or Limited Use Rezoning Application. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

8. Changes to Conditional or Limited Use Rezoning Applications

(AMENDED 1.4.22 UDOTA-01-22)

The applicant may make changes to a conditional or limited use rezoning application, including changes recommended by the Planning and Zoning Commission or the City Council at any time prior to the City Council's decision. The applicant may only propose changes in accordance with the following:

a. Changes shall be made in writing to the Planning Director; and

b. Changes shall be signed by all landowners or their agents.

9. Decision by City Council

a. The decision shall be based on the legislative discretion of the City Council, taking into consideration any comments received from the City staff, Technical Review Committee (if applicable), and the recommendation of the Planning and Zoning Commission.

b. In making its decision, the City Council shall adopt a written statement of reasonableness and consistency in accordance with Section 160D-605 of the North Carolina General Statutes.

10. Rezoning Review Standards

a. The advisability of modifying the Official Zoning Map through approval of a rezoning application is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor.

b. In cases where land subject to a rezoning is located with the PDD Eligibility Boundary on the Official Zoning Map, only those applications that comply with the requirements in Section 3.19.F.2, Statement of PDD Design Principles, shall be approved.

11. Conditions Associated with a Conditional or Limited Use Rezoning Application

(AMENDED 1.4.22 UDOTA-01-22)

a. Only conditions mutually agreed to by the applicant and the City Council may be approved as part of a conditional or limited use rezoning.

b. Conditions shall be limited to those that address conformance of development and use on the site with City regulations and adopted policy guidance and that address the impacts reasonably expected to be generated by the development or use of the site.

c. Conditions shall be in writing and may be supplemented with text, plans, or maps as permitted by this Ordinance.

d. No condition shall be made part of the application which:

- **i.** Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
- **ii.** Establishes a minimum size of a dwelling unit;
- **iii.** Establishes a minimum value of buildings or improvements;
- **iv.** Excludes residents based upon race, religion, or income;
- **v.** Obligates the City to perform in any manner relative to the approval of the conditional rezoning or development of the land; or
- **vi.** Deviates from the standards in Section 3.17.D.2.

12. Designation on the Official Zoning Map and Future Land Use Map

a. The Planning Director shall cause to make changes to the Official Zoning Map promptly after approval of a rezoning application by the City Council.

b. In cases when a rezoning application is deemed inconsistent with adopted policy guidance, but is approved by the City Council, the future land map shall be amended with a note referencing the rezoning application approval.

13. Effect

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-01-22)

a. In cases where the City Council approves a rezoning application deemed to be inconsistent with the City's adopted policy guidance, the rezoning approval shall also have the effect of amending any applicable future land use map included in the City's adopted policy guidance, and no additional request or application for a comprehensive plan amendment shall be required.

b. Lands subject to an approved conditional or limited use rezoning shall be subject to all the standards, conditions, and plans approved as part of that application. These standards, plans, and approved conditions are perpetually binding on the land as an amendment to this Ordinance and the Official Zoning Map, and may only be changed in accordance with the procedure established in Section 2.4.P, Rezoning.

c. Development located outside the Burlington corporate limits shall comply with the standards in Section 40-40 of the City Code of Ordinances as well as all other ordinances and City policies related annexation and the extension of utilities.

14. Amendment

a. Conventional Rezoning Applications

Amendment of an approved rezoning may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

b. Conditional and Limited Use Rezoning Applications

(AMENDED 1.4.22 UDOTA-01-22)

Amendments to a conditional or limited use rezoning application approval shall be considered as minor modifications or major modifications, in accordance with the following:

i. Minor Modifications

a) Subsequent plans and permits for development within a conditional zoning district may include minor changes modifications to the conditions of approval, provided the development continues to meet the minimum requirements of this Ordinance. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the conditional rezoning application approval.

b) The following minor modifications may be approved by the Technical Review Committee:

- **i)** Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
- **ii)** Changes to the configuration of parking areas, but not the number of parking spaces;
- **iii)** Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
- **iv)** Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
- **v)** Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the approval; and
- **vi)** Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.

c) Nothing shall limit the landowner of an individual lot from seeking approval of a minor modification provided such modification is applied solely to the lot(s) under their ownership and provided the modification is not a major modification.

d) In no instance shall a minor modification include any changes to the range of proposed uses or the overall density of the development.

ii. Major Modifications Considered Amendments

(AMENDED 1.4.22 UDOTA-01-22)

a) Changes that materially affect the basic configuration of the development, basic parameters of conditions of approval, or that exceed the scope of a minor modification are considered major modifications or amendments.

b) Major modifications include, but are not limited to:

- **i)** Increases in building height;
- **ii)** Changes in proposed use types;
- **iii)** Changes in density or intensity;
- **iv)** Decreases in open space;
- **v)** Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
- **vi)** Change in the location of any public easement.

c) Major modifications shall be treated as an amendment that must be reviewed and considered in accordance with the procedures and standards established for the original approval of a conditional or limited use rezoning application.

iii. Site Plans Filed Following Approval of a Concept Plan

In cases where the Technical Review Committee finds significant deviations between the approved concept plan and the proposed site plan, or determines that the inclusion of additional conditions is necessary in order to approve the site plan, approval of the site plan shall require a recommendation from the Planning and Zoning Commission and approval by the City Council.

15. Expiration

(AMENDED 1.4.22 UDOTA-01-22)

Approved rezoning applications shall not expire. In the event the development contemplated in a conditional or limited use rezoning application is not commenced within three years from the date of the approval, the City Council may initiate a rezoning application to return the land to its prior or to some other appropriate zoning district designation.

16. Challenge

a. The decision of the City Council with regard to a rezoning application may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

Q. RIPARIAN BUFFER DETERMINATION OF NO PRACTICAL ALTERNATIVES/AUTHORIZATION CERTIFICATION

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This section sets out the process for the determination of no practical alternatives and requests for authorization for persons who wish to undertake uses designated as allowable or allowable with mitigation. The procedure seeks to allow limited forms of necessary activities while also protecting and preserving a riparian buffer's surface water runoff nutrient reduction functionality as a means of preserving water quality in accordance with Section 7.3, Riparian Buffers.

2. Applicability

Except where exempted in accordance with Section 2.4.Q.3, Exemptions, This section shall apply to all landowners and others conducting activities in the City's jurisdiction.

3. Exemptions

Activities undertaken by the State, the federal government, multiple jurisdictions, local units of government, agriculture, and forestry are exempted from these standards. The NC Division of Water Resources shall administer the requirements of Rule 15A NCAC 02b.0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers), respectively for these activities.

4. Riparian Buffer Determination of No Practical Alternatives/Request for Authorization Procedure

The riparian buffer determination of no practical alternatives/request for authorization procedure is described in Figure 2.4.Q, Determination/Certification Procedure, Section 7.3, Riparian Buffers, and as supplemented by the Procedures Manual.

FIGURE 2.4.Q: DETERMINATION/ CERTIFICATION PROCEDURE
(AMENDED 10.20.20 UDOTA-03-20)

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional - See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Stormwater Administrator
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**STORMWATER ADMINISTRATOR REVIEW AND DECISION** Must find that there is no practical alternative to the proposed activity
5	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
6	**APPLY FOR OTHER REQUIRED PERMITS** As appropriate

5. Decision by Stormwater Administrator

The decision on a riparian buffer determination of no practical alternatives/request for authorization application shall be made by the Stormwater Administrator based on the standards in Section 2.4.Q.6, Riparian Buffer Determination of No Practical Alternatives/Request for Authorization Review Standards.

6. Riparian Buffer Determination of No Practical Alternatives/Request for Authorization Review Standards

An application for a riparian buffer determination of no practical alternatives/request for authorization shall be approved provided the Stormwater Administrator determines the following:

a. The proposed use is allowable or allowable with mitigation in accordance with Table 7.3.G.2, Table of Uses in Riparian Buffers;

b. The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;

c. The proposed use cannot practically be reduced in size or density, reconfigured, or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality;

d. Best management practices are included as necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality;

e. The proposed use complies with all applicable standards in Section 7.3, Riparian Buffers; and

f. The proposed use complies with all applicable State and federal requirements.

7. Effect

a. Approval of a riparian buffer determination of no practical alternatives/request for authorization shall authorize an applicant to proceed with application for an erosion control permit, stormwater permit, building permit, or site plan application, as appropriate.

b. Agents, officials, or other qualified persons authorized by the Stormwater Administrator may periodically inspect riparian buffers to ensure compliance with Section 7.3, Riparian Buffers.

i. Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.

ii. Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative or employee while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out their official duties. The Stormwater Administrator shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in Section 7.3, Riparian Buffers.

8. Amendment

Amendment of a riparian buffer determination of no practical alternatives/request for authorization may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

9. Expiration

A riparian buffer determination of no practical alternatives/request for authorization approval shall expire and become null and void if construction has not begun within one year from the date of the approval.

10. Appeal

Appeal of a decision on a riparian buffer determination of no practical alternatives/request for authorization shall be reviewed and decided by the Director of the North Carolina Division of Water Resources, in care of the 401 Oversight Express Permit Unit or its successor. The Director of the Division of Water Resources' decision may be appealed in accordance with Article 3 and Article 4 of Chapter 150B of the North Carolina General Statutes.

R. SIGN PERMIT

1. Purpose

The purpose of this section is to provide a uniform mechanism for reviewing applications for sign permits to ensure all signs comply with the standards of Section 5.6, Signage.

2. Applicability

All signs except those exempted from the sign regulations in Section 5.6.D, Exclusions, shall obtain a sign permit in accordance with this section before being erected, replaced, relocated, or altered.

3. Sign Permit Procedure

The sign permit procedure is described in Figure 2.4.Q, Sign Permit Procedure, as supplemented by the Procedures Manual.

4. Decision by Planning Director

The decision on a sign permit shall be made by the Planning Director based on the standards in Section 2.4.R.5, Sign Permit Review Standards.

FIGURE 2.4.R: SIGN PERMIT PROCEDURE

STEP	ACTION
1	**FILE APPLICATION** Filed with Planning Director
2	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
3	**PLANNING DIRECTOR REVIEW AND DECISION**
4	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

5. Sign Permit Review Standards

A sign permit application shall be approved provided it complies with the following:

a. The standards in Section 5.6, Signage;
b. The North Carolina State Building Code, including requirements for electrical service, if applicable;
c. All standards or conditions of any prior applicable permits and developments approvals; and
d. All other applicable requirements of this Ordinance.

6. Amendment

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

7. Expiration

If the work authorized by a sign permit is not commenced within six months from the date of issuance, the permit shall become null and void.

8. Appeal

(AMENDED 10.20.20 UDOTA-03-20)

Appeal of a sign permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

S. SITE PLAN

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose of this site plan procedure is to establish a consistent and predictable process for the review of proposed development by the Technical Review Committee. Site plan review is an analysis to ensure that allowable development is configured in accordance with the standards in this Ordinance and all other applicable regulations, not a consideration of whether or not a proposed development is allowed.

2. Applicability

a. Generally

(AMENDED 1.4.22 UDOTA-01-22)

Except for development exempted from site plan review in accordance with Section 2.4.S.2.b, Exemptions, all forms of development that involve construction, moving, or significant alteration of a building or habitable structure, that result in the increase in the amount of impervious surface on a lot, or that change the internal circulation or access to a lot shall be subject to site plan review in accordance with this section.

b. Exemptions

(AMENDED 1.4.22 UDOTA-01-22)

i. The following forms of development are exempted from Technical Review Committee review:

a) Construction of a single-family detached dwelling on an individual lot;

b) Establishment of an accessory use or structure;

c) Changes of use that do not result in the need for additional parking spaces, additional screening, differing stormwater practices, or additional landscaping; and

d) Development proposed to take place within an existing building with the same principal use type, no need for a variance, and no required changes in existing parking, landscaping, screening, circulation, or stormwater.

ii. Development exempted from site plan review is still required to obtain a building permit in accordance with the North Carolina State Building Code and is still subject to other provisions of this Ordinance, as appropriate.

FIGURE 2.4.S: SITE PLAN PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional (See Section 2.3.E, Neighborhood Information Meeting)
3	**FILE APPLICATION** Filed with Planning Director - May require filing of a transportation impact analysis
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**TECHNICAL REVIEW COMMITTEE REVIEW AND DECISION**
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
7	**APPLY FOR OTHER REQUIRED PERMITS** as appropriate

3. Application

The application shall include a transportation impact analysis for review, when required by Section 2.4.X, Transportation Impact Analysis.

4. Site Plan Procedure

The site plan procedure is described in Figure 2.4.S, Site Plan Procedure, as supplemented by the Procedures Manual.

5. Decision by Technical Review Committee

The decision on a site plan shall be made by the Technical Review Committee based on the standards in Section 2.4.S.6, Site Plan Review Standards.

6. Site Plan Review Standards

A site plan application shall be approved if it complies with all the following:

a. All standards or conditions of any prior applicable permits and development approvals;

b. Any applicable concept plans or master plans;

c. All applicable requirements of this Ordinance and the City Code of Ordinances; and
d. All applicable County, State, and federal requirements.

7. Effect

a. Lands Outside the Corporate Limits

(AMENDED 12.3.19 UDOTA-01-20)

Site plans for development located outside the Burlington corporate limits shall comply with the standards in Section 40-40 of the City Code of Ordinances as well as all other ordinances and City policies related annexation and the extension of utilities.

b. Infrastructure Permits

(AMENDED 12.3.19 UDOTA-01-20)

i. Infrastructure Permits for all public improvements associated with the site plan shall be approved prior to street and utility construction in accordance with the applicable City standards.
ii. In the case of a multi-phase site plan, infrastructure permits shall include all improvements within a phase and all public improvements outside the phase but necessary to serve development within that phase.

c. Erosion Control Permit

An approved site plan authorizes the submittal of soil erosion and sedimentation control plans and the issuance of an erosion control permit in accordance with Section 2.4.S.7.c, Erosion Control Permit (as applicable).

d. Stormwater Permit

An approved site plan authorizes the submittal of stormwater management plans and the issuance of a stormwater permit in accordance with Section 2.4.U, Stormwater Permit (as applicable).

e. Performance Guarantees

All public improvements that have not been installed by the developer, and inspected and accepted by the City shall comply with the requirements in Section 6.7, Performance Guarantees, prior to the issuance of a final inspection or certificate of occupancy.

f. As-Built Plans

As-built plans for all public improvements shall be submitted in accordance with Section 6.7.M, As-Built Plans Required.

8. Amendment

Amendments to a site plan application approval shall be considered as minor modifications or major modifications, in accordance with the following:

a. Minor Modifications

i. Subsequent revisions to approved site plans may include minor modifications, provided the development continues to meet the minimum requirements of this Ordinance. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the site plan approval.
ii. The following minor changes may be approved by the Planning Director, following consultation with other City staff, as appropriate:
   a) Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
   b) Changes to the configuration of parking areas, but not the number of parking spaces;
   c) Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space (whether passive or active) is unchanged;
   d) Changes to the configuration of landscape yards, including types of materials, provided minimum width and planting requirements are met;
   e) Changes to the proposed building elevation or facade, including materials, provided that the change retains the same general architectural character; and
   f) Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
   g) In no instance shall a minor modification include any changes to the range of proposed uses or the overall density of the development.

b. Major Modifications Considered Amendments

i. Changes that materially affect the basic concept of the development or that exceed the scope of a minor modification in the opinion of the Planning Director are major modifications or amendments. Major modifications include, but are not limited to:

a) Changes in proposed use types;
b) Changes in density or intensity;
c) Decreases in open space;
d) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); or
e) Change in the location of any public easement.

ii. Major modifications are amendments that shall be reviewed and considered in accordance with the procedures and standards established for the original approval of a site plan application.

iii. Development in the LHO that is subject to a change in exterior materials or finishes from those approved as part of a certificate of appropriateness shall require a new certificate of appropriateness in accordance with Section 2.4.D, Certificate of Appropriateness.

9. Expiration

Site plan approval shall expire and become null and void if the development approved in the site plan does not commence within four years of issuance of the site plan approval.

10. Appeal

Appeal of a site plan shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

T. SPECIAL USE PERMIT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This section sets out the procedure for consideration of an application for a special use permit. A special use is a use type that may be appropriate in a zoning district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

2. Applicability

a. Uses identified as requiring a special use permit in Table 4.2.C, Principal Use Table, shall be approved as a special use in accordance with the procedures and standards of this section, prior to development.

b. Uses identified in an approved conditional rezoning district application shall not be required to obtain a special use permit.

3. Special Use Permit Procedure

The special use permit procedure is described in Figure 2.4.T, Special Use Permit Procedure, as supplemented by the Procedures Manual.

FIGURE 2.4.T: SPECIAL USE PERMIT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional See Section 2.3.E, Neighborhood Information Meeting
3	**FILE APPLICATION** Filed with Planning Director Must include a site plan showing the use and configuration
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**TECHNICAL REVIEW COMMITTEE REVIEW OF SITE PLAN** Technical Review Committee shall comment on the site plan as required
6	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
7	**BOARD OF ADJUSTMENT REVIEW AND DECISION** Quasi-judicial public hearing - See Section 2.3.I, Public Meetings and Hearings
8	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

4. Application

An application for a special use permit shall include a site plan depicting the proposed use and site configuration. The Technical Review Committee shall review and comment on the site plan as required, prior to consideration of the application by the BOA.

5. Decision by Board of Adjustment

a. The decision shall be based on the competent, material, and substantial evidence in the record, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in Section 2.4.T.6, Special Use Permit Review Standards.

b. The decision shall be one of the following:

- **i.** Approval of the special use permit, as submitted;
- **ii.** Approval of a revised special use permit; or
- **iii.** Denial of the special use permit.

c. In making its decision on a special use permit, the Board of Adjustment shall not waive or reduce any applicable standard of this Ordinance. It is permissible for the Board of Adjustment to apply conditions of approval that exceed the standards in this Ordinance, as necessary, to mitigate any potentially negative impacts of the use on its surroundings.

6. Special Use Permit Review Standards

A special use permit shall be approved upon a finding that the applicant demonstrates the proposed special use:

a. Complies with all required standards, conditions, and specifications of this Ordinance, including CHAPTER 4. USE STANDARDS;

b. Will not materially endanger the public health or safety if located where proposed;

c. Will not substantially injure the value of the abutting land, or the special use is a public necessity;

d. Will be in harmony with the area in which it is to be located; and

e. Is in general conformity with the City's adopted policy guidance.

7. Conditions of Approval

a. The Board of Adjustment may apply conditions of approval that are reasonable and appropriate in accordance with Section 160D-705(c) of the North Carolina General Statutes.

b. Conditions may be proposed to:

- **i.** Assure that the use will be harmonious with the area where proposed;
- **ii.** Ensure the use is consistent with the purpose and intent of this Ordinance;
- **iii.** Limit the permit to a specified duration;
- **iv.** Place limits on the availability of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities; or
- **v.** Address other considerations necessary, in the sole discretion of the Board of Adjustment.
- **vi.** All conditions shall be identified in the approval, the notice of decision, and on any associated site plans.

c. The notice of decision shall not be provided until the applicant has consented to all applicable conditions of approval in writing.

8. Effect

a. Approval of a special use permit shall also constitute approval of the associated site plan.

b. A special use permit and the associated site plan approval are perpetually binding and run with the land, unless amended.

c. Special uses shall meet all applicable State and federal requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the special use permit and associated site plan.

d. An action invalidating a special use permit condition of approval for any reason (such as exceeding maximum allowable intensity or hours of operation limitation) shall render the entire special use permit null and void.

9. Amendment

Amendments of a special use permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

10. Expiration

Unless otherwise stated in the special use permit approval, a special use permit shall expire and become null and void if construction has not begun within two years from the date of the approval.

11. Appeal

a. A decision by the Board of Adjustment with regard to a special use permit shall be subject to review by the Superior Court of the county where located by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

U. STORMWATER PERMIT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This stormwater permit section sets out the procedure for consideration of a stormwater permit, which is intended to prevent or mitigate any adverse effects of increased post-development stormwater runoff into receiving surface waters in accordance with Section 7.4, Stormwater, and Section 160D-925 of the North Carolina General Statutes.

2. Applicability

Unless exempted by Section 7.4, Stormwater, the standards in this section shall apply to all forms of new development, including, but not limited to: site plans, preliminary plats, final plats, and erosion control permits.

3. Stormwater Permit Procedure

The stormwater permit procedure is described in Figure 2.4.U, Stormwater Permit Procedure, as supplemented by the Procedures Manual.

4. Application

a. The stormwater permit application shall include a stormwater management plan and required fee as indicated in the Procedures Manual.

b. The stormwater management plan shall detail how post-development runoff will be controlled and managed and how the proposed project will meet the requirements of this Ordinance, including Section 7.4.J, Standards.

c. The stormwater management plan shall be prepared by a qualified licensed North Carolina professional engineer, surveyor, soil scientist, or landscape architect. The engineer, surveyor, soil scientist, or landscape architect shall perform services only within their area of competence.

d. The stormwater management plan shall contain a signed and sealed statement certifying that the design of all stormwater management facilities and practices will comply with the standards of this Ordinance and the Stormwater Design Manual.

FIGURE 2.4.U: STORMWATER PERMIT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**REVIEW AND DECISION ON STORMWATER CONCEPT MANAGEMENT PLANS** Decided by Technical Review Committee - Must be approved prior to submitting stormwater permit application
3	**FILE APPLICATION** Filed with Stormwater Administrator - Stormwater Management Plan must be professionally prepared and sealed
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**STORMWATER ADMINISTRATOR REVIEW AND DECISION**
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
7	**APPLY FOR OTHER REQUIRED PERMITS** As appropriate

5. Decision by Stormwater Administrator

The decision on a stormwater permit shall be made by the Stormwater Administrator based on the standards in Section 2.4.U.6, Stormwater Permit Review Standards.

6. Stormwater Permit Review Standards

A stormwater permit application shall be approved if it complies with the following:

a. All relevant standards in Section 7.4, Stormwater;

b. The approved stormwater management concept plan and associated stormwater maintenance plan;

c. All standards or conditions of any prior applicable permits or development approvals; and

d. All other applicable requirements of this Ordinance and the City Code of Ordinances; and

e. All applicable State and federal requirements in place at the time the application is accepted as complete.

7. Effect

Approval of a stormwater permit allows for applicants to submit for site plan or building permit approval, as appropriate.

8. Final Approval

a. Completeness Prior to Recordation

The construction of all structural stormwater management improvements shown on an approved and permitted Stormwater Management Plan shall be substantially complete prior to final plat recordation or issuance of any certificate of occupancy. Upon approval of the Stormwater Administrator, an installation performance security as specified in Section 7.4.K.4, Performance Guarantee for Installation and Maintenance, may be submitted prior to substantial completion of all structural stormwater management measures in order to record a final plat or request a certificate of occupancy.

b. Certification

Upon completion of a project and its associated structural stormwater management improvements, and before a certificate of occupancy shall be granted, the Design Professional shall certify, under seal, that the completed project is in accordance with the approved Stormwater Management Plan and design and with the requirements of this Ordinance.

c. As-Builts

i. The Design Professional shall also submit the information required in the As-Built submittal checklist established by the Stormwater Administrator.

ii. As-built submittals shall be certified by a qualified, licensed North Carolina professional engineer, surveyor, soil scientist, or landscape architect. The As-Built drawings shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

iii. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance.

9. Release of Performance Guarantees

Prior to the release of any performance guarantees required for the installation of structural stormwater control measures as specified in Section 7.4.K.4.a, May Be Required, and Section 7.4.K.4.b, Amount, the following conditions must be satisfied:

a. As-built drawings and submittals must be approved by the Stormwater Administrator;
b. The project shall be in compliance with the Section 7.5, Soil Erosion and Sedimentation; and
c. The project shall pass a final inspection and receive approval by the Stormwater Administrator.

10. Amendment

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

11. Expiration

A stormwater permit shall expire and become null and void if an applicant fails to make substantial progress on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

12. Appeal

Appeal of a decision on a stormwater permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

V. TEMPORARY USE PERMIT

1. Purpose

This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

2. Applicability

The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the jurisdiction.

3. Temporary Use Permit Procedure

The temporary use permit procedure is described in Figure 2.4.V, Temporary Use Permit Procedure, as supplemented by the Procedures Manual.

FIGURE 2.4.V: TEMPORARY USE PERMIT PROCEDURE

STEP	ACTION
1	**FILE APPLICATION** Filed with Planning Director
2	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
3	**PLANNING DIRECTOR REVIEW AND DECISION**
4	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

4. Decision by Planning Director

The decision on a temporary use permit shall be made by the Planning Director based on the standards in Section 2.4.V.5, Temporary Use Permit Review Standards.

5. Temporary Use Permit Review Standards

(AMENDED 12.3.19 UDOTA-01-20)

An application for a temporary use permit shall be approved provided it complies with the following:

a. The applicant has written permission from the landowner, or is otherwise authorized to make use of the land;

b. The applicant has obtained the appropriate permits and licenses from the City and other agencies;

c. The temporary use meets public utility and City requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;

d. The temporary use does not violate the applicable conditions of approval that apply to a site or use on the site;

e. The proposed site contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;

f. The temporary use is located outside a special flood hazard area; and

g. The temporary use provides adequate on-site restroom facilities.

6. Signage

(AMENDED 12.3.19 UDOTA-01-20)

Any signage associated with a temporary use shall comply with the standards in Table 5.6.J, Sign Standards by Sign Type, except that supplemental signage shall not remain on site after the temporary use has ended.

7. Amendment

Amendment to an approved temporary use may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Expiration

a. An approval of a temporary use permit is valid for not more than one year. When necessary, the temporary use permit application may be reissued for a time period not to exceed three months.

b. Applicants receiving a reissued temporary use permit shall not apply for a new temporary use permit to conduct the same activity for at least one year following expiration of the reissued temporary use permit.

9. Appeal

(AMENDED 10.20.20 UDOTA-03-20)

Appeal of a decision on a temporary use permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

W. TEXT AMENDMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This section provides a uniform means for amending the text of this Ordinance whenever the City Council determines it is necessary to do so.

2. Applicability

The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.

3. Text Amendment Procedure

The text amendment procedure is described in Figure 2.4.W, Text Amendment Procedure, as supplemented by the Procedures Manual.

4. Review by Planning and Zoning Commission

a. After conclusion of a public meeting, the Planning and Zoning Commission shall make a recommendation on the application in accordance with Section 2.4.W.6, Text Amendment Review Standards.

b. In making its recommendation, the Planning and Zoning Commission shall prepare a written statement regarding the application's consistency with the City's adopted policy guidance.

5. Decision by City Council

a. The decision shall be based on the legislative discretion of the City Council, taking into consideration any recommendation received from the Planning Director, prepared in consultation with other City staff, the recommendation of the Planning and Zoning Commission, and the standards in Section 2.4.W.6, Text Amendment Review Standards.

b. In making its decision, the City Council shall adopt a written statement of reasonableness and consistency with the City's adopted policy guidance in accordance with Section 160D-605 of the North Carolina General Statutes.

6. Text Amendment Review Standards

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council and is not controlled by any one factor.

7. Revisions to this Ordinance

The Planning Director shall make changes to the text of this Ordinance promptly after approval of a text amendment application by the City Council.

8. Amendment

A text amendment shall not be further amended.

9. Expiration

A text amendment shall not expire.

10. Challenge

FIGURE 2.4.W: TEXT AMENDMENT PROCEDURE
(AMENDED 10.20.20 UDOTA-03-20)

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional - See Section 2.3.D, Pre-Application Conference
2	**NEIGHBORHOOD INFORMATION MEETING** Optional - See Section 2.3.E, Neighborhood Information Meeting
3	**FILE APPLICATION** Filed with Planning Director
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**PLANNING DIRECTOR REVIEW AND RECOMMENDATION** Recommendation prepared in consultation with appropriate City staff
6	**PLANNING AND ZONING COMMISSION REVIEW AND RECOMMENDATION** Public meeting - Must comment on application's consistency with the City's adopted policy guidance
7	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
8	**CITY COUNCIL REVIEW AND DECISION** Legislative public hearing - Must include a written statement of reasonableness and consistency with the City's adopted policy guidance
9	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

a. The decision of the City Council with regard to a text amendment application may be challenged by the filing of a declaratory judgement action in the Superior Court of Alamance County.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

X. TRANSPORTATION IMPACT ANALYSIS

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This transportation impact analysis (TIA) procedure allows an assessment of a proposed development's impact on the City's transportation system. It identifies recommended transportation system improvements to be included by a proposed development as necessary to mitigate any negative impacts created by the proposed development.

2. Applicability

a. A transportation impact analysis, prepared in accordance with this section and the standards in Section 2.4.X, Transportation Impact Analysis, shall be required for any of the following:

i. A new development anticipated to generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual;

ii. A new development that is part of a larger development that, when considered cumulatively, will generate 100 or more vehicle trips during the AM or PM peak hour, or 1,000 or more vehicle trips per day, based on the most recent edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual;

iii. A rezoning application proposes reclassification of the development site to a more intense zoning district (e.g., land in a LDR zoning district to a MDR zoning district) that is not consistent with the City's adopted policy guidance and likely to generate additional traffic beyond that anticipated;

iv. The proposed development is located on a roadway that has a demonstrated transportation capacity issue, as determined by the Transportation Director; or

v. There are likely to be significant changes to adjacent development traffic patterns, as determined by the Transportation Director, as a result of the proposed development.

b. An abbreviated traffic analysis, prepared in accordance with the Procedures Manual, shall be required in cases where proposed development will not generate trips beyond the thresholds described in (a.i) and (a.ii) above, but will, in the opinion of the Transportation Director, cause substantial impacts to the existing road network.

FIGURE 2.4.X: TRANSPORTATION IMPACT ANALYSIS PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** - See Section 2.3.D, Pre-Application Conference
2	**INITIAL MEETING WITH TRANSPORTATION DIRECTOR** Review the parameters of the analysis
3	**FILE APPLICATION** Filed with Transportation Director - Must be prepared by a licensed professional engineer
4	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
5	**TRANSPORTATION DIRECTOR REVIEW AND DECISION**
6	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
7	**INCORPORATE RECOMMENDATIONS INTO APPLICATIONS** as appropriate

3. Transportation Impact Analysis Procedure

(AMENDED 12.3.19 UDOTA-01-20)

a. The transportation impact analysis procedure is described in Figure 2.4.X, Transportation Impact Analysis Procedure, as supplemented by the Procedures Manual.

b. Prior to filing an application, the applicant shall meet with the Transportation Director to discuss the parameters of the analysis, including but not limited to: the study area boundary, assumptions, analysis period, analysis scenarios, existing traffic, planned infrastructure improvements, other approved developments in the study area, and other aspects identified in the Procedures Manual.

c. The applicant shall submit a set of meeting minutes to the Transportation Director describing the required parameters of the analysis within 14 days of the meeting.

4. Timing

A transportation impact analysis, if required, shall be conducted in accordance with the following:

- **a.** Prior to review of an associated rezoning or planned development application by the Planning and Zoning Commission;
- **b.** Prior to review of a special use permit by the Board of Adjustment;
- **c.** Prior to the decision on an associated site plan or preliminary plat by the Technical Review Committee.

5. Decision by Transportation Director

The decision on a transportation impact analysis shall be made by the Transportation Director based on the standards in Section 2.4.X.6, Transportation Impact Analysis Review Standards.

6. Transportation Impact Analysis Review Standards

An application for a transportation impact analysis shall be approved provided it complies with the following:

- **a.** The analysis is prepared and sealed by a licensed professional engineer with expertise in traffic engineering;
- **b.** The analysis includes a summary of findings and recommendations for mitigation based on the City's adopted policy guidance and applicable State regulations;
- **c.** The analysis identifies the post-development roadway levels of service for signalized and unsignalized intersections within the study area;
- **d.** The analysis identifies proposed post-development roadway lane configurations for existing and proposed improvements, including identification of the parties responsible for the improvements; and
- **e.** The timing of proposed roadway improvements to be completed as part of a phased development.

7. Effect

The applicant shall incorporate the results of the transportation impact analysis and its recommendations into the related application materials.

8. Amendment

Amendment to an approved transportation impact analysis may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

9. Appeal

Appeal of a decision on a transportation impact analysis shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

Y. VESTED RIGHTS CERTIFICATE

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this section is to establish a clear procedure for an applicant to request vesting or protection from changes in this Ordinance that take place after approval of the application but prior to completion of an approved site-specific vesting plan.

2. Applicability

a. A vested right may be established, in accordance with Section 160D-108(d) of the North Carolina General Statutes, and this section.

b. A vested rights certificate shall be limited to development included in a site-specific vesting plan. For the purposes of this section, a site-specific vesting plan shall be one of the following development approvals:

- **i.** Conditional rezoning;
- **ii.** Planned development;
- **iii.** Preliminary plat;
- **iv.** Site plan; or
- **v.** Special use permit.

c. An application for a vested rights certificate shall be processed concurrently or after the approval of a conditional rezoning application, planned development, preliminary plat, site plan, or special use permit.

3. Vested Rights Certificate Procedure

The vested rights certificate procedure is described in Figure 2.4.Y, Vested Rights Certificate Procedure, as supplemented by the Procedures Manual.

FIGURE 2.4.Y: VESTED RIGHTS CERTIFICATE PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Planning Director - May be filed with another application or following approval of a site-specific development plan by the City
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**PLANNING DIRECTOR REVIEW AND COMMENT**
5	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
6	**CITY COUNCIL REVIEW AND DECISION** Legislative public hearing
7	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

4. Decision by City Council

a. The decision shall be based on the standards in Section 2.4.Y.5, Vested Rights Certificate Review Standards.

b. The decision shall be one of the following:

- **i.** Approval of the vested rights certificate as proposed;
- **ii.** Approval of a revised vested rights certificate; or
- **iii.** Denial of the vested rights certificate.

c. The vested rights certificate is deemed established upon the approval by the City Council of a qualifying site-specific vesting plan to which the application for a vested rights certificate was attached.

5. Vested Rights Certificate Review Standards

An application for a vested rights certificate shall be approved if:

a. The vested rights certificate is for an approved site-specific vesting plan;
b. The development is valid and unexpired;
c. Any required variances have been obtained; and
d. The request is in accordance with Section 160D-108 of the North Carolina General Statutes.

6. Effect

a. A vested rights certificate shall be approved prior to issuance of a building permit.

b. Each document used to establish a site-specific vesting plan shall bear the following notation:

> "Approval of this application establishes a zoning vested right under Section 160D-108 of the North Carolina General Statutes, as amended. Unless terminated at an earlier date, the vested right shall be valid until _____(date)."

c. The establishment of a vested right shall not preclude the application of overlay zoning district provisions that impose additional requirements but do not affect the allowable type and intensity of use, or through ordinances that are general in nature and are applicable to all property subject

to land use regulation by the City, including, but not limited to: building, fire, plumbing, electrical, and mechanical codes.

7. Amendment

Amendment of vested rights certificate may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Duration

a. In no instance shall a vested right certificate provide a vested right for a period of longer than five years from the date of approval.

b. A vested right certificate shall expire and become null and void:

i. At the end of the applicable vesting period; or

ii. If a building permit application for the development subject to the certificate is not submitted within two years of the approval of the vested rights certificate associated with a special use permit, preliminary plat, or site plan, or five years of the approval of a vested rights certificate associated with a conditional rezoning or planned development; or

iii. Upon a finding by the City Council after public notice and a public hearing, that:

a) Natural or man-made hazards on or in the immediate vicinity of the land, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated;

b) The landowner or landowner's representative intentionally supplied inaccurate information or made material misrepresentations which affected the approval of the site-specific vesting plan;

c) The landowner failed to comply with any condition imposed upon the establishment of the site-specific development plan or vested rights certificate; or

iv. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant fees incurred after approval of the certificate by the City, together with interest at the legal rate until paid. Compensation shall not include any diminution in the value of the land which is caused by such action; or

v. With the written consent of the affected landowner.

c. Upon enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, the City Council may modify the affected provisions of the certificate by ordinance, if after conducting a hearing, it finds the changed conditions created by the change in the State or federal law have a fundamental effect on the site-specific vesting plan.

9. Voluntary Annexation

A petition for annexation filed with the City in accordance with Section 160A-31 or Section 160A-58.1 of the North Carolina General Statutes shall contain a signed statement declaring whether or not any vested rights with respect to the properties subject to the petition has been established under Section 160D-108 of the North Carolina General Statutes. A statement that declares that no vested rights has been established or the failure to sign a statement declaring whether or not vested rights have been established, shall be binding on the landowner and any such vested rights shall be terminated.

10. Challenge

a. A decision by the City Council with regard to a vested rights certificate application may be challenged by an applicant claiming a vested right through the filing of a declaratory judgment action in the Superior Court of the county where located in accordance with Section 160D-1401 of the North Carolina General Statutes.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

Z. WATER SUPPLY WATERSHED PROTECTION PERMIT

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

This section sets out a procedure for the review of development that is located within a Water Supply Watershed Protection Overlay (WPO) district for the purpose of ensuring that potable water quality is not negatively impacted.

2. Applicability

The standards in this section shall apply to all development located within the WPO as indicated on the Official Zoning Map or other appropriate map, including the State of North Carolina's Water Supply Watershed Map.

3. Water Supply Watershed Protection Permit Procedure

The water supply watershed protection permit procedure is described in Figure 2.4.Z, Water Supply Watershed Protection Permit Procedure, as supplemented by the Procedures Manual.

4. Decision by Stormwater Administrator

The decision on a water supply watershed protection permit shall be made by the Watershed Administrator based on the standards in Section 2.4.Z.5, Water Supply Watershed Protection Permit Review Standards.

5. Water Supply Watershed Protection Permit Review Standards

A water supply watershed protection permit shall be approved provided the application complies with the standards in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.

FIGURE 2.4.Z: WATER SUPPLY WATERSHED PROTECTION PERMIT PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** Optional See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Stormwater Administrator
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**STORMWATER ADMINISTRATOR REVIEW AND DECISION**
5	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail
6	**APPLY FOR BUILDING PERMIT**

6. Effect

Approval of a water supply watershed protection permit authorizes an applicant to apply for a building permit.

7. Amendment

Amendment of a water supply watershed protection permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

8. Expiration

If the work authorized by a water supply watershed protection permit is not commenced within one year from the date of issuance, the permit shall become null and void.

9. Appeal

Appeal of a decision on a water supply watershed protection permit shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

AA. WATER-RELATED VARIANCE

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose for this section is to establish a standardized and predictable procedure for consideration of requests to reduce or deviate from some water-related standards of this Ordinance when the landowner demonstrates that a literal application of the standards is not possible, feasible, or would result in undue and unique hardship to the landowner and that any potential negative impacts have been adequately mitigated.

2. Applicability

The standards in this section shall apply to variance requests from any of the following provisions:

a. The special flood hazard area standards in Section 3.20.C, Flood Hazard Overlay (FHO) District;

b. The water supply watershed standards in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District;

c. The riparian buffer standards in Section 7.3, Riparian Buffers; and

d. The stormwater standards in Section 7.4, Stormwater.

3. Water-Related Variance Procedure

The water-related variance procedure is described in Figure 2.4.AA, Water-Related Variance Procedure, as supplemented by the Procedures Manual.

4. Application

a. Water-related variance applications pertaining to the standards in Section 3.20.C, Flood Hazard Overlay (FHO) District, shall be submitted to and processed by the City Engineer in accordance with this Ordinance.

b. All other water-related variance applications shall be submitted to and processed by the Stormwater Administrator in accordance with this Ordinance and applicable State law.

5. Decision by Review Authority

a. City Engineer

The City Engineer shall review and decide water-related variance applications pertaining to the special flood hazard areas in accordance with Section 2.4.AA.7.a, Water-Related Variances from Special Flood Hazard Area Standards.

b. Stormwater Administrator

i. The Stormwater Administrator shall review and decide minor water-related variance applications pertaining to riparian buffer standards in Section 7.3, Riparian Buffers, in accordance with Section 2.4.AA.7.b, Water-Related Variances from Riparian Buffer Standards.

ii. The Stormwater Administrator shall review and decide minor water-related variance applications pertaining to water supply watershed standards in Section 3.20.F, Water Supply

FIGURE 2.4.AA: WATER-RELATED VARIANCE PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Files with City Engineer or Stormwater Administrator, as appropriate
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**STAFF REVIEW & DECISION** - The Stormwater Administrator shall decide minor water-related variance applications pertaining to riparian buffers and water supply watersheds - The City Engineer shall decide water-related variance applications pertaining to the special flood hazard area standards
5	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
6	**BOARD OF ADJUSTMENT REVIEW & FINDING** Quasi-judicial public hearing - See Section 2.3.I, Public Meetings and Hearings - Findings in writing, signed by Chair or authorized Board of Adjustment member - Board of Adjustment shall forward its findings to the Environmental Management Commission for a decision on major water-related variances
7	**DECISION BY ENVIRONMENTAL MANAGEMENT COMMISSION** Decision rendered within 90 days of receipt
8	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

Watershed Protection Overlay (WPO) District, in accordance with Section 2.4.AA.7.c, Water-Related Variances from Water Supply Watershed Standards.

c. Board of Adjustment

The Board of Adjustment shall review and decide all water-related variance applications pertaining to the stormwater standards in Section 7.4, Stormwater.

d. North Carolina Environmental Management Commission

The NC Environmental Management Commission (EMC) shall review and decide applications for major water-related variances pertaining to riparian buffers and water supply watershed standards following review and provision of a recommendation by the Board of Adjustment.

6. Decision or Recommendation by Board of Adjustment

a. The Board of Adjustment shall decide water-related variance applications pertaining to stormwater and shall review and make a recommendation (but not decide) applications for major water-related variances pertaining to riparian buffers and water supply watershed standards.

b. Decisions and recommendations shall be based on the competent, material, and subsequent evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in Section 2.4.AA.7, Water-Related Variance Review Standards, Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District, Section 7.3, Riparian Buffers, and Section 7.4, Stormwater, as appropriate. The decision or recommendation shall be one of the following:

i. Approval of the water-related variance as proposed;
ii. Approval of the water-related variance application with revisions; or
iii. Denial of the water-related variance.

c. Each decision or recommendation shall be made in writing and reflect the Board of Adjustment's determination of facts and their application to the standards in this Ordinance.

d. The written decision or recommendation shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

e. In the case of major water-related variance applications pertaining to riparian buffer or water supply watershed standards, the application materials, along with the recommendation of the Board of Adjustment shall be forwarded to the North Carolina Division of Water Resources for consideration by the North Carolina Environmental Management Commission.

f. The final decision regarding a major water-related variance application pertaining to riparian buffer or water supply watershed standards shall be made within 90 days of receipt by the North Carolina Environmental Management Commission (EMC) in accordance with all applicable State law. The decision by the Commission shall be one of the following:

i. Approval of the major water-related variance application;
ii. Approval of the major water-related variance application with additional conditions; or
iii. Denial of the major water-related variance application.

g. Any decision by the North Carolina Environmental Management Commission on a major water-related variance application pertaining to riparian buffer or water supply watershed standards shall be subject to review by the Superior Court of the county where located.

h. Denials of a major water-related variance application shall not be forwarded to the North Carolina Environmental Management Commission by the Board of Adjustment.

7. Water-Related Variance Review Standards

a. Water-Related Variances from Special Flood Hazard Area Standards

i. Required Findings

A water-related variance pertaining to the special flood hazard area standards shall be approved on a finding the applicant demonstrates all of the following standards are met:

a) There is a good and sufficient cause to grant the water-related variance.
b) Failure to grant the water-related variance would result in exceptional hardship to the landowner.
c) Granting the water-related 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 this Ordinance.

ii. Other Considerations

In addition to making the required findings in subsection (i) above, the City Engineer may also consider the following:

a) The water-related variance is the minimum necessary, considering the flood hazard, to afford relief.

b) Approval of the water-related variance will not render the building in violation of applicable federal, State, or local requirements.

c) Approval of the water-related variance will not result in any increase in flood levels within any designated floodway or non-encroachment area during the base flood discharge.

d) The water-related variance is issued prior to any other prerequisite permit or development approvals.

e) All of the following factors shall be considered by the City Engineer if an application for a water-related variance pertaining to the special flood hazard area standards is denied:

i) The danger that materials may be swept onto other lands and injure others;

ii) The danger to life and land due to flooding or erosion damage;

iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual landowner;

iv) The importance of the services provided by the proposed facility to the community;

v) The necessity to the facility of a waterfront location as a functionally-dependent facility;

vi) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

vii) The compatibility of the proposed use with existing and anticipated development;

viii) The relationship of the proposed use to the City's adopted policy guidance and the City's floodplain management program;

ix) The safety of access to the use in times of flood for ordinary emergency vehicles;

x) The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

xi) 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.

b. Water-Related Variances from Riparian Buffer Standards

i. Prohibited Activity

Applications seeking to engage in development activity prohibited by Section 7.3, Riparian Buffers, may apply for a water-related variance in accordance with this section.

ii. Riparian Buffer Variances Distinguished

a) Water-related variances from the riparian buffer standards shall take the form of a minor variance or a major variance.

b) Minor variances pertain to activities that will impact only Zone Two of the affected riparian buffer.

c) Major variances pertain to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer.

d) The boundaries of riparian buffer Zone One and Zone Two are identified in Section 7.3, Riparian Buffers.

iii. Required Findings

A water-related variance pertaining to the riparian buffer standards shall be approved on a finding that there are practical difficulties or unnecessary hardships that prevent compliance with this Ordinance, and a finding of practical difficulties or unnecessary hardships requires that all of the following standards are met:

a) If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, their property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance;

b) The water-related variance is the minimum necessary to afford relief, the City shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that shall make reasonable use of the property possible;

c) The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
d) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this Ordinance would not allow reasonable use of the property;
e) The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
f) The applicant did not purchase the property after the effective date of this Ordinance, and then request a variance;
g) The hardship is rare or unique to the applicant's property;
h) The variance is in harmony with the general purpose and intent of the State's riparian buffer protection requirements and this Ordinance; and
i) In granting the water-related variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

c. Water-Related Variances from Water Supply Watershed Standards

i. Water Supply Watershed Variances Distinguished

a) Water-related variances from the water supply watershed standards shall take the form of a minor variance or a major variance.
b) Major variances pertain to any of the following:
i) The relaxation, by a factor greater that 10 percent, of any management requirement under the low-density option;
ii) The relaxation, by a factor greater than five percent, of any buffer, density or built upon area requirement under the high-density option; or
iii) Any variation in the design, maintenance or operation requirements of an approved stormwater control measure (SCM).
c) Minor variances pertain to a relaxation, by a factor of up to ten percent of any buffer, density, or built-upon area requirement under the low-density option.

ii. Required Findings

A water-related variance pertaining to the water supply watershed standards shall be approved on a finding that there are practical difficulties or unnecessary hardships that prevent compliance with this Ordinance, and a finding of practical difficulties or unnecessary hardships requires that all of the following standards are met:

a) The applicant can secure make no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
b) The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;
c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this ordinance would not allow reasonable use of the property;
d) The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
e) The variance is in harmony with the general purpose and intent of the State's water supply watershed requirements and this Ordinance and preserves its spirit; and
f) In granting the water-related variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

d. Water Related Variances from Stormwater Standards

i. Required Findings

A water-related variance pertaining to the stormwater standards shall be approved on a finding the applicant demonstrates all of the following standards are met:

a) The applicant can secure no reasonable use of or return from their property if the provisions of the Ordinance are strictly adhered to;
b) The hardship results from application of this Ordinance to the property rather than from other factors such as deed restrictions or other hardship;

c) The hardship is due to the physical nature of the applicant's property, such as its location, size, shape, or topography, and compliance with provisions of this Ordinance would not allow reasonable use of the property;
d) The applicant did not cause the hardship by knowingly or unknowingly violating this Ordinance;
e) The variance is consistent with the general spirit, purpose, and intent of the State law and this Ordinance; and
f) In granting the water-related variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

8. Conditions of Approval

a. The review authority may apply reasonable conditions of approval to assure that:
   i. The water-related variance application supports the purpose and intent of the standards being varied;
   ii. The development will be harmonious with the area where proposed; and
   iii. The variance application is consistent with the purpose and intent of this Ordinance.
b. All conditions shall be identified in the approval, the notice of decision, and on any associated site plans or preliminary plats.
c. All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.
d. A water-related variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
e. Violation of a condition of approval shall be deemed a violation of this Ordinance.
f. If a violation or invalidation of a condition of approval occurs, the City may revoke the certificate of occupancy for the development subject to the water-related variance.

9. Effect

a. **Generally**
   Approval of a water-related variance authorizes only the particular regulatory relief approved by the review authority. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.
b. **Water-Related Variance from Flood Hazard Area Standards**
   i. **Notification Regarding Flood Insurance Costs**
      a) An applicant for whom a water-related variance from the flood hazard area standards is approved shall be provided written notice by the City Engineer specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is built. The notice shall inform the applicant about the risks to life and property from construction below the BFE and that issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance.
      b) The notification shall be maintained by the City Engineer with the record of the water-related variance action.
   ii. **Records**
      Upon request, the City Engineer shall report all water-related variances pertaining to special flood hazard area standards approved in accordance with this section to the Federal Emergency Management Agency and the State of North Carolina.

10. Amendment

Amendment of a water-related variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

11. Expiration

A water-related variance shall not expire.

12. Appeal

a. **Minor Water-Related Variances from Water Supply Watershed Standards**

Appeal of a decision by the Stormwater Administrator on a minor water-related variance from water supply watershed standards shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

b. Minor Water-Related Variances from Riparian Buffer Standards

Appeal of a decision by the Stormwater Administrator on a minor water-related variance from riparian buffer standards shall be made in writing to the Director of the North Carolina Division of Water Resources in accordance with Articles 3 and 4 of Chapter 150B of the North Carolina General Statutes.

c. Water-Related Variance of Special Flood Hazard Area Standards

Appeal of a decision by the City Engineer on a water-related variance from special flood hazard area standards shall be reviewed and decided by the Board of Adjustment in the nature of certiorari and in accordance with Section 160D-405 of the North Carolina General Statutes, and Section 2.4.C, Appeal.

d. Water-Related Variance of Stormwater Standards

i. Decisions by the Board of Adjustment on a water-related variance pertaining to the stormwater standards shall be subject to review by the Superior Court of the county where located by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.

ii. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

iii. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

e. Major Water-Related Variances on Water Supply Watershed or Riparian Buffer Standards

i. Appeal of a decision by the Environmental Management Commission on a major water-related variance application pertaining to water supply watershed or riparian buffer standards shall be subject to review by the Superior Court of the county where located by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.

ii. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

iii. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

BB. ZONING/SUBDIVISION VARIANCE

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

The purpose of this section is to allow certain deviations from the dimensional standards of this Ordinance (such as height, setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, due to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

2. Applicability

a. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.

b. No zoning/subdivision variance may be sought for uses not allowed in a zoning district.

c. No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a zoning district.

3. Zoning/Subdivision Variance Procedure

The zoning/subdivision variance procedure is described in Figure 2.4.BB, Zoning/Subdivision Variance Procedure, as supplemented by the Procedures Manual.

FIGURE 2.4.BB: ZONING/SUBDIVISION VARIANCE PROCEDURE

STEP	ACTION
1	**PRE-APPLICATION CONFERENCE** See Section 2.3.D, Pre-Application Conference
2	**FILE APPLICATION** Filed with Planning Director
3	**COMPLETENESS DETERMINATION** See Section 2.3.F.6, Completeness Determination
4	**STAFF REVIEW** May not seek to vary allowable density or allowable use types
5	**PUBLIC NOTIFICATION** See Section 2.3.H, Public Notification
6	**BOARD OF ADJUSTMENT REVIEW & DECISION** Quasi-judicial public hearing - See Section 2.3.I, Public Meetings and Hearings - Decision in writing, signed by Chair or authorized Board of Adjustment member - Decision effective upon date of filing in the office of the Planning & Community Development Department
7	**NOTIFICATION OF DECISION** Delivered via personal service, electronic mail, or 1st class mail

4. Decision by BOA

a. The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a zoning/subdivision variance.

b. The decision shall be based on the competent, material, and subsequent evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in Section 2.4.BB.5, Zoning/Subdivision Variance Review Standards.

c. The decision shall be one of the following:

i. Approval of the zoning/subdivision variance as proposed;

ii. Approval of the zoning/subdivision variance application with revisions; or

iii. Denial of the zoning/subdivision variance.

d. Each decision shall be made in writing and reflect the Board of Adjustment's determination of contested facts and their application to the standards in this Ordinance.

e. The written decision shall be signed by the Chair or other duly authorized member of the Board of Adjustment.

f. The decision of the Board of Adjustment shall be effective upon the filing of the written decision by the Planning Director.

5. Zoning/Subdivision Variance Review Standards

a. Required Findings

A zoning/subdivision variance application shall be approved provided on a finding the applicant demonstrates all of the following:

i. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
ii. 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 the basis for granting a variance.
iii. The hardship did not result from actions taken by the applicant or the landowner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
iv. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.
v. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

b. Not Available for Use as a Basis

None of the following may be used as the basis for approving a variance:

i. Hardships resulting from factors other than application of the relevant standards of this Ordinance;
ii. Personal circumstances;
iii. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
iv. Hardships resulting from factors other than application of the relevant standards of this Ordinance;
v. The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts;
vi. The fact that land or a structure may be utilized more profitably or be more marketable with a variance; or
vii. Financial hardship.

6. Conditions of Approval

In granting a variance, the Board of Adjustment may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood.

a. Conditions must be reasonably related to the variance application.
b. A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
c. Violation of a condition of approval shall be deemed a violation of this Ordinance.
d. If a violation or invalidation of a condition of approval occurs, the Planning Director may revoke the authorization for the development subject to the variance.
e. All conditions of approval shall be consented to, in writing, by the applicant.

7. Effect

Approval of a zoning/subdivision variance authorizes only the particular regulatory relief approved by the Board of Adjustment. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the zoning/subdivision variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.

8. Amendment

Amendment of a zoning/subdivision variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

9. Expiration

A zoning/subdivision variance shall not expire.

10. Appeal

a. The decision of the Board of Adjustment with regard to a zoning/subdivision variance shall be subject to review by the Superior Court of the county where located by proceedings in the nature of certiorari and in accordance with Section 160D-1402 of the North Carolina General Statutes.

b. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

c. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

2.5. ENFORCEMENT

A. PURPOSE

This section establishes procedures through which the City ensures compliance with the provisions of this Ordinance and obtains corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this section are intended to encourage the voluntary correction of violations, where possible.

B. COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the City.

C. STATUTE OF LIMITATIONS

Enforcement of violations of this Ordinance shall be in accordance with Section 1-49(3) and Section 1-51(5) of the North Carolina General Statutes.

D. VIOLATIONS

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided by this Ordinance and by State law:

1. Development without Authorization

Engaging in any development, use, construction, land disturbance, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required plans, permits, certificates, or other forms of authorization as set forth in this Ordinance;

2. Development Inconsistent with Authorization

Engaging in any development, use, construction, land disturbance, or related activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity;

3. Violation by Act or Omission

Violating, by act or omission, any term, variance, modification, adjustment, condition, requirement, or qualification placed upon any required plan, permit, certificate, or other form of authorization for the development, use, construction, land disturbance, or other activity upon land or improvements thereon;

4. Use in Violation

Erecting, constructing, altering, repairing, maintaining, or using any building or structure, or use of any land in violation of this Ordinance or any regulation made under the authority conferred thereby;

5. Demolition by Neglect

Failing to properly maintain the exterior of a historic structure in a LHO district or a designated historic landmark;

6. Subdivide in Violation

Subdividing land in violation of this Ordinance, or transferring land by reference to a plat or map showing a subdivision of land before the plat or map has been properly approved under this Ordinance and recorded in the office of the Register of Deeds in the county where the subdivision is located; and

7. Violation of Environmental Regulations

Failing to follow or violating the rules or regulations of Section 7.4, Stormwater, Section 7.3, Riparian Buffers, Section 3.20.C, Flood Hazard Overlay (FHO) District, or Section 7.5, Soil Erosion and Sedimentation.

E. RESPONSIBLE PERSONS

1. General

The landowner, tenant, or other occupant of any land or structure and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and is subject to the remedies and penalties set forth in this Ordinance.

2. Failure by City Does Not Relieve Individual

Failure of a City official charged with enforcement responsibility to observe or recognize conditions which violate the intent and purpose of this section of the Ordinance, or to deny the issuance of a development permit, shall not relieve the applicant or landowner from responsibility for the condition

or damages that may result and shall not result in the City, its officers, or agents being responsible for conditions or damages.

F. ENFORCEMENT RESPONSIBILITIES

(AMENDED 10.20.20 UDOTA-03-20)

The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City employees shall have responsibility for enforcement of this Ordinance.

1. Investigations

The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate, shall have the power to conduct any lawful investigation as may be deemed necessary to carry out their duties as prescribed in this Ordinance.

2. Inspections

a. The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate, shall have the right, upon receipt of permission from a responsible person, to enter on any premises within the jurisdiction at any reasonable hour for the purpose of inspecting locations subject to any complaints or alleged violations, or determination of compliance or other enforcement action of this Ordinance.

b. If any person charged with enforcing this Ordinance cannot obtain permission to enter from a responsible person, the City shall obtain an administrative search warrant prior to entering the property.

3. Supporting Documentation

The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate, shall have the power to compel a person responsible for an alleged violation to provide written statements, certificates, certifications, evidence, or reports relating to complaints or alleged violations of this Ordinance.

G. ENFORCEMENT OF SPECIFIC ENVIRONMENTAL REGULATIONS

1. CHAPTER 7. ENVIRONMENT, contains the enforcement provisions for stormwater (Section 7.4, Stormwater), riparian buffer protection (Section 7.3, Riparian Buffers), and soil erosion and sedimentation control (Section 7.5, Soil Erosion and Sedimentation). In cases where the standards in these sections conflict with the enforcement provisions in this section, the standards in those sections shall control.

2. Regardless of conflicts between the standards in this section and CHAPTER 7. ENVIRONMENT, with respect to a violation of this Ordinance, the City may use all of the enforcement procedures available to resolve a violation.

H. ENFORCEMENT PROCEDURE

(AMENDED 10.20.20 UDOTA-03-20)

When the Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official finds a violation of this Ordinance, they shall notify the responsible person(s) of the violation in accordance with the following:

1. Written Notice of Violation

A written notice of violation shall be prepared and shall include all of following:

a. Violation Exists
That the land, building, structure, sign, or use is in violation of this Ordinance;

b. Nature of the Violation
The nature of the violation, and citation of the section(s) of this Ordinance violated;

c. Remedy
The measures necessary to remedy the violation;

d. Allowable Time Period
The time period in which the violation must be corrected;

e. Penalties that May be Assessed
That penalties or remedies may be assessed; and

f. Appeal
That the party cited has the right to appeal the notice in accordance with Section 2.4.C, Appeal.

2. Delivery of Written Notice

a. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity.

b. The notice of violation may be posted on the property.

c. The City official providing the notice of violation shall certify that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

3. Remedy upon Notice

Upon delivery of a written notice of a violation, the landowner or any other responsible person shall remedy the violation within the allowable time period.

4. Failure to Comply With Order

If the landowner, occupant, or any other responsible person fails to comply with a notice of violation from which no appeal has been taken, or a final decision by the Board of Adjustment following an appeal, the landowner or occupant shall be subject to such remedies and penalties as may be provided for by State law or Section 2.5.I, Remedies.

5. Each Day a Separate Violation

Each day a violation continues following notice or failure to comply is considered a separate and distinct offense.

I. REMEDIES

(AMENDED 10.20.20 UDOTA-03-20)

1. Civil Penalties

Any responsible person who violates any provision of this Ordinance shall be subject to the assessment of a civil penalty of $100.00 per day under the procedures provided in Section 2.5.J, Assessment of Civil Penalties.

2. Denial of Permit or Certificate

The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate, may withhold or deny a permit, certificate, or other authorization for the same land, subdivision, building, structure, sign, use, or development activity in which there is an uncorrected violation of a provision of this Ordinance, or of a condition or qualification of a permit, certificate, or other authorization previously granted.

3. Conditional Permit or Certificate

a. The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate, may condition the authorization of any permit, certificate, or other approval for land, subdivision, building, structure, sign, use, or development activity with a violation or outstanding but still authorized enforcement action upon the correction of the violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee approved by the appropriate governmental authority.

b. In no instance shall the authorization of any permit, certificate, or approval for one property with a violation or outstanding enforcement action be conditioned with the correction of a violation, payment of civil penalties within a specified time, or the posting of a compliance guarantee for a different property.

4. Stop Work Orders

a. General

Whenever the Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate determines that a person is engaged in doing work that constitutes, creates, or results in a violation of this Ordinance and that irreparable injury will occur if the violation is not terminated immediately, that City official may order the specific part of the work that constitutes, creates, or results in a violation of this Ordinance to be immediately stopped.

b. Order in Writing

i. The stop work order shall be in writing and directed to the landowner, and the occupant or person doing the work.

ii. The stop work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

iii. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.

iv. The City official delivering the notice shall certify that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

c. Appeal

Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Adjustment in accordance with Section 2.4.C, Appeal. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal.

d. Compliance Required

Neither the responsible person nor a landowner upon whom a stop work order is served shall continue with work in violation of the stop work order while it remains in effect, unless the order is stayed in accordance with subsection (c) above.

5. Revocation of Permits

a. The Planning Director, the City Engineer, the Stormwater Administrator, or other designated City official, as appropriate may revoke and require the return of a permit by notifying the permit holder in writing, stating the reason for the revocation.

b. Building permits may be revoked, in accordance with Section 160D-1115 of the North Carolina General Statutes, for any of the following:

i. Any substantial departure from the approved application, plans, or specifications;

ii. Refusal or failure to comply with the requirements of State or local laws; or

iii. For making false statements or misrepresentations in securing the permit, certificate, or approval.

c. Any permit or certificate mistakenly issued in violation of an applicable State or City law may also be revoked.

6. Remedies in an LHO or Associated with a Historic Property

In cases where a building, structure, site, area, or object designated as a historic property or located within the LHO is about to be demolished (whether as the result of deliberate neglect or otherwise), materially altered, remodeled, removed, or destroyed, except in compliance with this Ordinance and applicable State law, the City may institute an action to restrain, correct, or abate the violation, or to prevent any illegal act or conduct. Such remedies shall be in addition to any others authorized by State law for violation of this Ordinance.

7. Criminal Penalties

(AMENDED 1.4.22 UDOTA-01-22)

a. Violation of Erosion and Sedimentation Control

Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this Ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars ($5,000).

8. Injunctive Relief

a. Action by City Council

Whenever the City Council has reasonable cause to believe that any person is violating or threatening to violate this Ordinance, or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved development plan, or soil erosion and sedimentation control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the City, for injunctive relief to restrain, correct, abate, mandate, or enjoin the violation or threatened violation.

b. Superior Court

The action shall be brought in the Superior Court of the appropriate county. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation.

c. No Relief from Criminal Penalties

The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

9. Order of Abatement

In addition to an injunction, the City may apply for and the court may enter an Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

a. That buildings or other structures on the property be closed, demolished, or removed;
b. That fixtures, furniture, or other moveable property be moved or removed entirely;
c. That improvements, alterations, modifications, or repairs be made; or
d. That any other action be taken as necessary to bring the property into compliance with this Ordinance.

10. Equitable Remedy

The City may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the City's application for equitable relief.

11. State and Common Law Remedies

In addition to other enforcement provisions contained in this section, the City Council may exercise any and all enforcement powers granted to it by state law or common law.

12. Previous Enforcement

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions.

13. Remedies; Cumulative and Continuous

All such remedies provided herein shall be cumulative. 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.

J. ASSESSMENT OF CIVIL PENALTIES

1. Responsible Parties

Any person who violates any provision of this Ordinance, including the owner or occupant of any land, building, structure, sign, use of land, or part thereof, may be held responsible for the violation and subject to the penalties and remedies provided in this Ordinance.

2. Notice

a. Notification Required

Civil penalties may not be assessed until the responsible person in violation has been notified in accordance with Section 2.5.H, Enforcement Procedure.

b. Civil Penalty Imposed

If after receiving a written notice of violation under Section 2.5.H, Enforcement Procedure, the person fails to take corrective action or file an appeal, a civil penalty may be imposed in accordance with this section.

c. Notice of Penalty Assessment

Notice of the civil penalty assessment shall be served in the same manner as a notice of violation.

d. Assessment Contents

The assessment notice shall state the nature of the violation, the civil penalty to be imposed upon the violator, and shall direct the violator to pay the civil penalty within 30 days of the date of the notice.

e. Separate Notices

Separate notices must be provided for the first or second violations. The City may, in its discretion, treat the first notice for a violation as the final notice for chronic violators.

f. Assessment Until Compliance

Civil penalties may be assessed until compliance is achieved.

3. Continuing Violation

For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.

4. Demand for Payment

If compliance is not achieved, then the City shall make written demand for payment of penalties that have accrued while the property has been in violation. The demand for payment shall be sent to the

responsible person in violation and must include a description of the violation for which the civil penalties have been imposed.

5. Nonpayment

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the City may recover any unpaid civil penalty by filing a civil action in the nature of debt.

6. Penalties

Any person who violates any provision of this Ordinance shall be subject to assessment of a civil penalty for each succeeding violation over the course of a calendar year.

7. Civil Penalties in the WPO

In addition to the remedies available in Section 2.5.I, Remedies, and the standards related to the assessment of civil penalties in this section, the North Carolina Environmental Management Commission may also assess civil penalties for violation of the WPO standards in accordance with Section 143-215.6(A) of the North Carolina General Statutes.

CHAPTER 3. ZONING DISTRICTS

3.1. Introductory Provisions **3-4**
A. Compliance with Zoning District Standards Required 3-4
B. Zoning Districts Distinguished 3-4
C. Zoning Districts Established 3-4
D. Organization of Zoning District Standards 3-5
E. Generally Applicable Dimensional Standards 3-6
F. Multiple Buildings or Structures on a Lot 3-6

3.2. Official Zoning Map **3-7**
A. Generally 3-7
B. Incorporated by Reference 3-7
C. Determination of Official Zoning Map Boundaries 3-7
D. Changes to Official Zoning Map 3-8

3.3. Conventional Zoning District Intent Statements **3-9**
A. Residential Zoning Districts 3-9
B. Business Zoning Districts 3-9
C. Special Zoning Districts 3-9

3.4. Central Business (CBD) District **3-10**
A. District Purpose and Intent 3-10
B. District Dimensional Standards 3-10
C. Development Examples 3-11
D. Dimensional Example 3-11
E. Lotting Pattern Examples 3-11
F. Development Configuration Example 3-12

3.5. General Business (GB) District **3-13**
A. District Purpose and Intent 3-13
B. District Dimensional Standards 3-13
C. Development Examples 3-14
D. Dimensional Example 3-14
E. Lotting Pattern Examples 3-14
F. Development Configuration Example 3-15

3.6. Heavy Industrial (HI) District **3-16**
A. District Purpose and Intent 3-16
B. District Dimensional Standards 3-16
C. Development Examples 3-17
D. Dimensional Example 3-17
E. Lotting Pattern Examples 3-17
F. Development Configuration Example 3-18

3.7. High Density Residential (HDR) District **3-19**
A. District Purpose and Intent 3-19
B. District Dimensional Standards 3-19
C. Development Examples 3-20
D. Dimensional Example 3-20
E. Lotting Pattern Examples 3-20
F. Development Configuration Example 3-21

3.8. Light Industrial (LI) District **3-22**
A. District Purpose and Intent 3-22
B. District Dimensional Standards 3-22
C. Development Examples 3-23
D. Dimensional Example 3-23
E. Lotting Pattern Examples 3-23
F. Development Configuration Example 3-24

3.9. Low Density Residential (LDR) District **3-25**
A. District Purpose and Intent 3-25
B. District Dimensional Standards 3-25
C. Development Examples 3-26
D. Dimensional Example 3-26
E. Lotting Pattern Examples 3-26
F. Development Configuration Example 3-27

3.10. Medium Density Residential (MDR) District **3-28**
A. District Purpose and Intent 3-28
B. District Dimensional Standards 3-28
C. Development Examples 3-29
D. Dimensional Example 3-29
E. Lotting Pattern Examples 3-29
F. Development Configuration Example 3-30

3.11. Medium Industrial (MI) District **3-31**
A. District Purpose and Intent 3-31
B. District Dimensional Standards 3-31
C. Development Examples 3-32
D. Dimensional Example 3-32
E. Lotting Pattern Examples 3-32
F. Development Configuration Example 3-33

3.12. Mixed Use (MX) District **3-34**
A. District Purpose and Intent 3-34
B. District Dimensional Standards 3-34
C. Development Examples 3-35
D. Dimensional Example 3-35
E. Lotting Pattern Examples 3-35
F. Development Configuration Example 3-36

3.13. Neighborhood Business (NB) District **3-37**
A. District Purpose and Intent 3-37
B. District Dimensional Standards 3-37
C. District-Specific Standards 3-38
D. Development Examples 3-38
E. Lotting Pattern Examples 3-38
F. Dimensional Example 3-39
G. Development Configuration Example 3-39

3.14. Office Institutional (OI) District **3-40**
A. District Purpose and Intent 3-40
B. District Dimensional Standards 3-40
C. Development Examples 3-41
D. Dimensional Example 3-41
E. Lotting Pattern Examples 3-41
F. Development Configuration Example 3-42

3.15. Parks and Conservation (PC) District **3-43**
A. District Purpose and Intent 3-43
B. District Dimensional Standards 3-43
C. Development Examples 3-44
D. Dimensional Example 3-44
E. Lotting Pattern Examples 3-44
F. Development Configuration Example 3-45

3.16. Residential Manufactured Home (RMH) District **3-46**
A. District Purpose and Intent 3-46
B. District Dimensional Standards 3-46

C. Development Examples 3-47
D. Dimensional Example 3-47
E. Lotting Pattern Examples 3-47
F. Development Configuration Example 3-48

3.17. Conditional Zoning Districts 3-49
A. Purpose and Intent 3-49
B. Classification 3-49
C. Districts Established 3-49
D. Conditions 3-49
E. Applicable Standards 3-50

3.18. Limited Use Zoning Districts 3-52
A. Purpose and Intent 3-52
B. Classification 3-52
C. Application 3-52
D. Districts Established 3-52
E. Conditions 3-52

3.19. Planned Development (PD) Districts 3-53
A. Purpose and Intent 3-53
B. General Standards for all Planned Developments 3-53
C. Planned Development Terms and Conditions 3-56
D. Relationship to Overlay Districts 3-56
E. Amendments to Approved Master Plan 3-56
F. Additional Standards in the Planned Development Downtown (PDD) District 3-56

3.20. Overlay Districts 3-63
A. Generally 3-63
B. Airport Height Overlay (AHO) District 3-64
C. Flood Hazard Overlay (FHO) District 3-67
D. Gateway Corridor Overlay (GCO) District 3-76
E. Local Historic Overlay (LHO) District 3-78
F. Water Supply Watershed Protection Overlay (WPO) District 3-84

3.1. INTRODUCTORY PROVISIONS

A. COMPLIANCE WITH ZONING DISTRICT STANDARDS REQUIRED

Land within the City's jurisdiction as identified in Section 1.5, Applicability, shall not be developed except in accordance with the applicable zoning district regulations of this chapter.

B. ZONING DISTRICTS DISTINGUISHED

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-01-22)

All land within the City's jurisdiction shall be located in one or more of the following types of zoning districts:

1. All land subject to these standards shall be classified into one of the "conventional" or "conditional" or "limited use" zoning districts identified in Table 3.1.C, Zoning Districts Established.
2. Land in any conventional, conditional, or limited use zoning district may also be classified into one or more "overlay" zoning districts.
3. In cases where land is within an overlay zoning district, the standards in the overlay district apply in addition to the standards governing development in the underlying conventional, conditional, or limited use zoning district.
4. If the standards governing a conventional zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay zoning district shall control.
5. If the standards governing a conditional or limited use zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay zoning district shall control.
6. Land in the City's jurisdiction shall be classified or reclassified into a conventional, conditional, limited use, or overlay zoning district only in accordance with the procedures and requirements set forth in Section 2.4.P, Rezoning, or Section 2.4.M, Planned Development, as appropriate.

C. ZONING DISTRICTS ESTABLISHED

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-01-22)

Table 3.1.C, Zoning Districts Established, sets out the conventional and conditional zoning districts established by this Ordinance. Conventional zoning districts are grouped into Residential, Business, and Special district categories.

TABLE 3.1.C: ZONING DISTRICTS ESTABLISHED

Zoning District Abbreviation	Zoning District Name
CONVENTIONAL ZONING DISTRICTS	
RESIDENTIAL DISTRICTS	
LDR	Low Density Residential
MDR	Medium Density Residential
HDR	High Density Residential
RMH	Residential Manufactured Home
BUSINESS DISTRICTS	
OI	Office Institutional
NB	Neighborhood Business
GB	General Business
CBD	Central Business
LI	Light Industrial
MI	Medium Industrial
HI	Heavy Industrial
SPECIAL DISTRICTS	
PC	Parks and Conservation
MX	Mixed Use

TABLE 3.1.C: ZONING DISTRICTS ESTABLISHED	
ZONING DISTRICT ABBREVIATION	**ZONING DISTRICT NAME**
CONDITIONAL DISTRICTS	
CR	Conditional Residential
COI	Conditional Office Institutional
CB	Conditional Business
CI	Conditional Industrial
PD	Planned Development
PDD	Planned Development Downtown [1]
LIMITED USE DISTRICTS	
LDR-LU	Low Density Residential-Limited Use
MDR-LU	Medium Density Residential-Limited Use
HDR-LU	High Density Residential-Limited Use
OI-LU	Office Institutional-Limited Use
NB-LU	Neighborhood Business-Limited Use
GB-LU	General Business-Limited Use
CBD-LU	Central Business-Limited Use
LI-LU	Light Industrial-Limited Use
MI-LU	Medium Industrial-Limited Use
HI-LU	Heavy Industrial-Limited Use
MX-LU	Mixed Use-Limited Use
NOTES: [1] The Planned Development Downtown (PDD) district is a conditional zoning district that may be applied only within the boundaries designated for PDD eligibility on the Official Zoning Map. Lands within the PDD-Eligible Boundary on the Official Zoning Map retain their conventional or conditional zoning district designation in place on November 1, 2019, but only applications for rezoning land within the PDD-Eligibility Boundary to the PDD district will be approved.	

D. ORGANIZATION OF ZONING DISTRICT STANDARDS

1. Official Zoning Map

Section 3.2, Official Zoning Map, establishes the Official Zoning Map and describes how it is updated and interpreted.

2. Conventional Zoning Districts

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-01-22)

a. Section 3.3, Conventional Zoning District Intent Statements, sets out a series of purpose and intent statements broadly applicable to each individual district type in the Residential, Business, and Special conventional district groups.

b. Sections 3.4 through 3.15 include the detailed purpose statement, dimensional standards, and example images for each conventional district listed in Table 3.1.C, Zoning Districts Established. The conventional zoning districts are organized in alphabetical order.

c. The black lettered circles included in each district's dimensional standards table correspond to the black lettered circles in the same district's dimensional and development configuration example images.

d. The development, lot pattern, dimensional, and lot configuration example diagrams are for illustrative purposes only. In cases where an image conflicts with the text for the district or some other portion of this Ordinance, the text, not the illustration, shall control.

e. The range of allowable uses for each zoning district is identified in Table 4.2.C, Principal Use Table.

f. Some zoning districts include district-specific standards that apply to all lands in the particular zoning district classification.

3. Conditional Zoning Districts

Section 3.17, Conditional Zoning Districts, sets out the standards applicable to the conditional zoning districts listed in Table 3.1.C, Zoning Districts Established.

4. Limited Use Districts

Section 3.18, Limited Use Zoning Districts, sets out the standards applicable to the limited use zoning districts listed in Table 3.1.C, Zoning Districts Established.

5. Overlay Zoning Districts

The overlay zoning districts are established in Section 3.20, Overlay Districts.

E. GENERALLY APPLICABLE DIMENSIONAL STANDARDS

In addition to the dimensional standards in each individual zoning district, the following bulk and dimensional standards shall apply to all development in the City's jurisdiction.

1. Maximum Density may be Increased

(AMENDED 10.20.20 UDOTA-03-20)

Unless otherwise indicated in this Ordinance, the maximum density for a conventional or conditional zoning district may be increased beyond the amount listed in Sections 3.4 through 3.15 of this Ordinance in accordance with the standards, incentives, and procedure in Section 7.6, Sustainability Incentives.

2. Reductions Prohibited

Except where otherwise authorized by this Ordinance:

a. No lot shall be reduced in area below the minimum requirements for the district where located.
b. Lots created after November 1, 2019, shall meet the minimum lot dimensional requirements for the district where located.

3. Minimum Lot Area

A residential lot platted under the intention of serving the lot with public water and wastewater service shall have a minimum area of at least 6,000 square feet.

4. Required Yards

a. The land area between a lot line and the boundary of a required setback is considered as a required yard.
b. The location of street (front), side, or rear yards on irregularly-shaped lots shall be determined by the Planning Director in accordance with Section 8.3, Rules of Measurement. Wherever possible, the Planning Director shall interpret these boundaries in ways that minimize nonconformities.
c. Except where otherwise provided in Section 8.3.E, Setback Encroachments, required yards shall not be subject to encroachment by a building, structure, or outdoor use area.
d. In Business districts (including COI, CB, and CI), no side or rear yard shall be required when the lot line abuts a railroad right-of-way or siding.

5. Required Frontage

The minimum frontage of any lot at the right-of-way line shall be at least 30 linear feet.

6. Minimum Lot Width

The minimum width of a residentially zoned or used lot shall be 50 feet for at least two-thirds of the depth of the lot.

7. Setbacks from Streets

No building shall be located closer to any public street right-of-way or existing private street edge than the minimum setback line established by this Ordinance.

F. MULTIPLE BUILDINGS OR STRUCTURES ON A LOT

(AMENDED 12.3.19 UDOTA-01-20)

1. No building used as a residential dwelling shall be constructed or altered in the rear of or moved to the rear of a building situated on the same lot except as part of a multi-family development.
2. No building used as a residential dwelling shall be constructed or altered in front of or moved to the front of a building situated on the same lot except as part of a multi-family development.
3. Nothing shall limit the ability to establish an accessory dwelling unit on the same lot as a principle dwelling provided it is allowed in accordance with the standards in Section 4.5, Accessory Uses.

3.2. OFFICIAL ZONING MAP

A. GENERALLY

(AMENDED 10.20.20 UDOTA-03-20)

1. The digital Official Zoning Map maintained in the offices of the Planning Department shall be the final authority as to the status of the current zoning district classification of land in the City's jurisdiction, and shall only be amended in accordance with Section 3.2.D, Changes to Official Zoning Map.
2. The Official Zoning Map designates the location and boundaries of the conventional, conditional, LHO, GCO, and WPO zoning districts established in this Ordinance.
3. The Flood Insurance Rate Map (FIRM) shall designate the location and boundaries of the FHO district, as amended by any associated Flood Insurance Studies (FIS).
4. The Airport Height Restriction Map shall designate the location and boundaries of the AHO district.
5. The Official Zoning Map shall be maintained in a digital format and paper copies shall be kept on file in the Planning Department and are available for public inspection during normal business hours.
6. The City's Geographic Information System (GIS) Administrator shall maintain digital copies of superseded versions of the Official Zoning Map for historical reference, as appropriate.
7. Copies of the Official Zoning Map may be purchased from the City and paper copies of the map that are certified by the GIS Administrator in accordance with Section 160A-79 of the North Carolina General Statutes shall be admissible in evidence and have the same force of effect as the original map.

B. INCORPORATED BY REFERENCE

1. The Official Zoning Map, as amended, is hereby incorporated by reference herein and made part of this Ordinance.
2. The Flood Insurance Rate Maps (FIRM) prepared by FEMA and the associated Flood Insurance Study (FIS) are hereby incorporated by reference herein and made part of this Ordinance.
3. The Airport Height Restriction Map is hereby incorporated by reference herein and made part of this Ordinance.

C. DETERMINATION OF OFFICIAL ZONING MAP BOUNDARIES

(AMENDED 10.20.20 UDOTA-03-20)

The Planning Director shall be responsible for determination of boundaries on the Official Zoning Map in accordance with the standards in Section 2.4.F, Determination, and the following standards:

1. Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public accessway shall be interpreted as following the centerline of the right-of-way or easement for the utility line or accessway.
2. If a street, alley, railroad, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated roadbed or utility easement.
3. Boundaries shown as approximately following a lot line shall be interpreted as following the lot line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the lot line moving 10 feet or less, the zoning boundary shall be interpreted as moving with the lot line.
4. Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
5. Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.
6. Boundaries shown as following the boundary of the City limits shall be interpreted as following the boundary of municipal incorporation.
7. Wherever a single lot is located within two or more different zoning districts, each portion of the lot shall be subject to all the regulations applicable to the zoning district where it is located.
8. If the specific location of a depicted boundary cannot be determined from application of the above standards, it shall be determined by using the Official Zoning Map's scale to determine the boundary's distance from other features shown on the map.
9. Where the actual location of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances that are not covered by this subsection, the Planning Director shall have the authority to determine the district boundaries.

10. Determinations of the Flood Hazard Overlay (FHO) district boundary shall be made by the Floodplain Administrator, in accordance with the standards in Section 3.20.C, Flood Hazard Overlay (FHO) District.
11. In the case of flood hazard overlay district boundaries, the FEMA work maps, if available, shall be used for scaling.
12. In cases where boundaries on the City's Official Zoning Map are based on another official map promulgated by the State or other federal agency and the other State or federal map is amended, the City's maps shall automatically be amended to remain consistent with the officially promulgated State or federal map.

D. CHANGES TO OFFICIAL ZONING MAP

1. Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this Ordinance and are made in accordance with Section 2.4.P, Rezoning, or Section 2.4.M, Planned Development, as appropriate.
2. Changes to the Official Zoning Map approved by the City Council shall be entered on the Official Zoning Map by the GIS Administrator promptly after the approval.
3. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the GIS Administrator shall enter the boundary on the Official Zoning Map in accordance with the ordinance wording.
4. Upon entering the most recently approved amendment on the Official Zoning Map, the GIS Administrator shall also change the date of the map to indicate the date of its latest revision.

3.3. CONVENTIONAL ZONING DISTRICT INTENT STATEMENTS

A. RESIDENTIAL ZONING DISTRICTS

The residential zoning districts are proposed to provide a comfortable, healthy, safe, and pleasant environment in which to live and recreate. More specifically, they are intended to:

1. Provide appropriately located lands for residential development that are consistent with the goals, objectives, and policies of the City's adopted policy guidance;
2. Ensure adequate light, air, privacy, and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;
3. Protect residential areas from fires, explosions, toxic fumes and substances, and other public safety hazards;
4. Provide for residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units;
5. Provide for safe and efficient vehicular access and circulation and promote bicycle-,and pedestrian-friendly neighborhoods;
6. Provide safe and efficient access to public transit facilities and alternative forms of transportation, like greenways;
7. Provide for public services and facilities needed to serve residential areas and accommodate public and very low intensity neighborhood-serving non-residential uses in the higher density residential districts while protecting residential areas from incompatible non-residential development;
8. Create neighborhoods and preserve existing community character while accommodating new development and redevelopment consistent with the City's goals and objectives; and
9. Preserve the unique character and historic resources of the traditional neighborhoods and the community.

B. BUSINESS ZONING DISTRICTS

The business zoning districts are intended to ensure a wide range of office, retail, service, industrial, and related uses necessary to meet resident and visitor needs, and more specifically to:

1. Provide appropriately located lands for the full range of business uses needed by the City's residents, businesses, and workers, consistent with the goals, objectives, and policies in the City's adopted policy guidance;
2. Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding areas;
3. Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;
4. Provide safe and efficient access to alternative forms of transportation like public transit facilities, sidewalks, trails, and greenways;
5. Preserve the unique character and historic resources of the downtown area while increasing opportunities for urban development in areas already well-served by infrastructure; and
6. Minimize the impact of business development on residential districts and sensitive natural environments.

C. SPECIAL ZONING DISTRICTS

(AMENDED 10.20.20 UDOTA-03-20)

The special zoning districts are intended to recognize those portions of the City's jurisdiction that are unique or that require special consideration in order to:

1. Protect and preserve environmentally-sensitive lands;
2. Accommodate various types of mixed-use development in ways that establish functioning neighborhoods where people can live, work, shop, and recreate without travelling extensive distances;
3. Provide safe and efficient access to alternative forms of transportation like public transit facilities, sidewalks, trails, and greenways; and
4. Create appropriate amounts of flexibility to foster redevelopment, infill, downtown revitalization, and economic opportunities for City residents.

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3.4. CENTRAL BUSINESS (CBD) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Central Business (CBD) District is established and intended to serve as the commercial and cultural heart of the City's jurisdiction. Development in the CBD includes the highest average densities and building heights in the City. Development is configured for an urban context, with buildings built to the street, ground floor uses that support pedestrian travel, and numerous civic gathering spaces and cultural attractions. The district is intended to accommodate a well-balanced mix of uses (e.g., office, retail, service, high-density residential, and entertainment), promote a strong pedestrian-oriented environment (with a reduced need for off-street parking), and preserve and protect the downtown's historical and architectural scale and character. The district requires urban-style open space (greens, seating areas, plazas, pocket parks, roof gardens, etc.) to be included as a part of new development. Low density residential like single-family detached homes and most forms of industrial development are prohibited in the CBD district. New commercial, mixed-use, and multi-family developments in the district are subject to the design standards in CHAPTER 5. DEVELOPMENT STANDARDS.

B. DISTRICT DIMENSIONAL STANDARDS

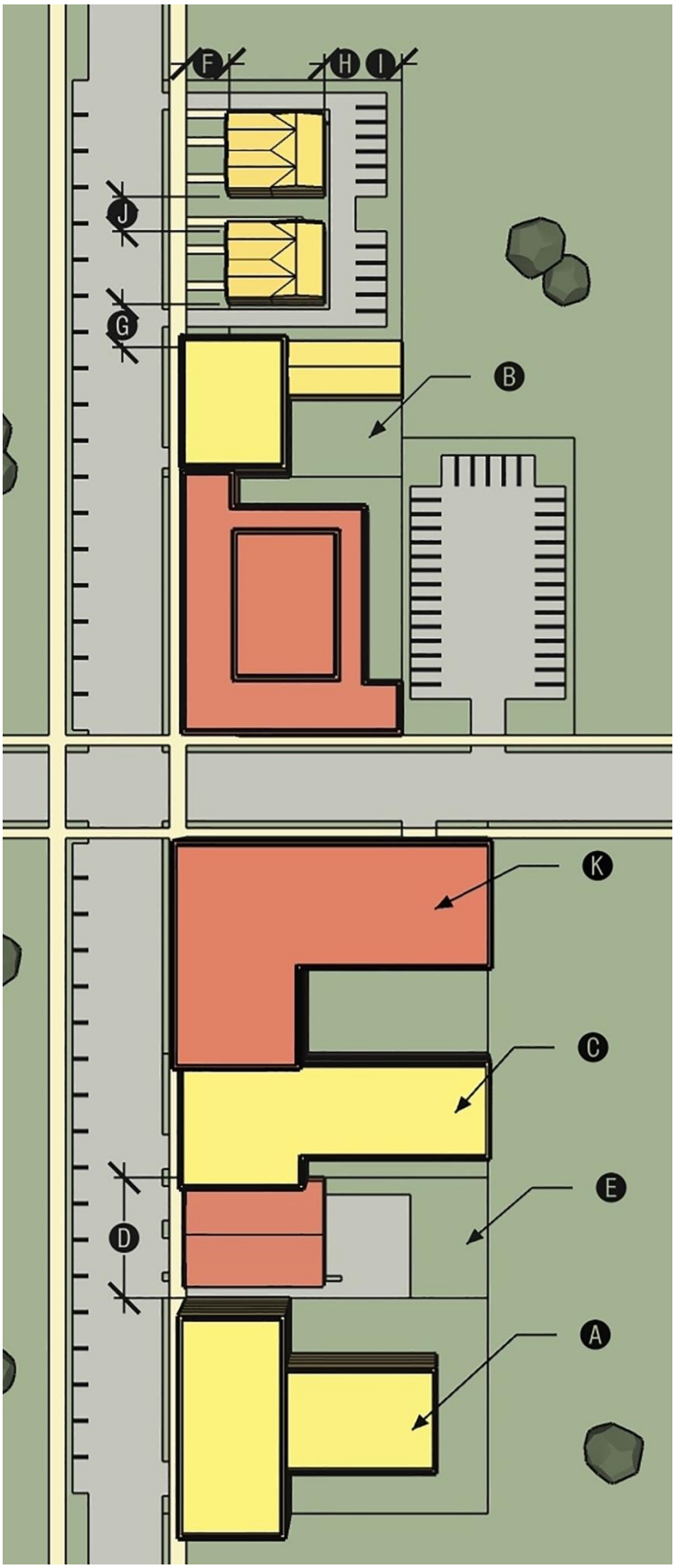
	STANDARD	REQUIREMENT				
		Single-Family Detached	Single-Family Attached (AMENDED 10.20.20 UDOTA-03-20 & 3.4.21 UDOTA-01-21)	Multi-Family	Mixed Use [1] (AMENDED 3.4.21 UDOTA-01-21)	Non-residential
A	Maximum Residential Density (units/acre) (AMENDED 3.4.21 UDOTA-01-21)	N/A		Unlimited	Unlimited	N/A
B	Minimum Lot Area (square feet)	N/A		None		
C	Maximum Lot Coverage (% of lot area)	N/A		None		
D	Minimum Lot Width (linear feet) [2] (AMENDED 3.4.21 UDOTA-01-21)	N/A		40	30	
E	Minimum Open Space Set Aside (% of lot area) (AMENDED 3.4.21 UDOTA-01-21)	N/A		None		
F	Minimum Street Setback (linear feet) [3]	N/A		N/A	None	
G	Minimum Side Setback (linear feet)	N/A		N/A	None [4]	
H	Minimum Rear Setback (linear feet) (AMENDED 3.4.21 UDOTA-01-21)	N/A		None [4]		
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A		None		
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet) (AMENDED 10.20.20 UDOTA-03-20)	N/A		In accordance with North Carolina Building Code		
K	Maximum Building Height (feet/stories)	N/A		None		

NOTES:
(AMENDED 10.20.20 UDOTA-03-20 & 3.4.21 UDOTA-01-21)
[1] Development of fewer than three units within a single building is permitted.
[2] Development within an existing building on an existing lot of record may reduce these dimensions in accordance with existing conditions.
[3] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[4] When the lot abuts a residential district, the OI zoning district, or an alley, the setback shall be at least 15 feet; when the building wall abutting the lot line includes an opening (such as for a door or window), the setback shall be at least 5 feet.

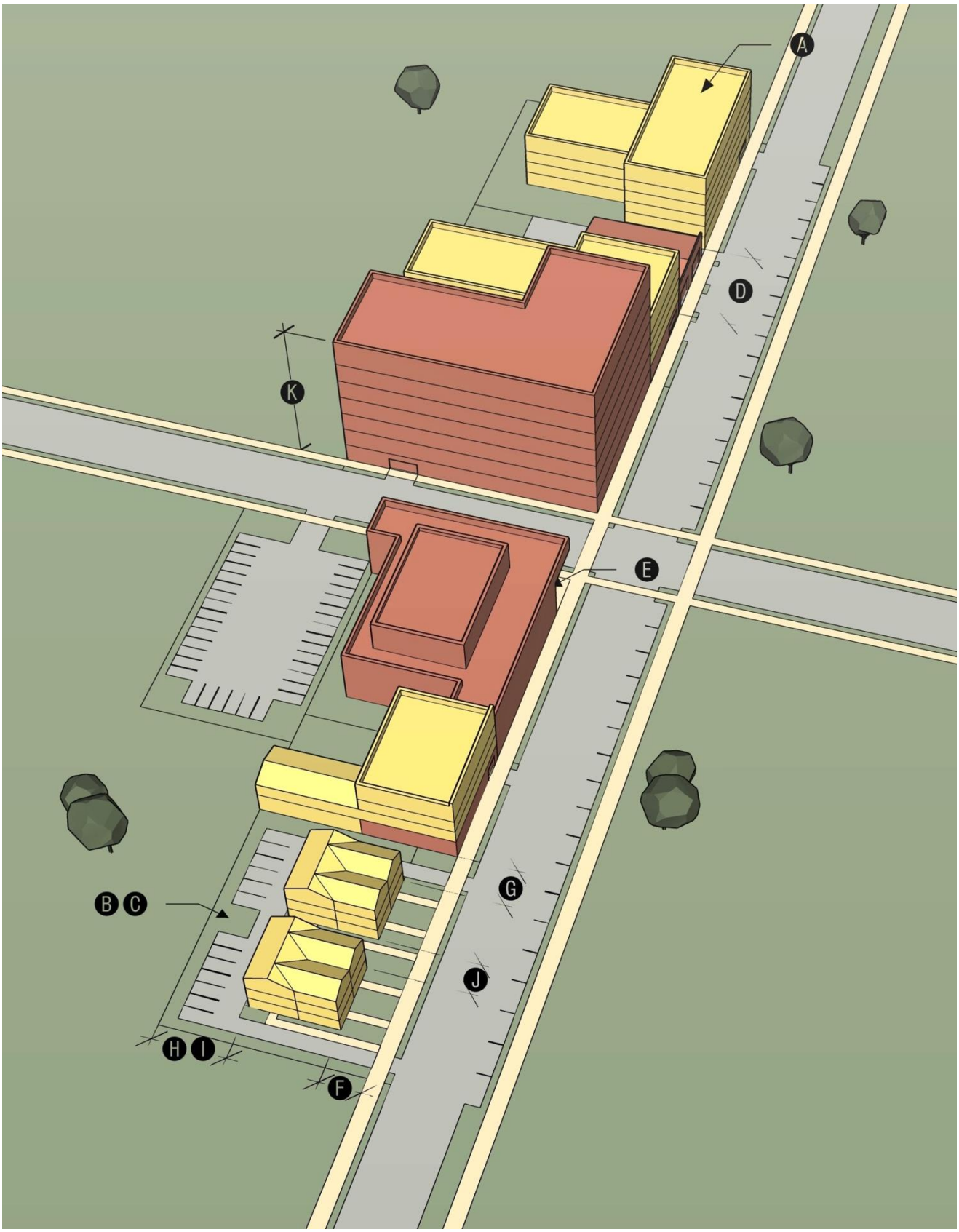
C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.5. GENERAL BUSINESS (GB) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The General Business (GB) district is the primary district intended to serve retail, business, and service uses in the City and is found along major arterial streets, interstate interchanges, and on blocks surrounding the central business district. Development in the GB district tends to be automobile oriented and comprised of a mix of individual buildings on individual sites and multi-tenant or multi-building developments located near major roadway intersections. In addition to commercial uses, the district also accommodates wholesale sales, warehousing uses, and a very wide range of institutional uses. Limited forms of residential use are allowed, such as upper-story residential and multi-family development. Uses in the district are subject to standards intended to ensure development is compatible with adjacent residential neighborhoods, ensure that the traffic carrying capacity along the City's major roadways is not impaired due to unsafe turning movements, and that development is well landscaped and aesthetically pleasing. In order to maintain compatibility with surrounding uses and ensure a high quality of development, all activities, including storage shall be indoors or be fully screened from view from the street or from lands in lower-intensity zoning districts.

B. DISTRICT DIMENSIONAL STANDARDS

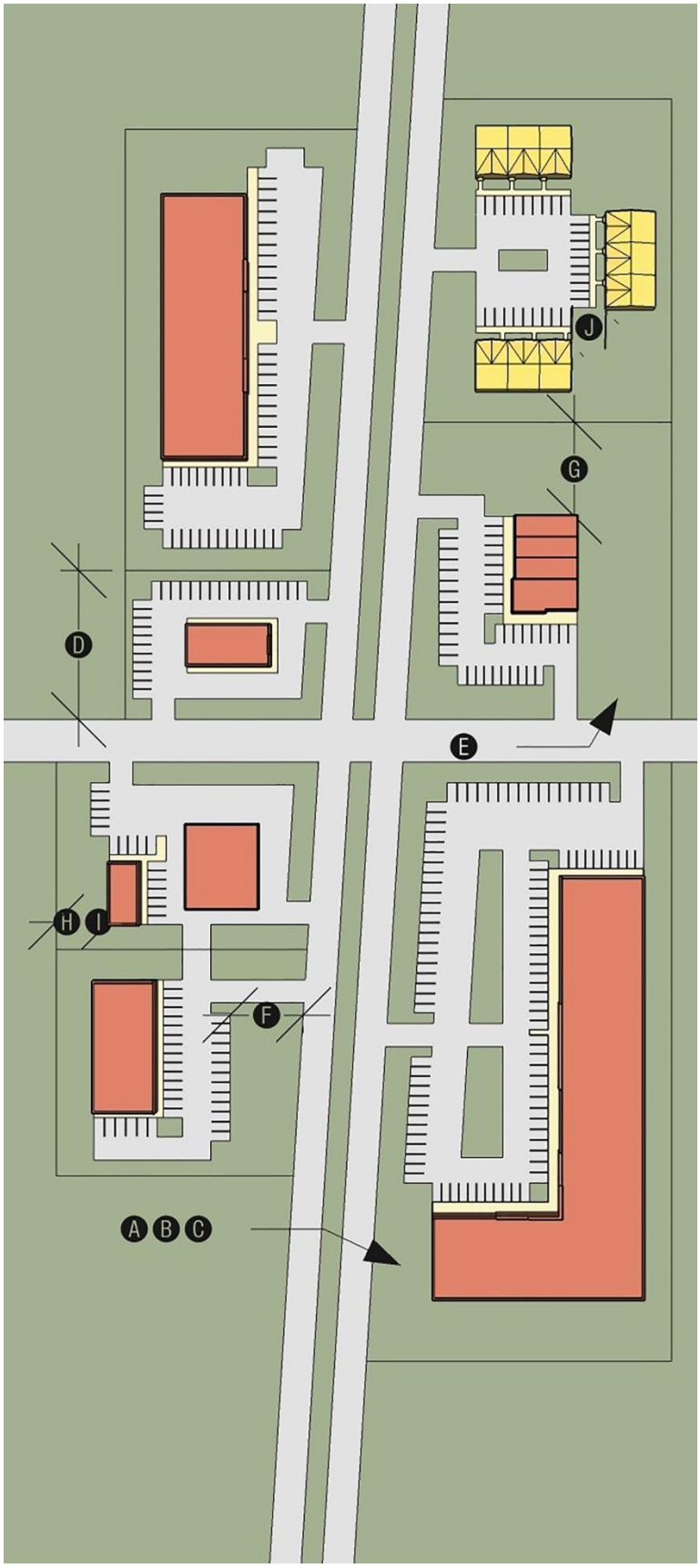
	STANDARD	REQUIREMENT			
		Single-Family Detached and Attached [1] (AMENDED 10.20.20 UDOTA-03-20)	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	N/A	20	26	N/A
B	Minimum Lot Area (square feet)	N/A	6,000 + 1,600 per dwelling unit	None	
C	Maximum Lot Coverage (% of lot area) [2]	N/A	None		
D	Minimum Lot Width (linear feet)	N/A	N/A		
E	Minimum Open Space Set Aside (% of lot area)	N/A	10 [3]	5 [3]	8
F	Minimum Street Setback (linear feet) [4] [5]	N/A	40; 25 from internal streets	30	
G	Minimum Side Setback (linear feet) [4]	N/A	None [6]		
H	Minimum Rear Setback (linear feet) [4]	N/A	15	None [6]	
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A	Same as rear setback [7]		
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A	In accordance with the Building Code		
K	Maximum Building Height (feet/stories) [8]	N/A	When abutting a single-family residential district 36/3; otherwise, none		

NOTES:
[1] Includes duplex, triplex, and quadriplex dwellings.
[2] Development in the WPO is subject to the built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[3] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[4] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[5] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[6] When the lot abuts a residential district, the OI zoning district, or an alley, the setback shall be at least 15 feet; when the building wall abutting the lot line includes an opening (such as for a door or window), the setback shall be at least 5 feet.
[7] Applied in lieu of side or rear setbacks in multi-building developments.
[8] Development in the AHO is subject to the maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

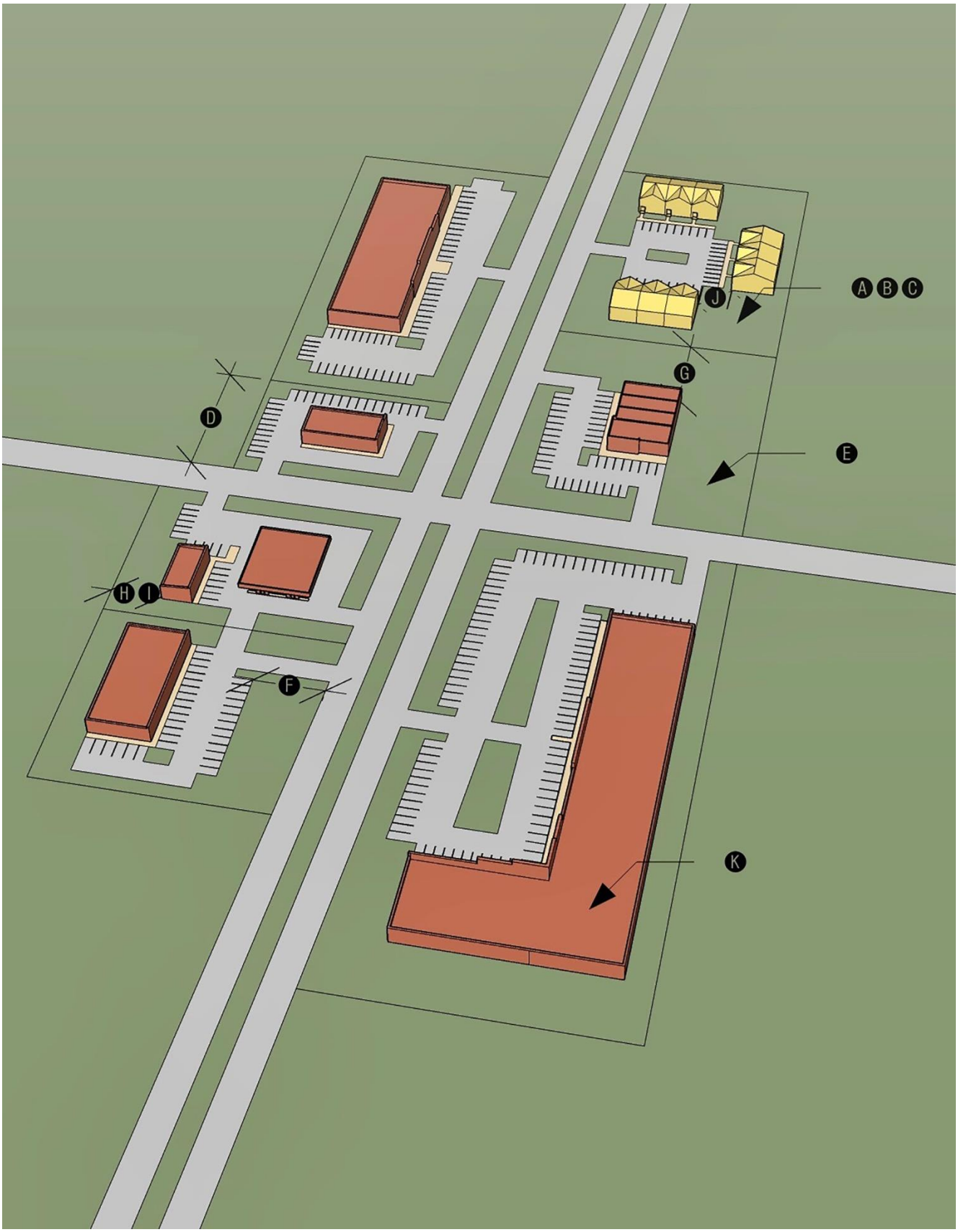
C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.6. HEAVY INDUSTRIAL (HI) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Heavy Industrial (HI) district is established to accommodate heavy manufacturing, assembly, fabrication, processing, distribution, storage, and research and development. The district accommodates large-scale industrial uses including outdoor operations or storage with extensive movement of vehicles, materials, and goods, truck traffic and greater potential for adverse environmental and visual impacts on neighboring lands. The district also allows limited forms of heavier commercial use types but residential development is prohibited (except for caretaker quarters as an accessory use). District standards are intended to prevent the establishment of any use types that would interrupt industrial operations. District standards require that no land or structure be used for any purpose that causes noxious or offensive odors, gas fumes, smoke, dust, vibration, or noise that substantially interferes with other nearby uses.

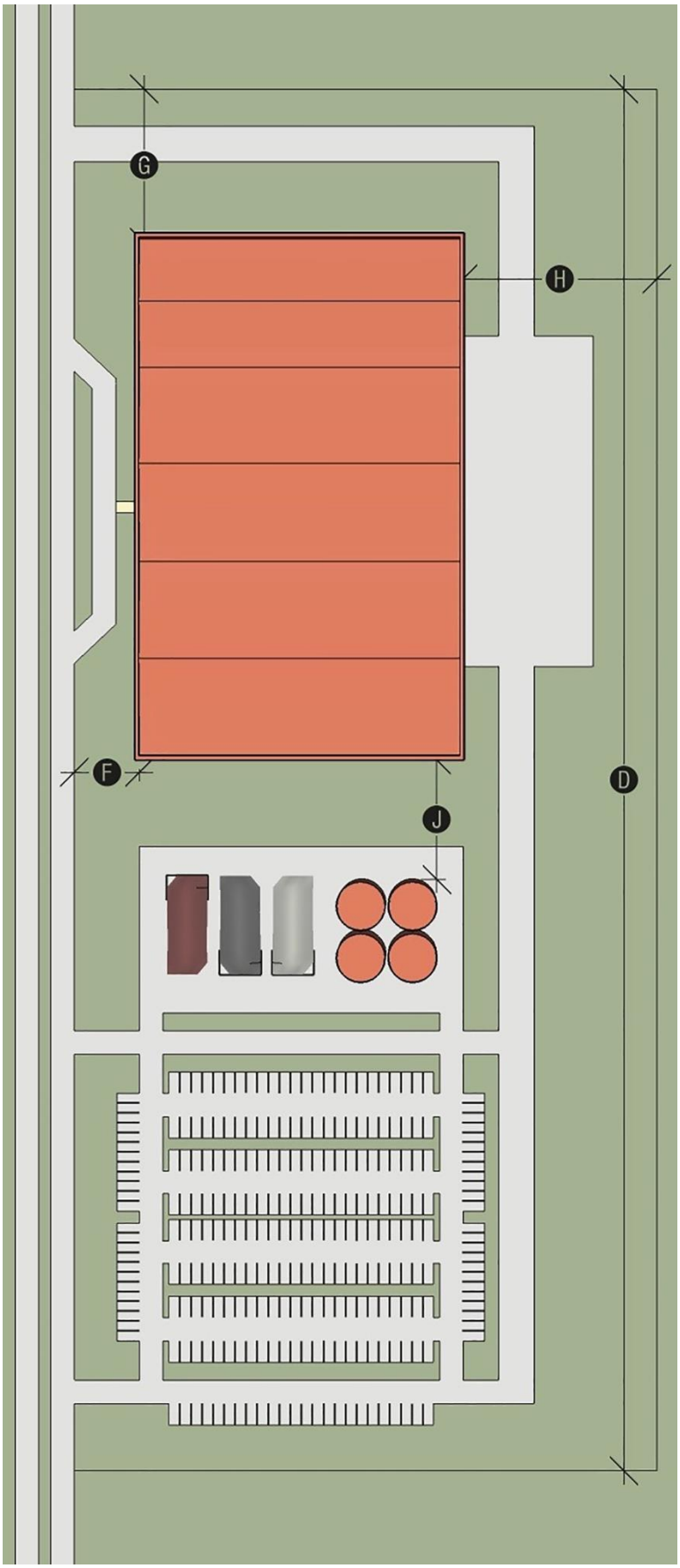
B. DISTRICT DIMENSIONAL STANDARDS

	STANDARD	REQUIREMENT				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	N/A				
B	Minimum Lot Area (square feet)	N/A				None
C	Maximum Lot Coverage (% of lot area)	N/A				None [1]
D	Minimum Lot Width (linear feet)	N/A				None
E	Minimum Open Space Set Aside (% of lot area)	N/A				None
F	Minimum Street Setback (linear feet) [2]	N/A				40
G	Minimum Side Setback (linear feet)	N/A				5 [3]
H	Minimum Rear Setback (linear feet)	N/A				30
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A				N/A
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A				[4]
K	Maximum Building Height (feet/stories)	N/A				None [5]

NOTES:
[1] Development within the WPO is subject to the built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[2] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[3] When the lot abuts a residential or OI zoning district, the setback shall be at least 15 feet.
[4] In accordance with the North Carolina Building Code.
[5] Development in the AHO is subject to the maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

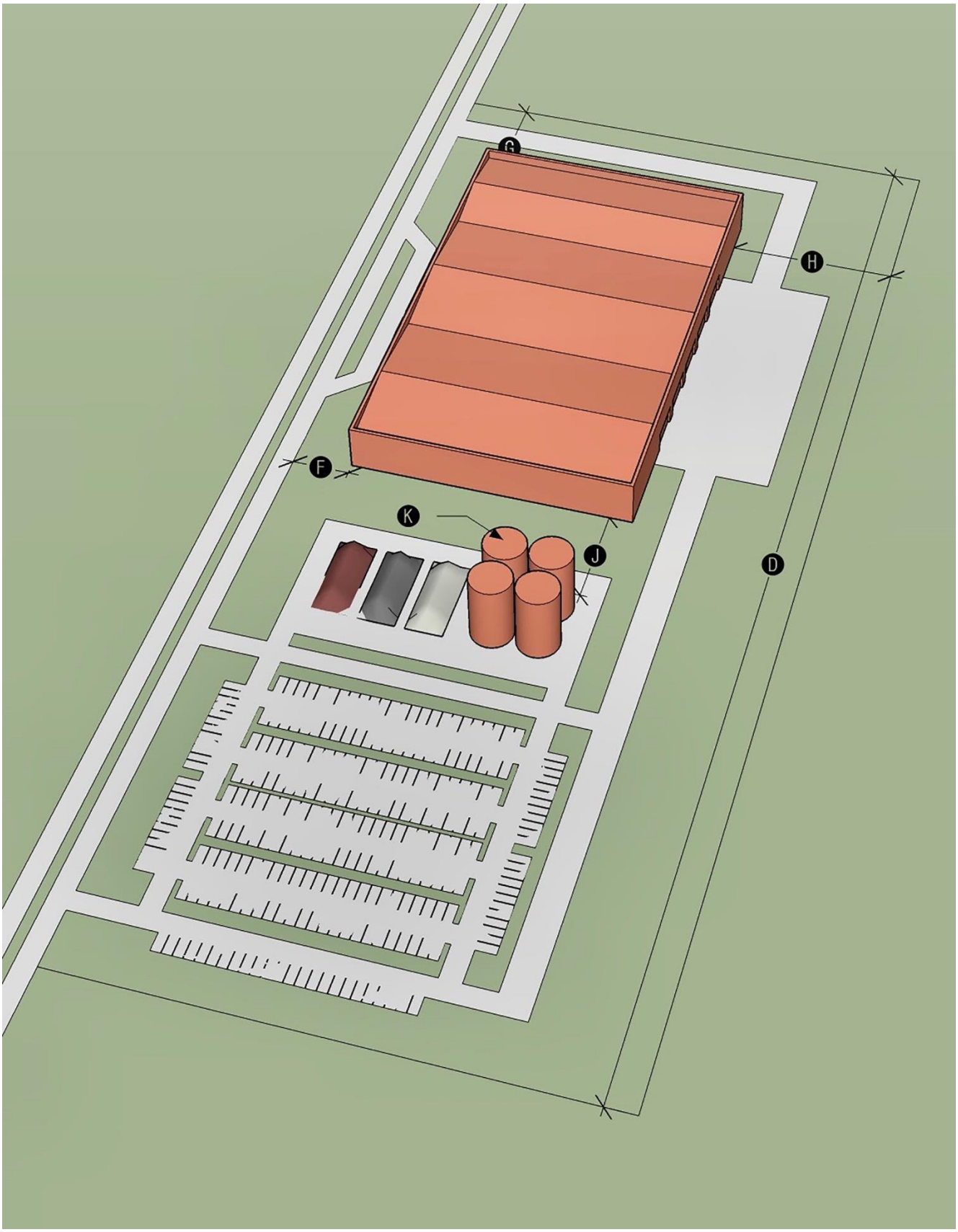
C. DEVELOPMENT EXAMPLES

D. DIMENSIONAL EXAMPLE



E. LOTTING PATTERN EXAMPLES

F. DEVELOPMENT CONFIGURATION EXAMPLE



3.7. HIGH DENSITY RESIDENTIAL (HDR) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The High Density Residential (HDR) district is established to accommodate a wide range of residential and institutional use types at high densities. The district allows a wide range of housing types, including duplexes, triplexes, quadraplexes, upper-story residential, single-family attached, and single-family detached dwellings. The district also allows pocket neighborhoods and bungalow courts. As a means of creating compact, functional neighborhoods, the district also allows a wide variety of institutional uses, including community centers, day care, schools, assisted living, religious institutions, parks, and utilities. Mixed use development is also allowed in locations where negative impacts can be minimized. Proximity and access to transit facilities and alternative forms of transportation are vital in this district. Low density development comprised of uniform building types or styles is discouraged.

B. DISTRICT DIMENSIONAL STANDARDS

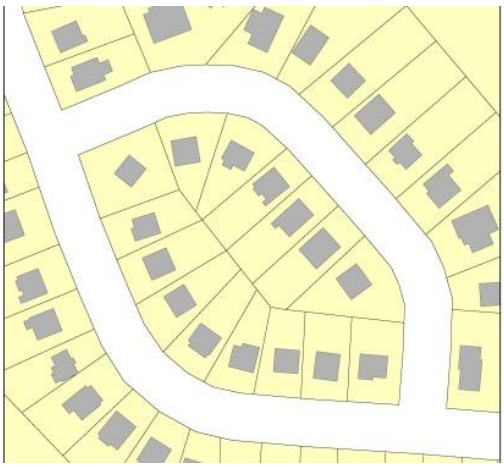
	Standard	Requirement				
		Single-Family Detached	Single-Family Attached [1]	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre) (AMENDED 3.4.21 UDOTA-01-21)	7	9	30	Unlimited	N/A
B	Minimum Lot Area (square feet)	6,000	1,600 per unit	20,000 [2]	None	40,000
C	Maximum Lot Coverage (% of lot area) [3]	45 [4]	55 [5]	45	None	50
D	Minimum Lot Width (linear feet)	50 [6]	55 [7]	60	None	60
E	Minimum Open Space Set Aside (% of lot area) (AMENDED 10.20.20 UDOTA-03-20)	10 [8] [9] [10]	10 [9]		5 [9]	8
F	Minimum Street Setback (linear feet) [10] [11] (AMENDED 12.3.19 UDOTA-01-20); (AMENDED 10.20.20 UDOTA-03-20); (AMENDED 3.4.21 UDOTA-01-21)	25 [12]	25	30; 20 from internal streets	30	
G	Minimum Side Setback (linear feet) (AMENDED 3.4.21 UDOTA-01-21); (AMENDED 1.4.22 UDOTA-01-22)	10 [12]	25 [13]		25	
H	Minimum Rear Setback (linear feet)	25 [12]	30 [8]	30		
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A	Same as rear setback [14]			
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A	In accordance with the NC Building Code			
K	Maximum Building Height (feet/stories) [15] (AMENDED 10.20.20 UDOTA-03-20)	36/3		50/5		

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-01-22)

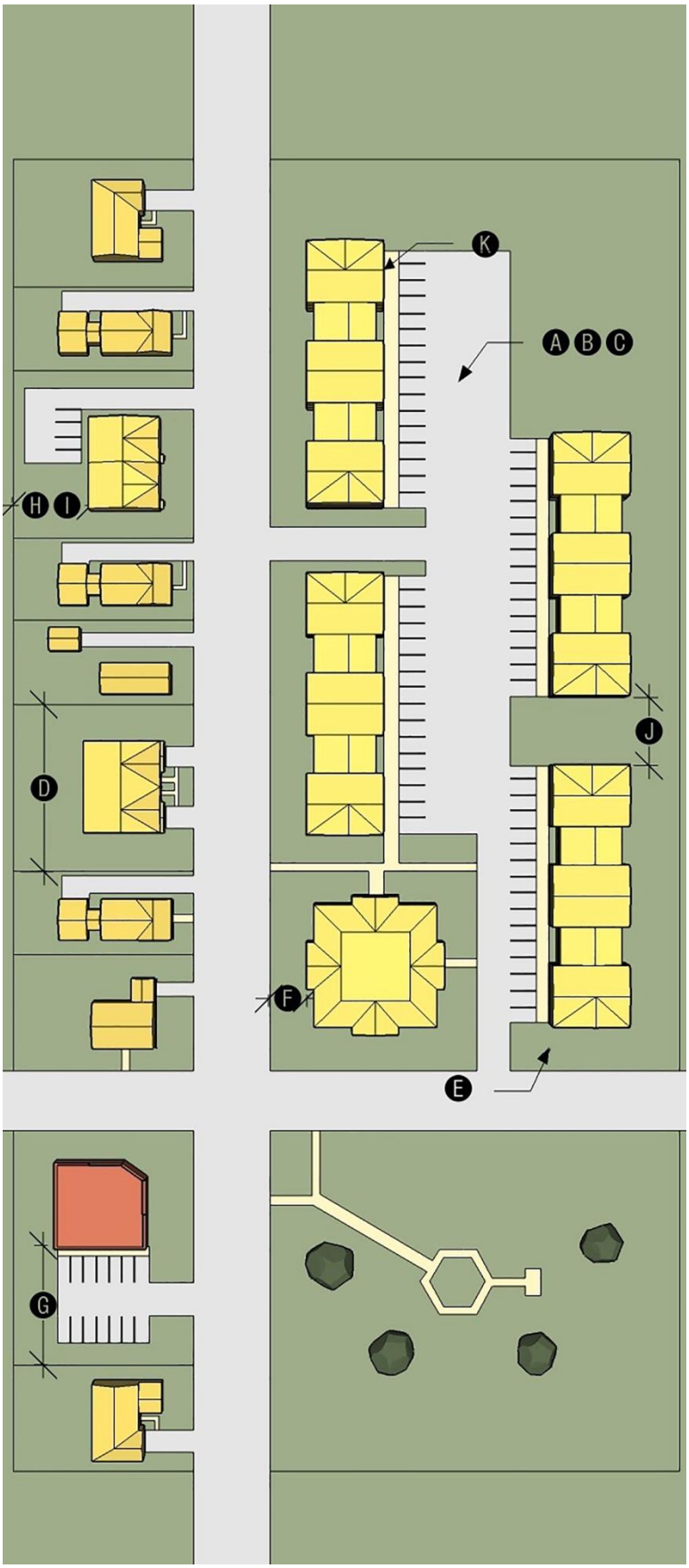
[1] Includes duplex, triplex, and quadriplex dwellings.
[2] This is a minimum development size, not an individual lot area.
[3] Development in the WPO is subject to Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[4] Increased to 50% for lots in pocket neighborhoods and bungalow courts.
[5] Applied to the entire single-family attached development, not to individual lots containing an individual single-family attached dwelling.
[6] Applied to entire development (not individual lots) when configured as a pocket neighborhood or bungalow court.
[7] Standards applied to the entire development, not individual lots.
[8] Open space set-aside requirements applied to subdivisions of five or more lots.
[9] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[10] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[11] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[12] Reduced to as low as 3 feet for dwellings in pocket neighborhoods and bungalow courts.
[13] Duplex dwellings may utilize a side yard setback that is the same as a single-family detached dwelling.
[14] Applied in lieu of side or rear setbacks in multi-building developments.
[15] Development in the AHO is subject to the maximum building heights in Sec. 3.20.B, Airport Height Overlay (AHO) District.

C. DEVELOPMENT EXAMPLES

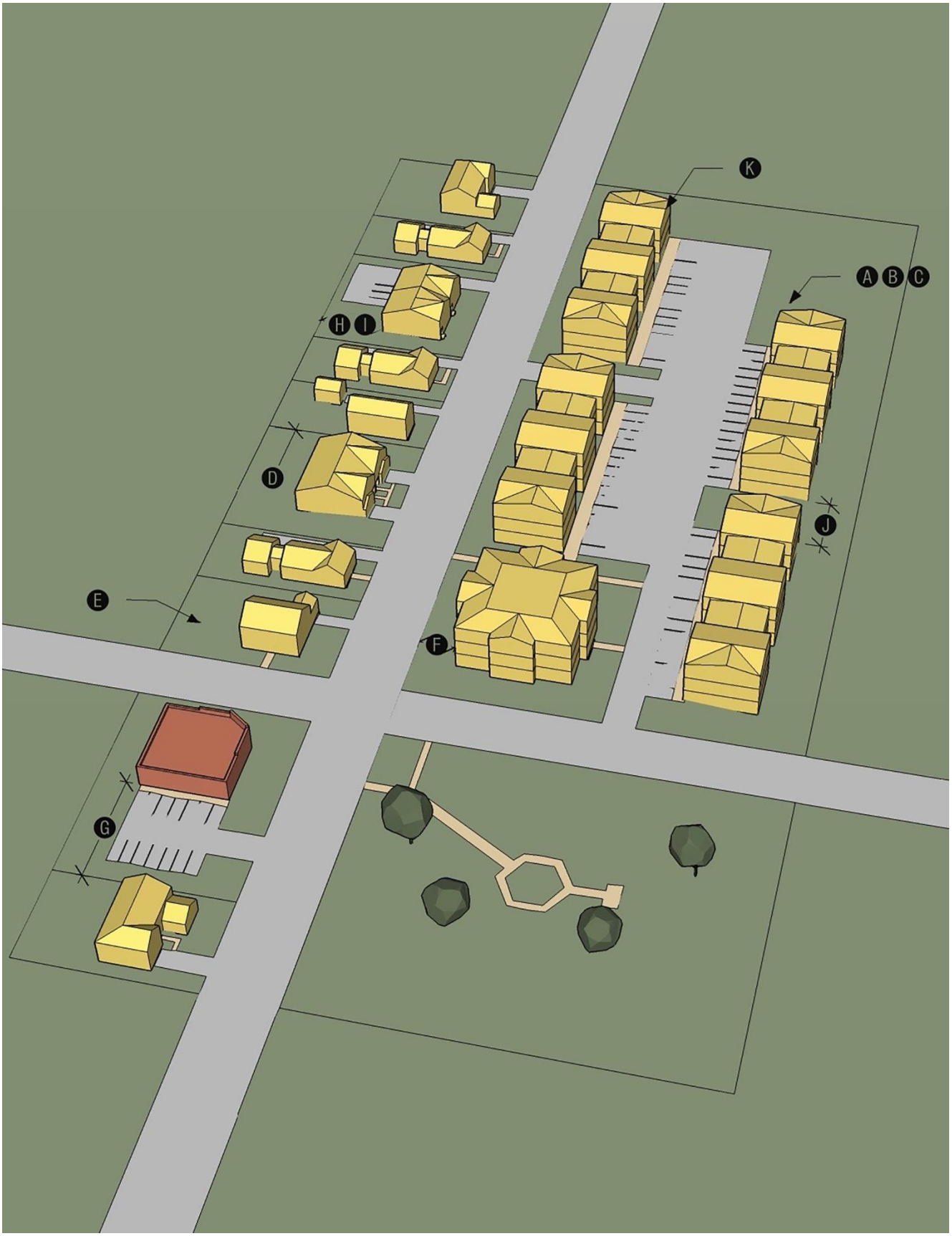
E. LOTTING PATTERN EXAMPLES



D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.8. LIGHT INDUSTRIAL (LI) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Light Industrial district is established to accommodate agricultural and light manufacturing uses, including assembly, fabrication, processing, distribution, storage, and wholesales sale of finished or semi-finished products from previously prepared materials. The district also allows commercial activities intended to serve the primary businesses in the district and their employees. Uses allowed in the district do not require large amounts of land or large building areas for operation nor large yard areas for isolation or protection from adjoining premises or activities. Activities take place almost entirely indoors and result in minimal exterior movement of vehicles, materials, and goods in areas around the district. Buildings are situated so as to have minimal visual impacts, and are well-screened from adjacent lower intensity uses. Heavy industrial uses and uses with significant adverse impacts on adjoining lands, single-family detached homes, and other low-intensity uses are prohibited.

B. DISTRICT DIMENSIONAL STANDARDS

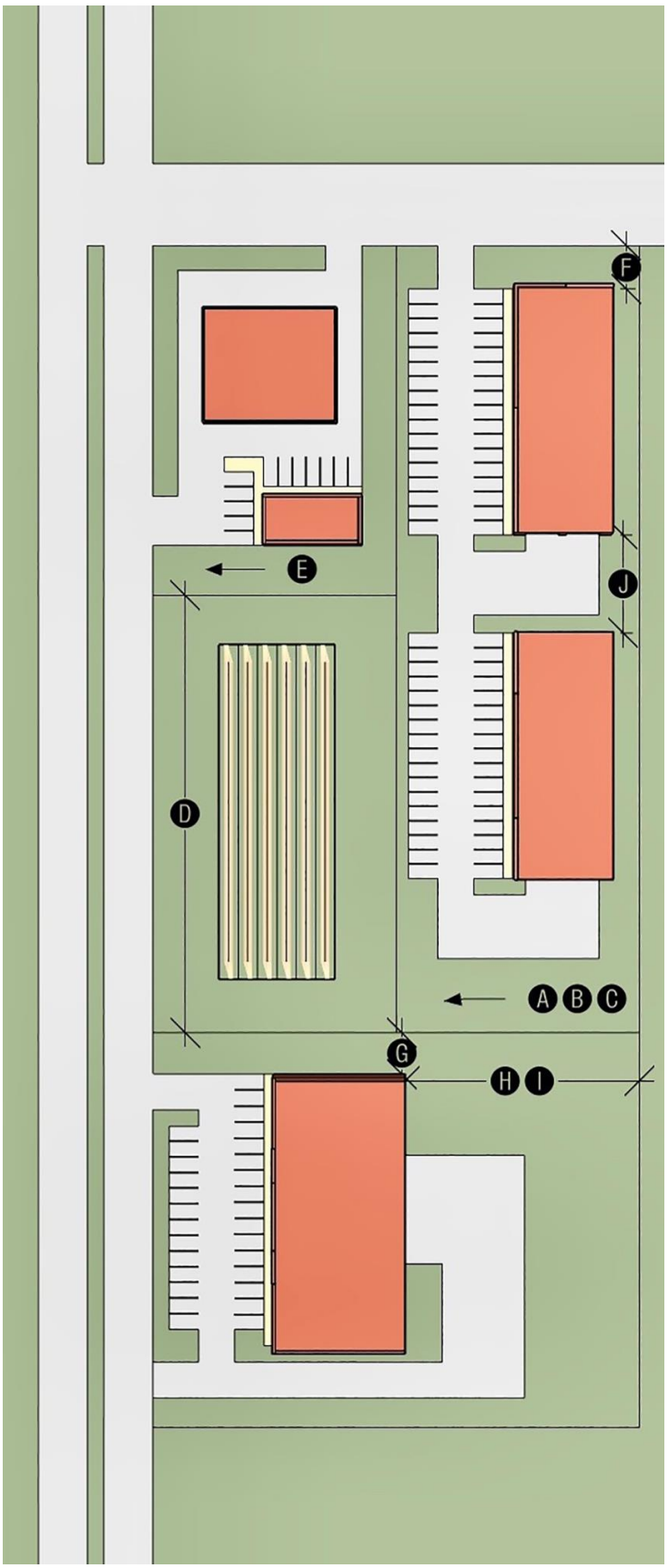
	Standard	Requirement				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	N/A			N/A	N/A
B	Minimum Lot Area (square feet)	N/A			None	
C	Maximum Lot Coverage (% of lot area)	N/A			None [1]	
D	Minimum Lot Width (linear feet)	N/A			None	None
E	Minimum Open Space Set Aside (% of lot area)	N/A			5 [2]	None
F	Minimum Street Setback (linear feet) [3]	N/A			40	
G	Minimum Side Setback (linear feet)	N/A			5 [4]	
H	Minimum Rear Setback (linear feet)	N/A			30	
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A			[5] [6]	
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A			[7]	
K	Maximum Building Height (feet/stories)	N/A			36/3	None [8] [9]

NOTES:
[1] Development within the WPO is subject to the built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[2] The required amount of open space set aside shall be configured with passive open space features in accordance with Section 7.1, Open Space Set-Aside.
[3] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[4] When the lot abuts a residential or OI zoning district, the setback shall be at least 15 feet.
[5] Same as minimum side setback.
[6] Applied in lieu of side or rear setbacks in multi-building developments.
[7] In accordance with the North Carolina Building Code.
[8] Development in the AHO is subject to the maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.
[9] Maximum building height of 36 feet for buildings located within 500 feet of a single-family detached residential dwelling.

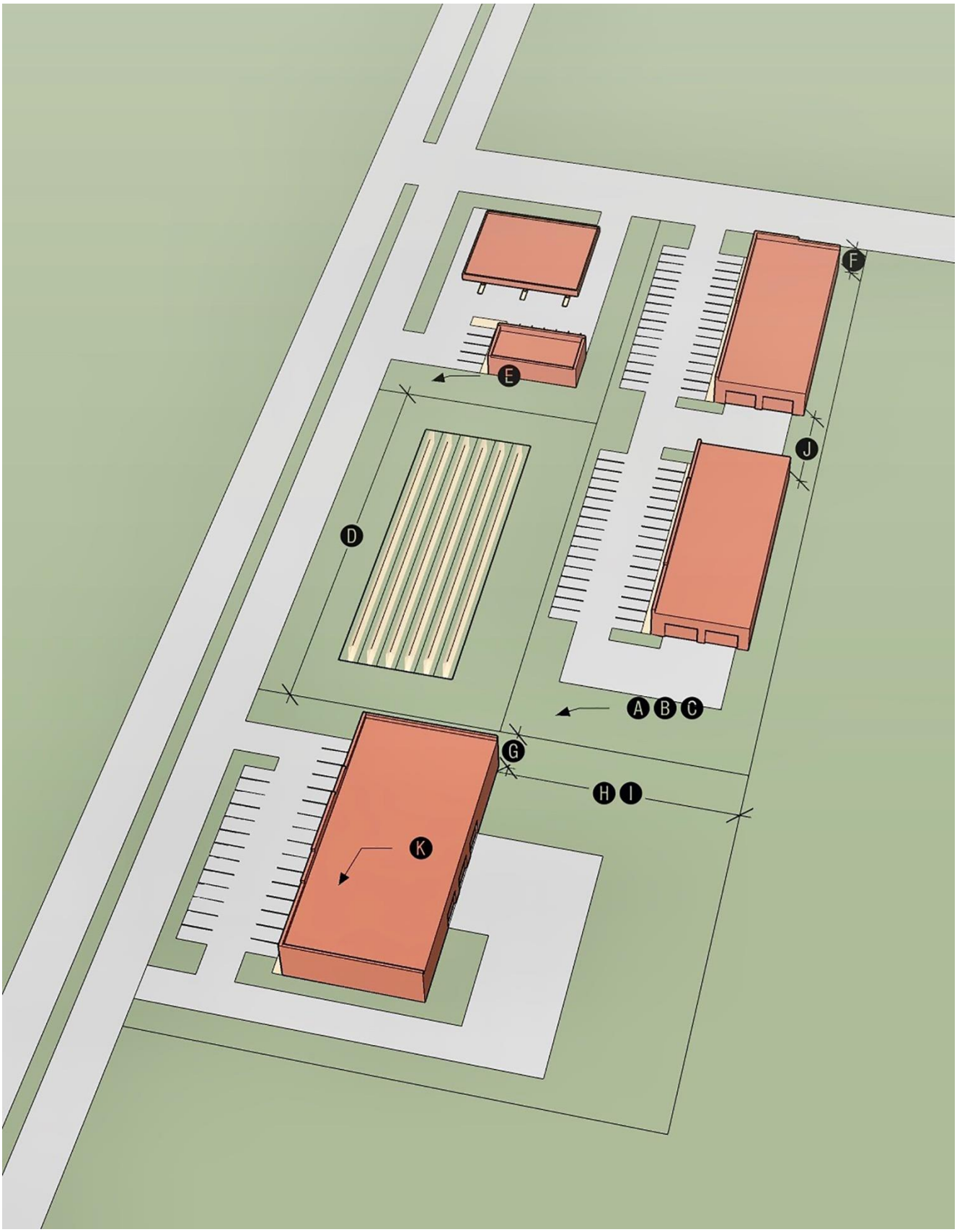
C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.9. LOW DENSITY RESIDENTIAL (LDR) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Low Density Residential (LDR) district is established to accommodate low density residential development and complimentary uses in rural and suburban settings throughout the City's jurisdiction. Use of the conservation subdivision configuration is optional for residential subdivisions of five lots or more. While the district allows single-family detached homes, manufactured homes in park-style developments or on individual lots are prohibited. The district accommodates equestrian uses, utilities, as well as various neighborhood-supporting institutional uses such as parks, schools, and public safety facilities. District regulations discourage uses that interfere with the development of residential neighborhoods or that are detrimental to the suburban nature of the district. Conservation subdivisions have reduced dimensional requirements but must retain at least 50 percent of the development area as open space set-aside.

B. DISTRICT DIMENSIONAL STANDARDS

	STANDARD	REQUIREMENT				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	1.45 [1]	N/A			N/A
B	Minimum Lot Area (square feet)	30,000 [2]	N/A			40,000
C	Maximum Lot Coverage (% of lot area) [3]	35% [4]	N/A			35%
D	Minimum Lot Width (linear feet)	100 [5]	N/A			100
E	Minimum Open Space Set Aside (% of lot area)	10 [6] [7] [8]	N/A			10
F	Minimum Street Setback (linear feet) [9] [10]	25 [11]	N/A			25
G	Minimum Side Setback (linear feet) [9]	10 [11]	N/A			15
H	Minimum Rear Setback (linear feet) [9]	25 [11]	N/A			25
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A	N/A			15 [12]
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A	N/A			[13]
K	Maximum Building Height (feet/stories) [14]	36/3	N/A			36/3

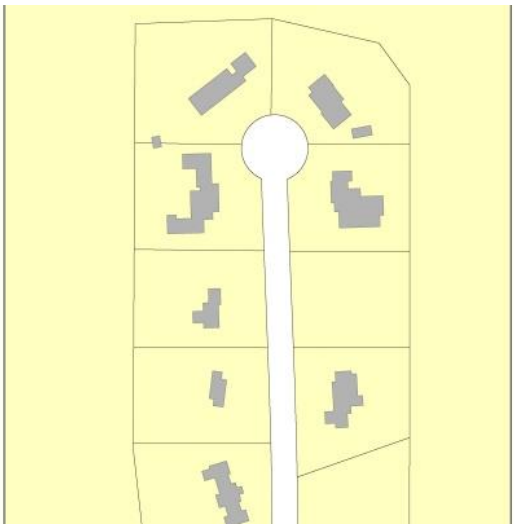
NOTES:

(AMENDED 12.3.19 UDOTA-01-20)

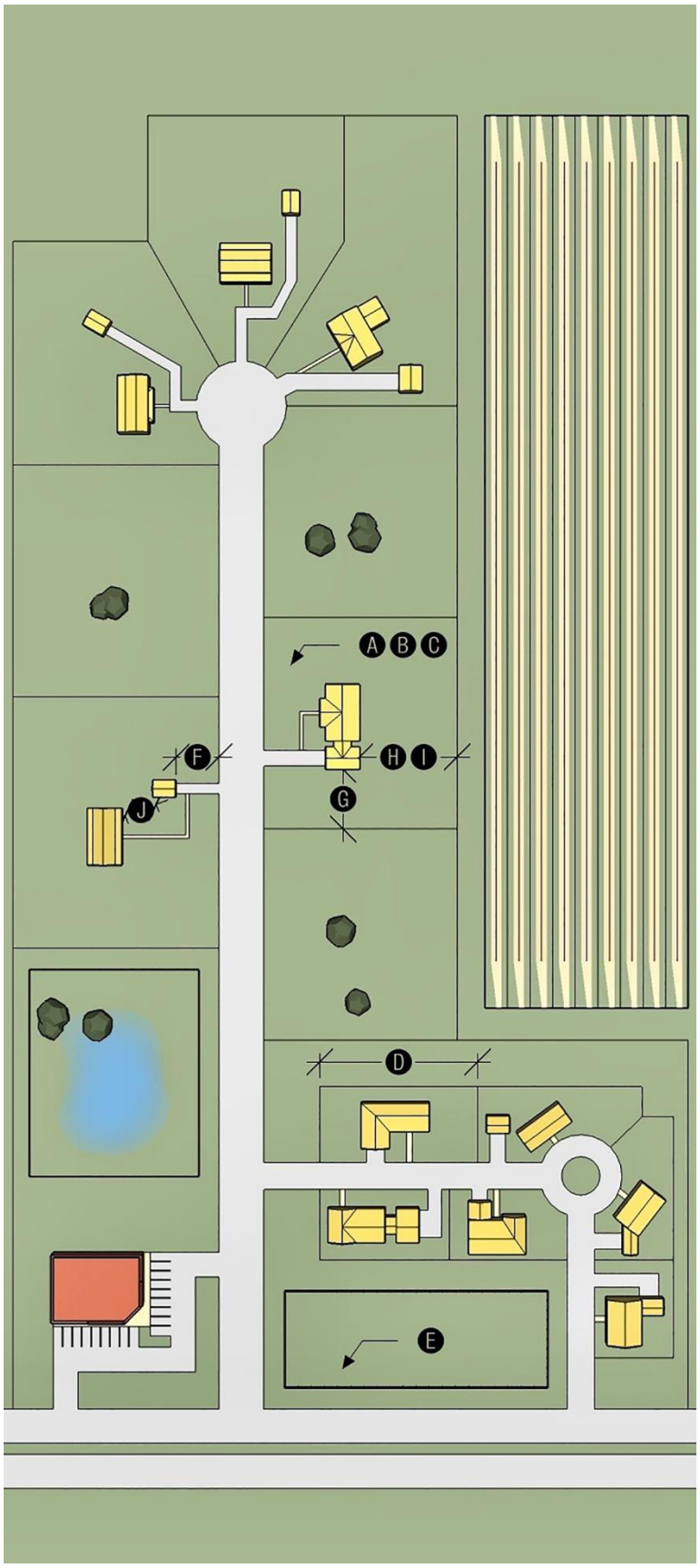
[1] Increased to 7 units per acre for conservation subdivisions.
[2] Decreased to 6,000 square feet for lots in conservation subdivisions.
[3] Development in the WPO is subject to built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[4] Increased to 50% for lots in conservation subdivisions.
[5] Applied to entire development (not individual lots) when configured as a conservation subdivision.
[6] Open space set-aside requirements applied to subdivisions of five or more lots.
[7] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[8] Conservation subdivisions shall set aside at least 50% of the development as open space set-aside in accordance with Section 6.10, Conservation Subdivision.
[9] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[10] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[11] Reduced to as low as 3 feet for dwellings in conservation subdivisions.
[12] Applied in lieu of side or rear setbacks in multi-building developments.
[13] In accordance with the North Carolina Building Code.
[14] Development in the AHO is subject to building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

C. DEVELOPMENT EXAMPLES

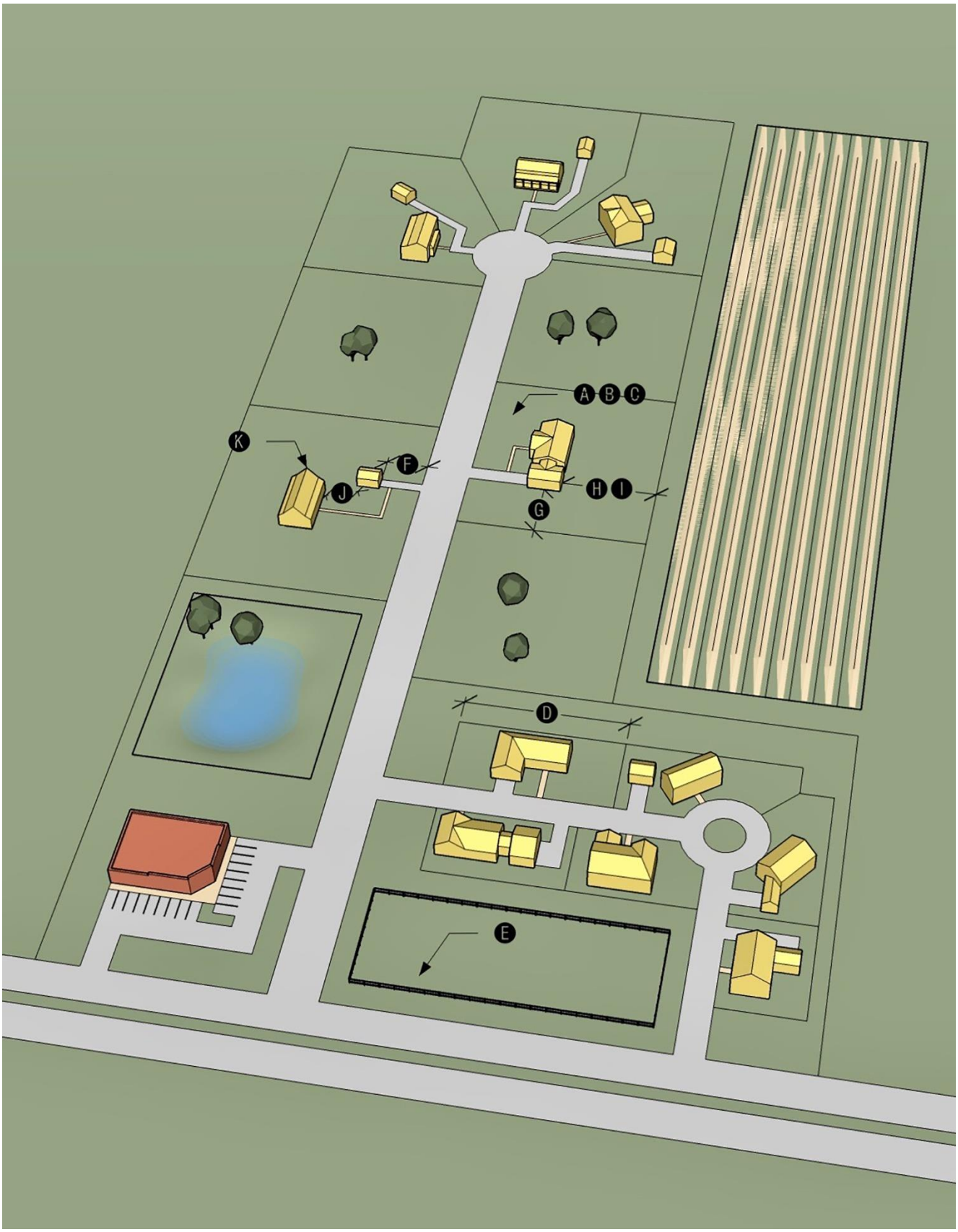
E. LOTTING PATTERN EXAMPLES



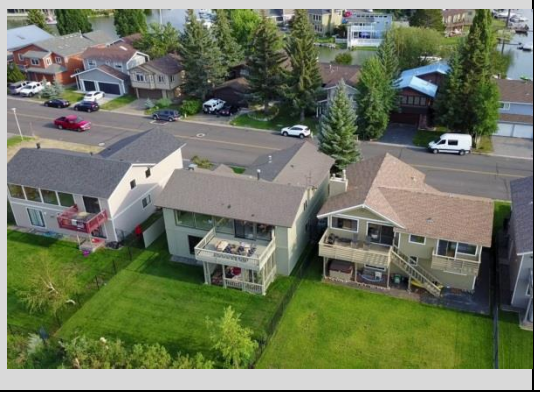
D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.10. MEDIUM DENSITY RESIDENTIAL (MDR) DISTRICT



A. DISTRICT PURPOSE AND INTENT

The Medium Density Residential (MDR) district is established to accommodate moderate density residential development and complimentary uses in suburban-to-urban settings throughout the City's jurisdiction. Use of the conservation subdivision configuration is optional for residential subdivisions of five lots or more. The district accommodates utilities as well as various neighborhood-supporting institutional uses such as parks, schools, and public safety facilities. District regulations discourage uses that interfere with the development of residential neighborhoods or that are detrimental to the residential nature of the district. Conservation subdivisions, pocket neighborhoods, or bungalow courts are allowed as optional forms of development.

B. DISTRICT DIMENSIONAL STANDARDS

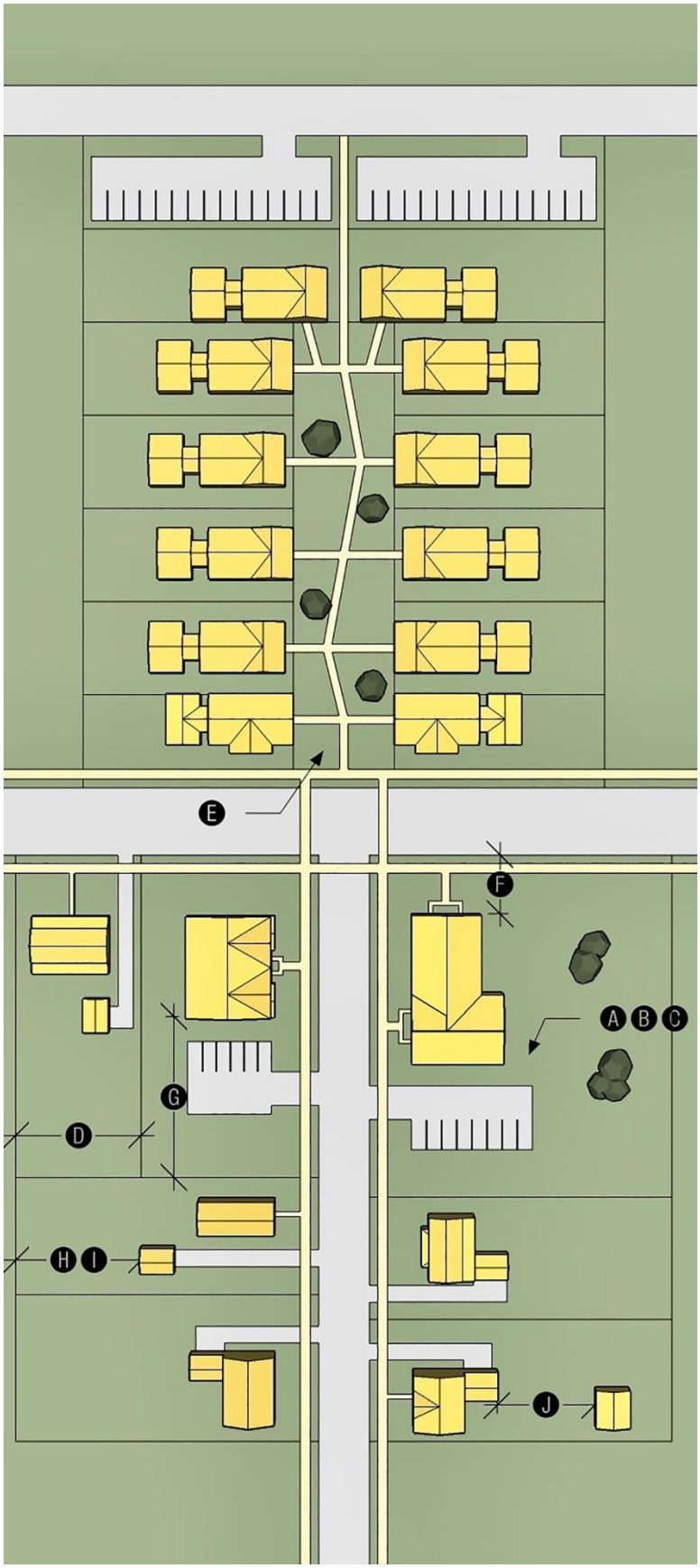
	STANDARD	REQUIREMENT				
		Single-Family Detached	Single-Family Attached [1]	Multi-Family	Mixed Use (AMENDED 12.3.19 UDOTA-01-20)	Non-residential
A	Maximum Residential Density (units/acre)	4.85 [2]			none	N/A
B	Minimum Lot Area (square feet)	9,000 [3]	1,600 per unit	40,000 [4]	N/A	40,000
C	Maximum Lot Coverage (% of lot area) [5]	40 [6]	55 [7]	45	N/A	50
D	Minimum Lot Width (linear feet)	75 [8]	80 [9]	80	none	80
E	Minimum Open Space Set Aside (% of lot area)	10 [10] [11]	25 [11]	10 [11]	5 [11]	8
F	Minimum Street Setback (linear feet) [12] [13]	30 [12]	25, 15 from internal street		N/A	30
G	Minimum Side Setback (linear feet) [12] (AMENDED 1.4.22 UDOTA-01-22)	10 [14]	25 [15]	10	N/A	10 [16]
H	Minimum Rear Setback (linear feet) [12]	25 [10] [14] [16]			30	25
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A	25 [17]		30	25 [17]
J	Minimum Spacing Between Buildings in a Multi-Building development (linear feet)	N/A	In accordance with the North Carolina Building Code			
K	Maximum Building Height (feet/stories) [18]	36/3			48/4	36/3

NOTES:
[1] Includes duplex, triplex, and quadriplex dwellings.
[2] Increased to 7 units per acre in a pocket neighborhood, bungalow court, or conservation subdivision.
[3] Decreased to 6,000 square feet for lots in pocket neighborhoods, bungalow courts, and conservation subdivisions.
[4] This is a minimum development size, not a minimum lot area.
[5] Development in the WPO is subject to built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[6] Increased to 50% for lots in pocket neighborhoods, bungalow courts, and conservation subdivisions
[7] Applied to the entire single-family attached development, not to individual lots containing an individual single-family attached dwelling.
[8] Applied to entire development (not individual lots) when configured as a pocket neighborhood, bungalow court, or conservation subdivision.
[9] Standards applied to entire development, not individual lots.
[10] Open space set-aside requirements applied to subdivisions of five or more lots.
[11] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[12] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[13] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[14] Reduced to as low as 3 feet for dwellings in pocket neighborhoods, bungalow courts, and conservation subdivisions.
[15] Duplex dwellings may utilize a side yard setback that is the same as a single-family detached dwelling.
[16] 20 feet required from lot lines abutting single-family detached residential dwellings.
[17] Applied in lieu of side or rear setbacks in multi-building developments.
[18] Development in the AHO is subject to maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE

3.11. MEDIUM INDUSTRIAL (MI) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Medium Industrial (MI) district is established to accommodate modern, technologically-based, clean industrial development that takes place in highly controlled environments. Typical activities taking place in the district include bio-engineering, pharmaceuticals, precision fabrication and assembly, and research and development. The district does not allow heavy industrial uses, residential uses, or retail, except as accessory uses. District standards are intended to prevent the establishment of any use types that would interrupt industrial operations. District standards require that no land or structure be used for any purpose that causes noxious or offensive odors, gas fumes, smoke, dust, vibration, or noise that substantially interferes with other nearby uses.

B. DISTRICT DIMENSIONAL STANDARDS

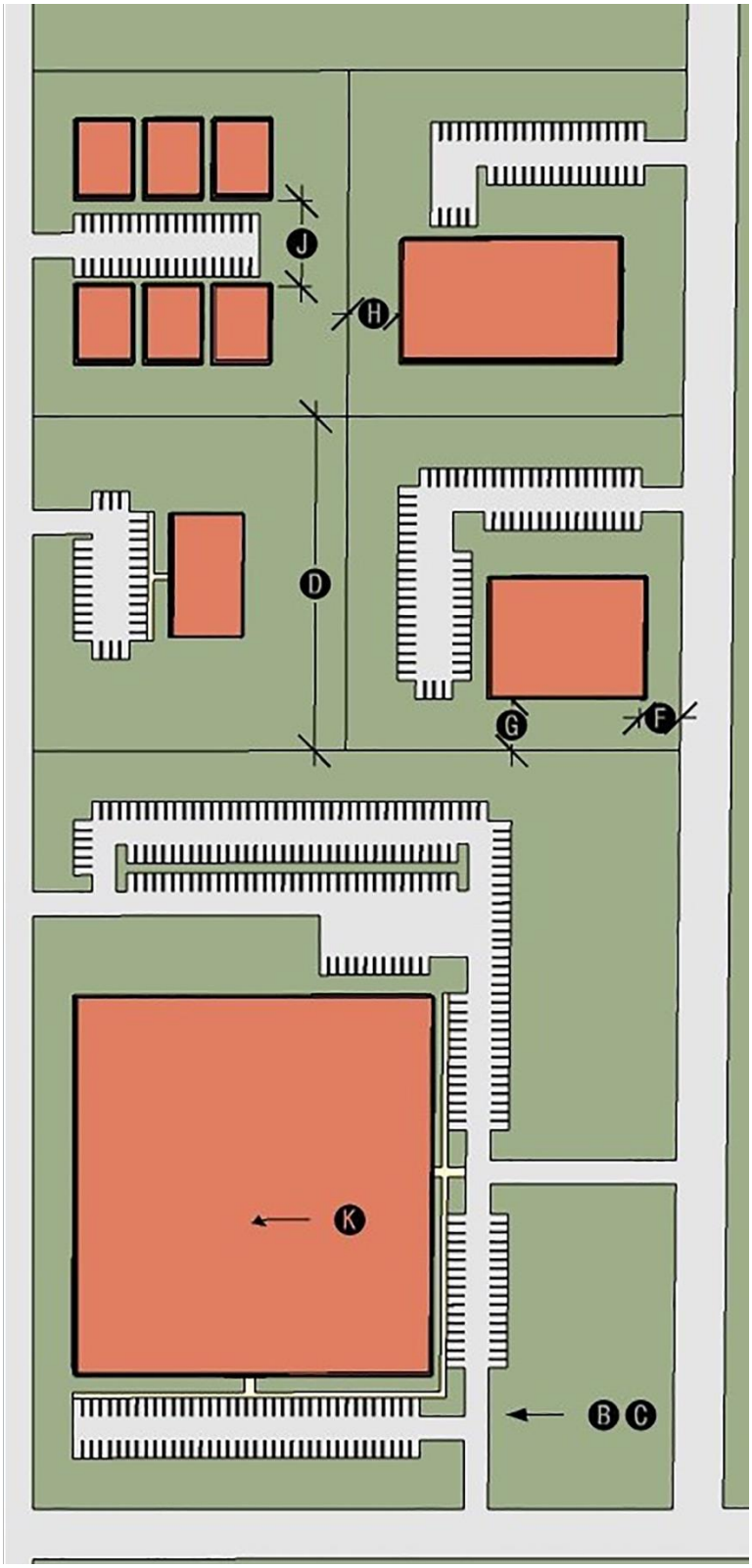
	Standard	Requirement				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	N/A				
B	Minimum Lot Area (square feet)	N/A				43,560 [1]
C	Maximum Lot Coverage (% of lot area)	N/A				50
D	Minimum Lot Width (linear feet)	N/A				200
E	Minimum Open Space Set Aside (% of lot area)	N/A				N/A
F	Minimum Street Setback (linear feet) [2]	N/A				40
G	Minimum Side Setback (linear feet) **(AMENDED 12.3.19 UDOTA-01-20)**	N/A				5 [3]
H	Minimum Rear Setback (linear feet) **(AMENDED 12.3.19 UDOTA-01-20)**	N/A				30
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A				N/A
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet) **(AMENDED 12.3.19 UDOTA-01-20)**	N/A				[4]
K	Maximum Building Height (feet/stories) **(AMENDED 12.3.19 UDOTA-01-20)**	N/A				None [5]

NOTES:
(AMENDED 12.3.19 UDOTA-01-20)
[1] Development within the WPO is subject to the built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[2] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[3] When the lot abuts a residential or OI zoning district, the setback shall be at least 15 feet.
[4] In accordance with the North Carolina Building Code.
[5] Development in the AHO is subject to the maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

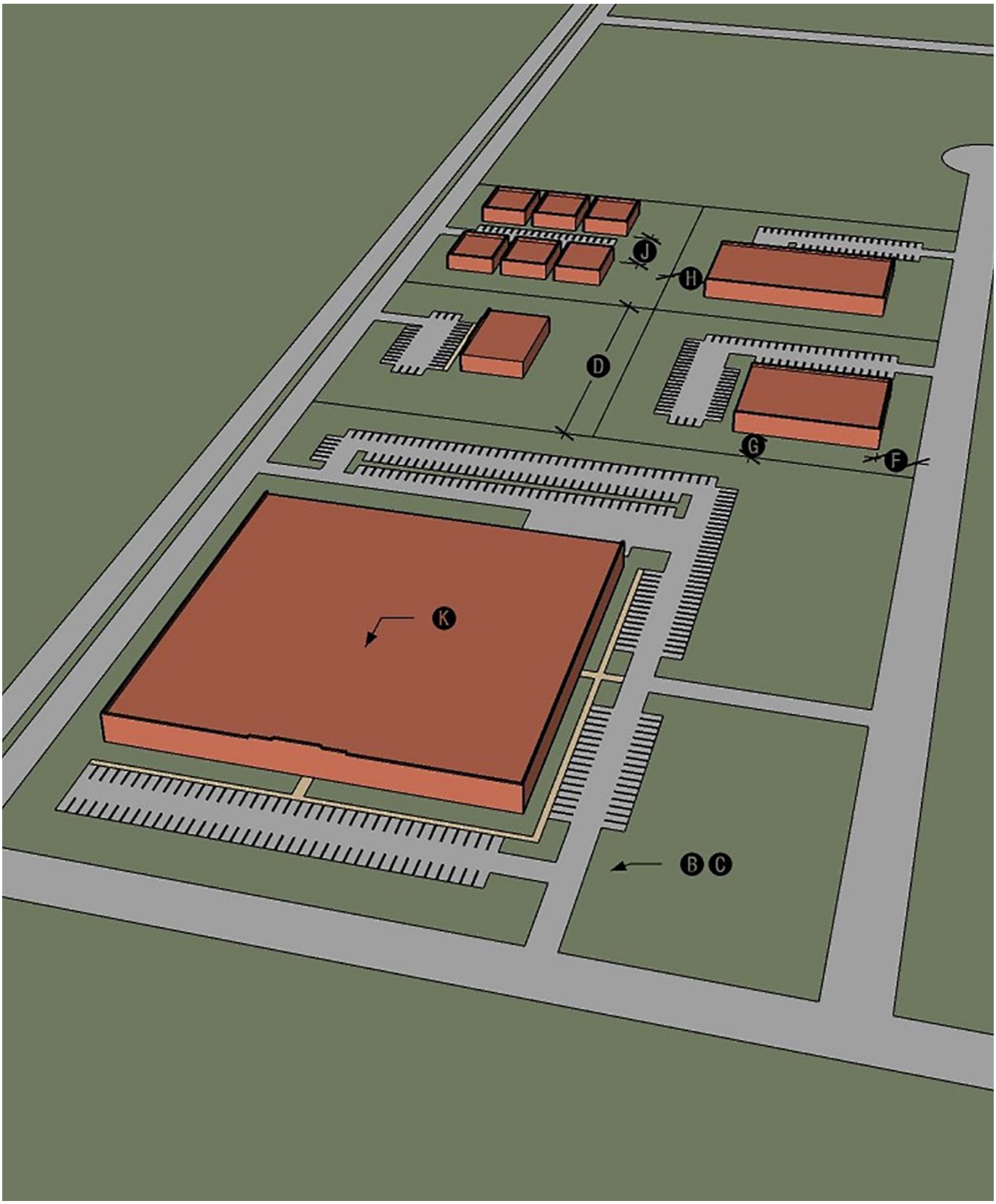
C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.12. MIXED USE (MX) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Mixed Use (MX) district is intended to foster functional neighborhoods where City residents and visitors can live, work, shop, and recreate without travelling large distances between differing uses. Buildings are built close to the sidewalk and served by public gathering areas that create places for people to congregate and interact. The district encourages a fine-grained network of streets and pedestrian ways that allow a wide freedom of movement and choices in transportation mode, including public transit. Land uses are mixed (including both residential and non-residential) either in the same building (vertical integration) or on the same development site (horizontal integration), and are located in close proximity to one another. Mixed use districts are located on principal and minor arterials as well as collector streets. The district allows a wide variety of housing types to promote population density and to support nearby retail, dining, and entertainment establishments. The district discourages the establishment of single-use, monolithic, and automobile-oriented forms of development that require large areas of off-street parking.

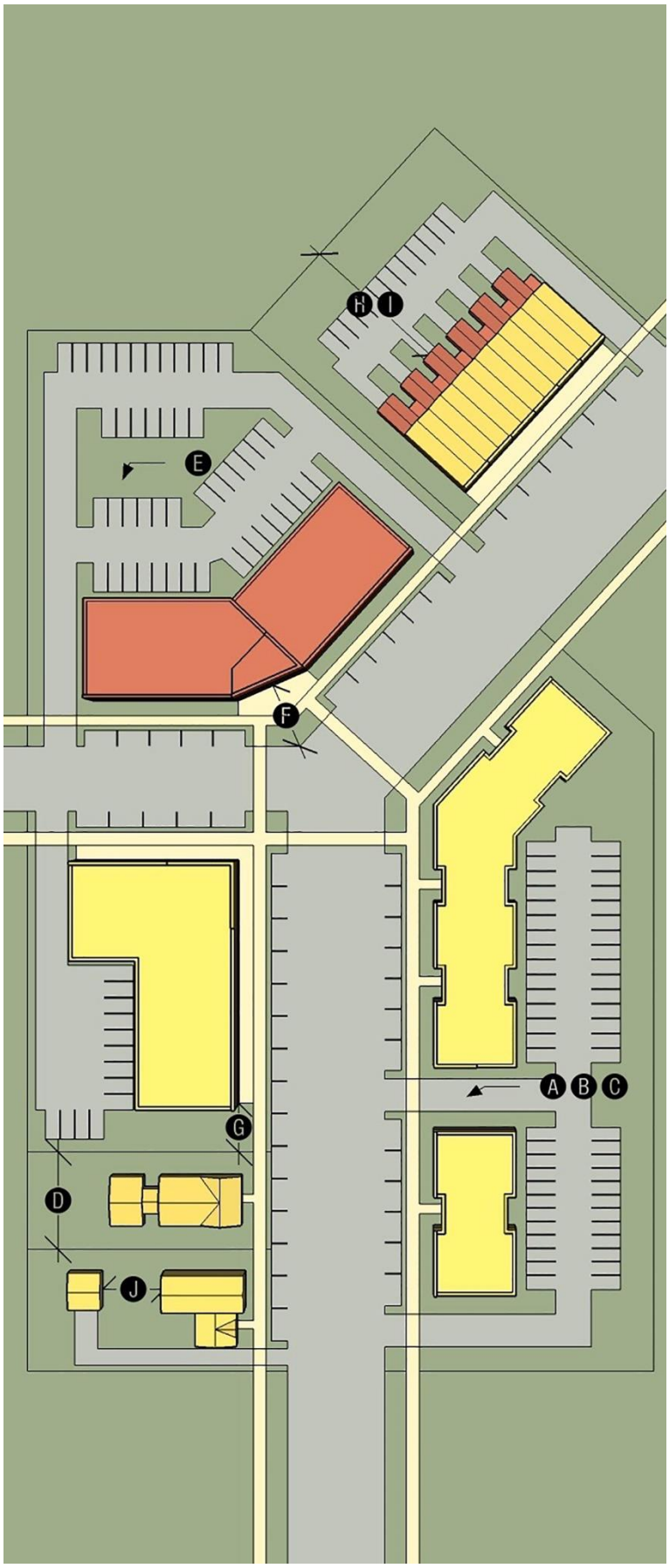
B. DISTRICT DIMENSIONAL STANDARDS

	Standard	Requirement				
		Single-Family Detached	Single-Family Attached [1]	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	8		30		N/A
B	Minimum Lot Area (square feet)	5,400	5,400 per unit	20,000 [2]		30,000
C	Maximum Lot Coverage (% of lot area) [3]	50 [4]	[5]	50	60	
D	Minimum Lot Width (linear feet)	50 [6]	55 [7]	60		
E	Minimum Open Space Set Aside (% of lot area)	10 [8] [9]	5 [9]			8
F	Minimum Street Setback (linear feet) [10] [11]	12	30; 20 from internal streets			
G	Minimum Side Setback (linear feet) **(AMENDED 1.4.21 UDOTA-1-22)**	10 [10]	25 [12]	25		
H	Minimum Rear Setback (linear feet)	25 [10]	30	30		
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A	Same as rear setback [13]			
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet) **(AMENDED 10.20.20 UDOTA-03-20)**	N/A	In accordance with the North Carolina Building Code			
K	Maximum Building Height (feet/stories) [14] **(AMENDED 10.20.20 UDOTA-03-20)**	36/3	36/3 [15] [16]	50/5 [15] [16]		

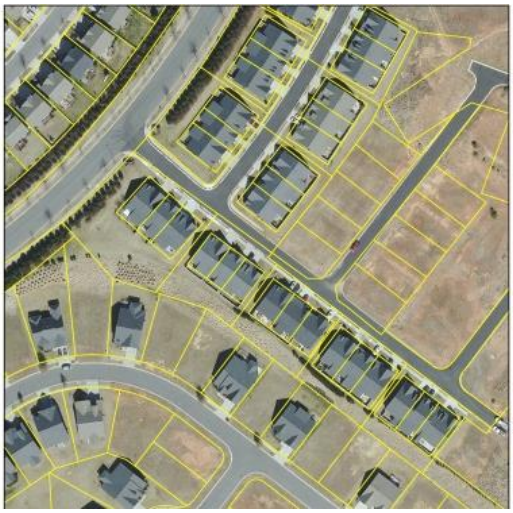
NOTES:
[1] Includes duplex, triplex, and quadriplex dwellings.
[2] This is a minimum development size, not a minimum lot area.
[3] Development in the WPO is subject to Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[4] Increased to 50% for lots in pocket neighborhoods and bungalow courts.
[5] Not applied to individual single-family attached lots but the entire development shall maintain a maximum lot coverage of 50 percent.
[6] Applied to entire development (not individual lots) when configured as a pocket neighborhood or bungalow court.
[7] Standards applied to entire development, not individual lots.
[8] Open space set-aside requirements applied to subdivisions of five or more lots.
[9] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[10] Reduced to as low as 3 feet for dwellings in pocket neighborhoods and bungalow courts.
[11] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[12] Duplex dwellings may utilize a side yard setback that is the same as a single-family detached dwelling.
[13] Applied in lieu of side or rear setbacks in multi-building developments.
[14] Development in the AHO is subject to maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.
[15] May be increased one foot in height for each one foot in additional side and rear setback beyond the minimum requirement.
[16] Maximum building height of 36 feet for buildings located within 500 feet of a single-family detached dwelling.

C. DEVELOPMENT EXAMPLES

D. DIMENSIONAL EXAMPLE



E. LOTTING PATTERN EXAMPLES



F. DEVELOPMENT CONFIGURATION EXAMPLE

3.13. NEIGHBORHOOD BUSINESS (NB) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Neighborhood Business (NB) district is intended for low intensity, neighborhood-serving commercial and mixed-use development around significant roadway intersections along the edges of neighborhoods. The district allows offices, personal services, and small-scale retail and a variety of institutional uses. As a means of providing additional housing options, the district allows live/work dwellings and upper story residential. Industrial development and higher density residential uses are not permitted. New commercial development is built close to the street and subject to commercial design standards to raise the bar for development quality. District regulations discourage uses that are too intense or that draw the majority of their patrons from outside the immediate area.

B. DISTRICT DIMENSIONAL STANDARDS

	STANDARD	REQUIREMENT				
		Single-Family Detached	Single-Family Attached [1] (AMENDED 10.20.20 UDOTA-03-20)	Multi-Family (AMENDED 1.4.22 UDOTA-1-22)	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	4.84 [2]	N/A	4.0	2 units/ bldg.	N/A
B	Minimum Lot Area (square feet)	9,000 [3]	N/A	9,000 per unit	None	
C	Maximum Lot Coverage (% of lot area) [4]	35 [5]	N/A	35 [6]	None	
D	Maximum Building Footprint (gross square feet)	N/A			3,500 [7]	
E	Minimum Lot Width (linear feet)	75 [8]	N/A	75 [6]	None	
F	Minimum Open Space Set Aside (% of lot area)	10 [9] [10]	N/A	10 [10]	5 [10]	8
G	Minimum Street Setback (linear feet) [11] [12]	15 [13]	N/A	15	15	
H	Minimum Side Setback (linear feet) [12]	5 [13]	N/A	5	[14]	
I	Minimum Rear Setback (linear feet) [12]	15 [13]	N/A	15	[14]	
J	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A		15	Same as rear setback	
K	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	In accordance with the North Carolina Building Code				
L	Maximum Building Height (feet/stories) [15]	36/3	N/A	36/3	36/3	

(AMENDED 10.20.20 UDOTA-03-20)

[1] Includes duplex, triplex, and quadriplex dwellings.
[2] Increased to 7 units per acre in a pocket neighborhood or bungalow court.
[3] Decreased to 6,000 square feet for lots in pocket neighborhoods and bungalow courts.
[4] Development in the WPO is subject to Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[5] Increased to 50% for lots in a pocket neighborhood or bungalow court.
[6] Applied to the entire development, not individual lots.
[7] Residential floor area is not counted towards maximum building footprint.
[8] Applied to the entire development (not individual lots) when configured as a pocket neighborhood, bungalow court, duplex, triplex, or quadriplex.
[9] Open space set-aside requirements applied to subdivisions of five or more lots.
[10] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[11] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[12] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[13] Reduced to as low as 3 feet for dwellings in pocket neighborhoods and bungalow courts.
[14] When the lot abuts a residential district, the OI zoning district, or an alley, then the setback shall be at least 15 feet; when the building wall abutting the lot line includes an opening (such as for a door or window), the setback shall be at least 5 feet.
[15] Development in the AHO is subject to maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

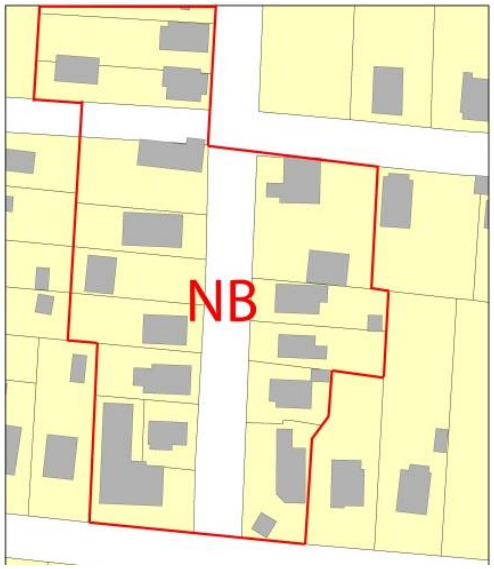
C. DISTRICT-SPECIFIC STANDARDS

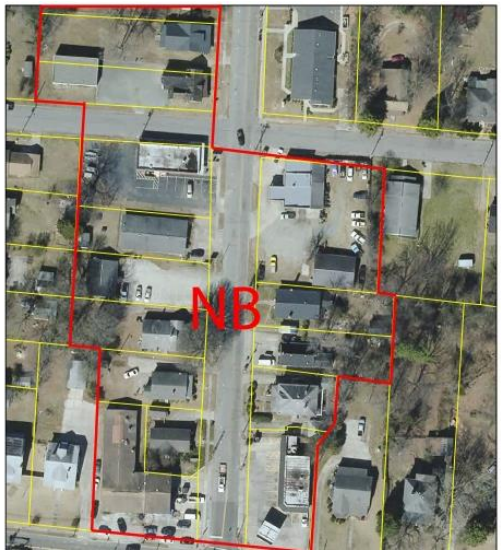
All non-residential use types permitted in the NB district shall be subject to the following standards:

1. No non-residential building or non-residential portion of a mixed-use building shall include more than 5,000 square feet of gross floor area.
2. No more than five employees shall work at the same time in a retail trade use type.
3. Outdoor storage is prohibited.
4. Hours of operation for commercial uses shall be restricted to between 6:00 a.m. and midnight.
5. Drive-through or drive-up facilities are prohibited.
6. All exterior lighting shall be located, angled, shielded, and/or limited in intensity so as to cast no direct light upon adjacent lots.
7. Except for street lighting, no exterior lighting shall be located higher than 15 feet above ground or pavement.
8. Where possible, off-street parking lots shall be located to the side or rear of buildings and shall be screened in accordance with Section 5.3, Landscaping.
9. Where possible, access to off-street parking areas shall be via an alley or driveway located to the side or rear of a lot.
10. A maximum of two dwelling units may be provided on the upper levels of a building containing a first-floor non-residential use.

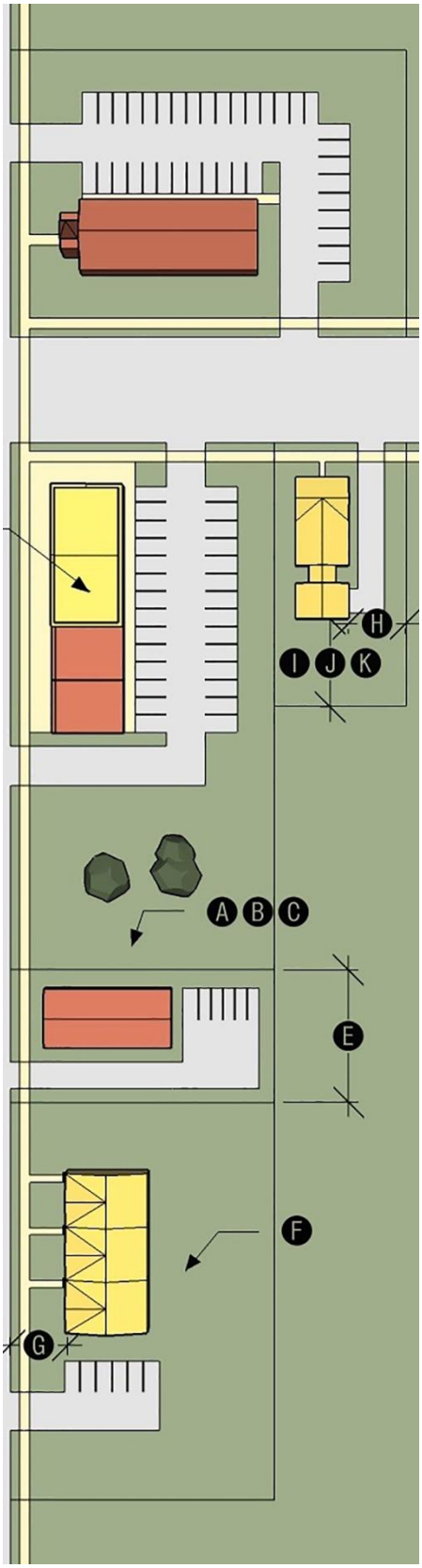
D. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

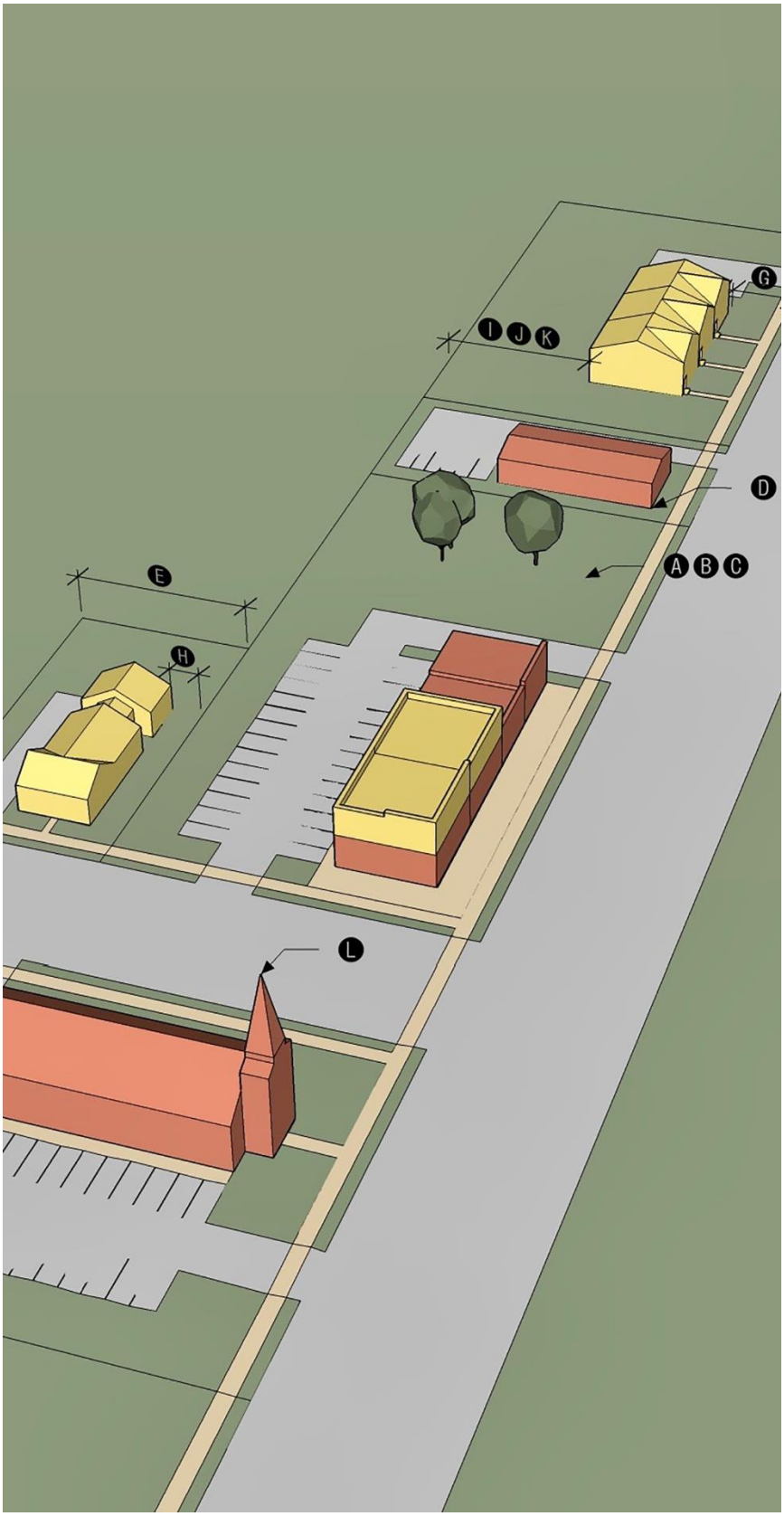




F. DIMENSIONAL EXAMPLE



G. DEVELOPMENT CONFIGURATION EXAMPLE



3.14. OFFICE INSTITUTIONAL (OI) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Office Institutional (OI) District is established to accommodate office uses, research and development facilities, corporate headquarters, and multi-family residential uses in high quality single-building and multi-building developments. The district also accommodates the ancillary service uses necessary to support the predominant office development, but is not intended as a retail district. Retail, personal service, and other commercial uses permitted as accessory to an office or institutional use should not occupy more than 10 percent of the floor area and should be configured to minimize visibility from off-site areas. The OI district also serves as a transition area between higher intensity commercial uses and nearby lower density single-family residential neighborhoods. Development in the OI district is subject to design standards to ensure it maintains compatibility with its surroundings.

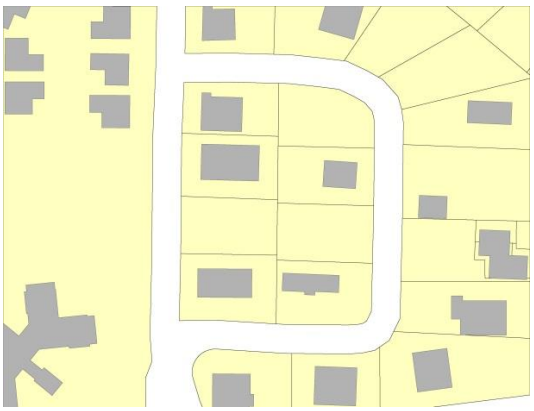
B. DISTRICT DIMENSIONAL STANDARDS

	Standard	Requirement				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	4.85		12		N/A
B	Minimum Lot Area (square feet)	9,000	1,600 per unit	20,000 [1]	15,000	
C	Maximum Lot Coverage (% of lot area) [2]	40	55 [3]	75		
D	Minimum Lot Width (linear feet)	75	80 [4]	80	90	None
E	Minimum Open Space Set Aside (% of lot area)	10 [5] [6]	25 [6]	10 [6]	5	5
F	Minimum Street Setback (linear feet) [7] [8]	25				
G	Minimum Side Setback (linear feet)	10	None	15	10	
H	Minimum Rear Setback (linear feet)	25	25 [3]	15		
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	25	N/A			
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A	In accordance with the North Carolina Building Code			
K	Maximum Building Height (feet/stories) [9] **(AMENDED 10.20.20 UDOTA-03-20)**	36/3		50/5		

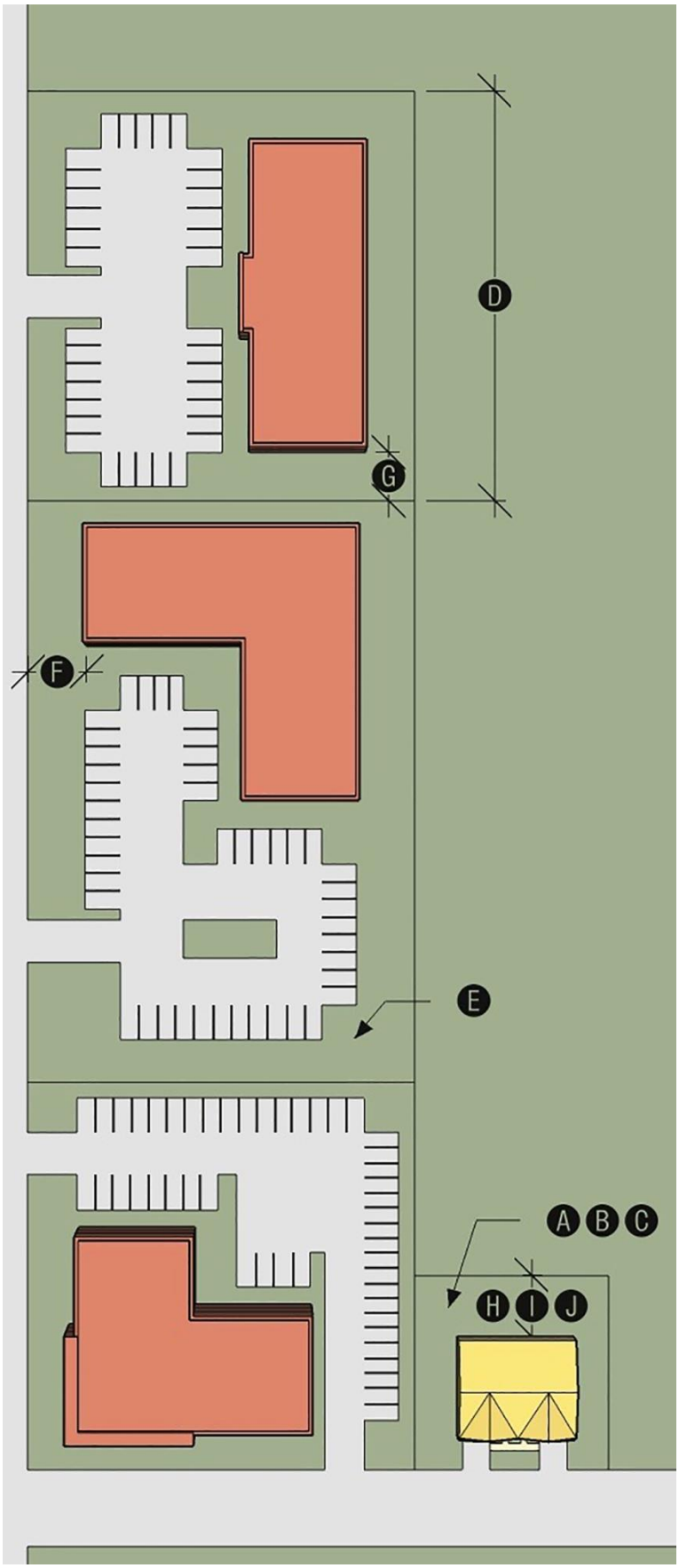
NOTES:
[1] This is a minimum development size, not a minimum lot area.
[2] Development in the WPO is subject to built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[3] Applied to the entire single-family attached development, not to individual lots containing an individual single-family attached dwelling.
[4] Standards applied to entire development, not individual lots.
[5] Open space set-aside requirements applied to subdivisions of five or more lots.
[6] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[7] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[8] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[9] Development in the AHO is subject to maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

C. DEVELOPMENT EXAMPLES

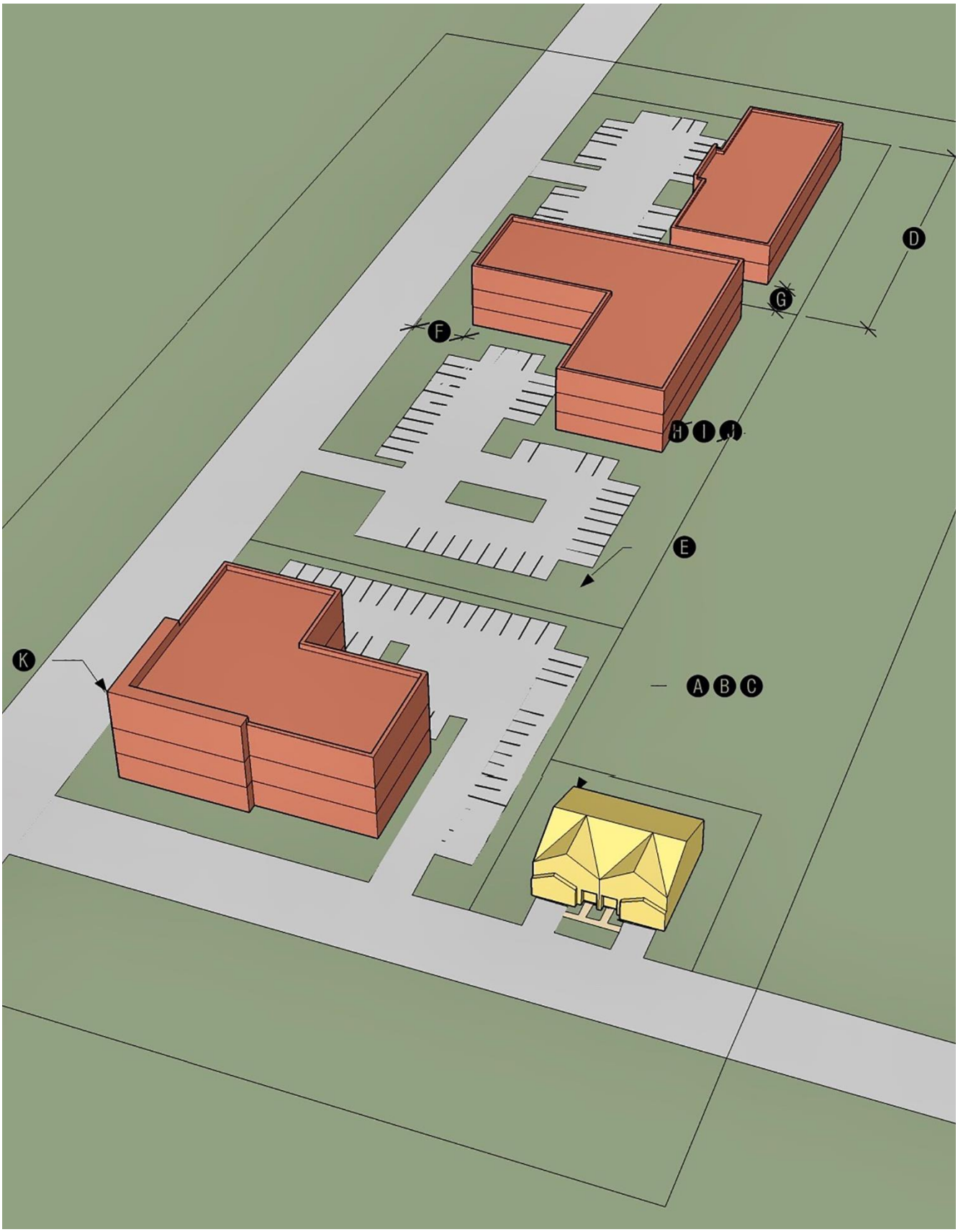
E. LOTTING PATTERN EXAMPLES



D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.15. PARKS AND CONSERVATION (PC) DISTRICT

A. DISTRICT PURPOSE AND INTENT

The Parks and Conservation (PC) district is established to preserve and protect natural resources and areas of environmental concern. The district is intended to protect wetlands and riparian corridors from erosion and sedimentation; retain and protect environmentally-sensitive areas; protect archeological resources from disturbance; and preserve and maintain the aesthetic qualities and appearance of the City. The district allows low-impact recreational facilities (trails, boardwalks, docks), visitor or interpretive centers, accessways, minor utilities, erosion control features, and public parks, along with typical accessory uses such as restrooms, or off-street parking areas. The district does not permit residential or commercial development, marinas, or on-site wastewater treatment.

B. DISTRICT DIMENSIONAL STANDARDS

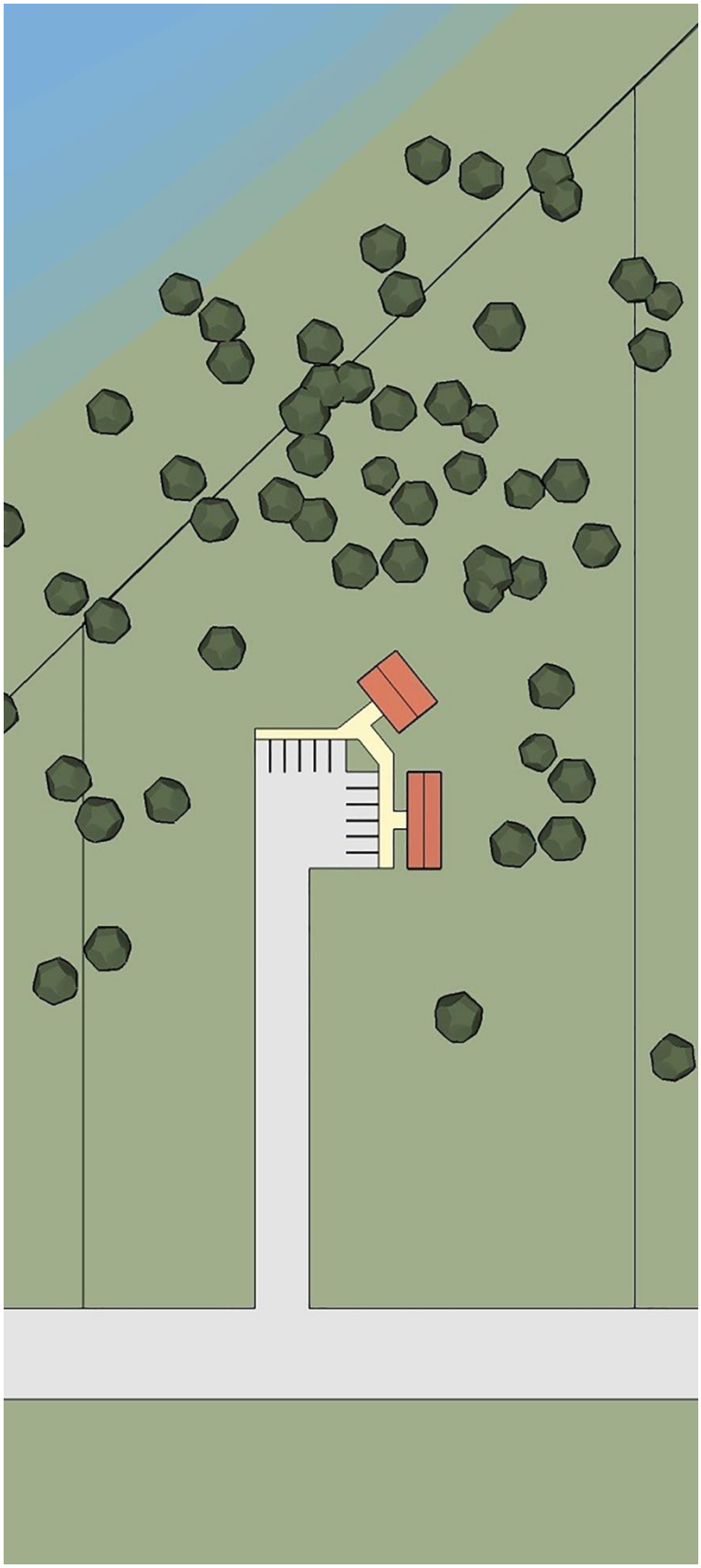
	STANDARD	REQUIREMENT				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	N/A				
B	Minimum Lot Area (square feet)	None				
C	Maximum Lot Coverage (% of lot area)	[1]				
D	Minimum Lot Width (linear feet)	None				
E	Minimum Open Space Set Aside (% of lot area)	N/A				
F	Minimum Street Setback (linear feet)	[2]				
G	Minimum Side Setback (linear feet)	[3]				
H	Minimum Rear Setback (linear feet)	[3]				
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	[3]				
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet) **(AMENDED 10.20.20 UDOTA-03-20)**	[4]				
K	Maximum Building Height (feet/stories)	[5]				

NOTES:
[1] Allowable forms of development limited to a maximum lot coverage of 24%.
[2] Allowable forms of development shall be setback 100 feet from the street.
[3] Buildings and structures shall be setback at least 25 feet from all side and rear lot lines.
[4] In accordance with North Carolina Building Code.
[5] Allowable forms of development shall be limited to 20 feet or 2 stories in height.

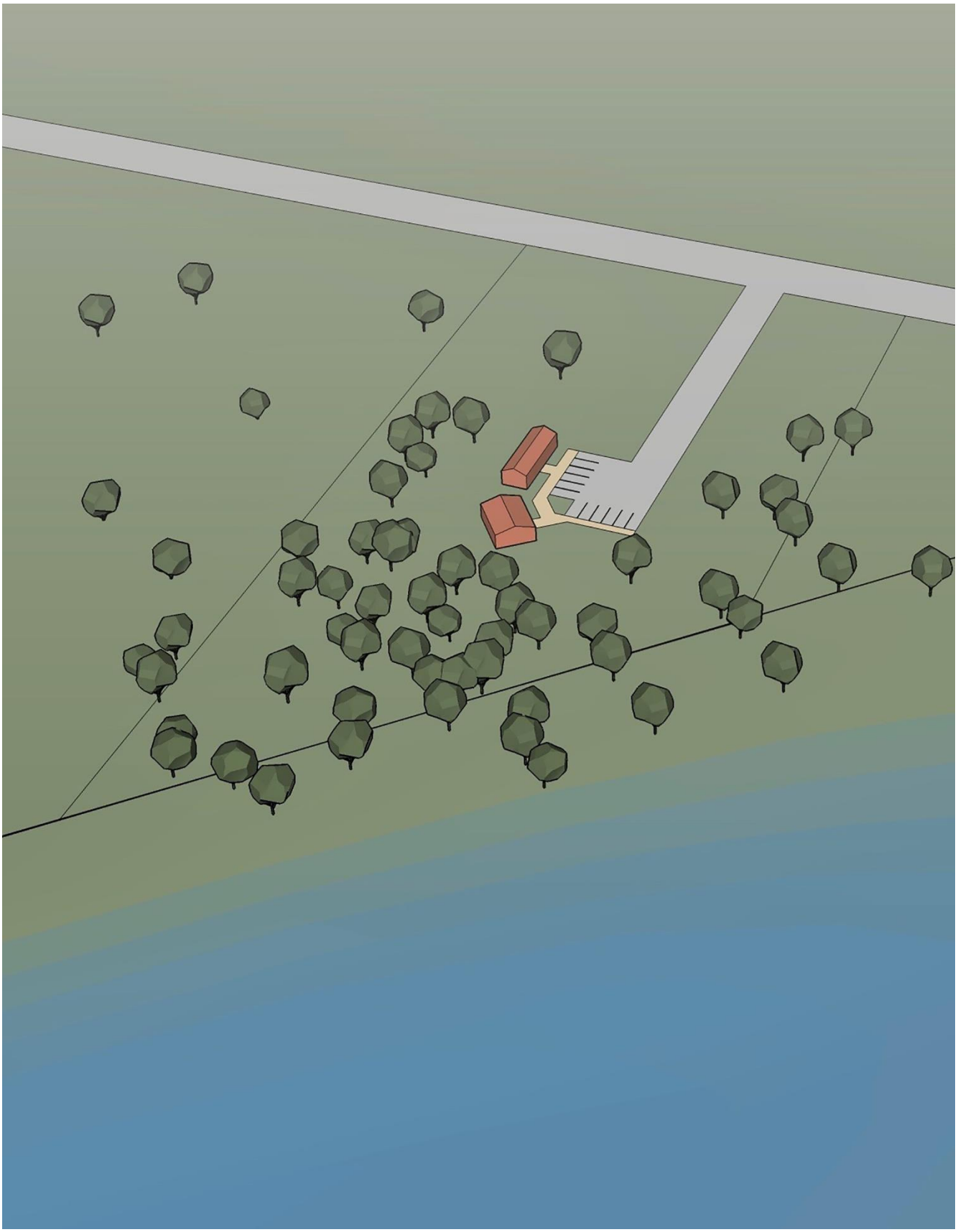
C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.16. RESIDENTIAL MANUFACTURED HOME (RMH) DISTRICT

A. DISTRICT PURPOSE AND INTENT

(AMENDED 10.20.20 UDOTA-03-20)

The Residential Manufactured Home (RMH) district is established as a means of providing reasonable opportunities for the placement of manufactured dwellings in the City's jurisdiction. The district provides attainable housing opportunities for low and moderate-income residents while at the same time establishing minimum design requirements for these uses to ensure a minimum level of quality and safety. The standards are intended to protect property values and preserve the character and integrity of the community or individual neighborhoods within the community. In addition to manufactured homes, the district also allows single-family detached residential development and a very limited range of supporting institutional uses. Manufactured homes are subject to the use specific standards in CHAPTER 4. USE STANDARDS.

B. DISTRICT DIMENSIONAL STANDARDS

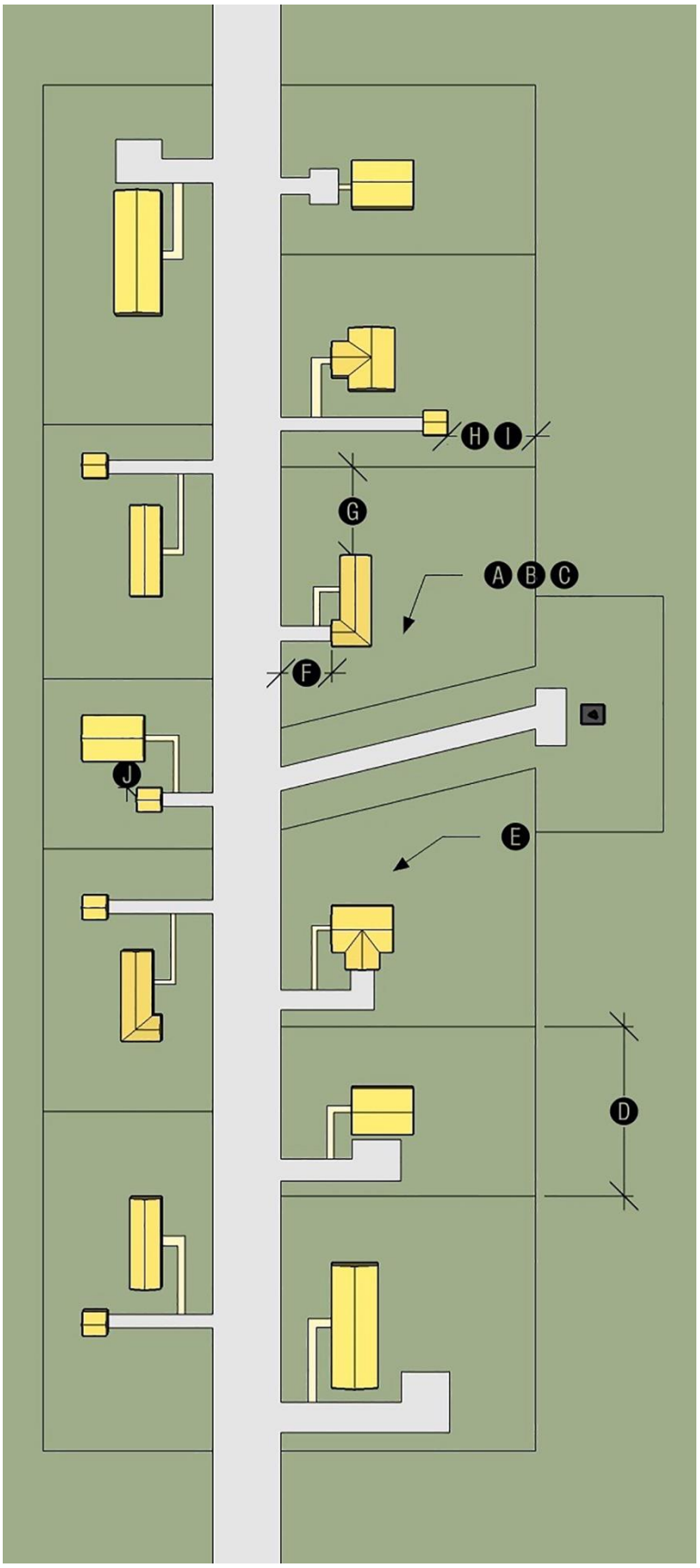
	Standard	Requirement				
		Single-Family Detached	Single-Family Attached	Multi-Family	Mixed Use	Non-residential
A	Maximum Residential Density (units/acre)	4.85 [1]	N/A			N/A
B	Minimum Lot Area (square feet)	9,000 [2]	N/A			20,000
C	Maximum Lot Coverage (% of lot area) [3]	45	N/A			45
D	Minimum Lot Width (linear feet)	90 [4]	N/A			90
E	Minimum Open Space Set Aside (% of lot area)	10 [5] [6]	N/A			8
F	Minimum Street Setback (linear feet) [7] [8]	30 [9]	N/A			30 [9]
G	Minimum Side Setback (linear feet) [7]	10	N/A			10
H	Minimum Rear Setback (linear feet) [7]	25	N/A			25
I	Minimum Perimeter Setback in a Multi-building Development (linear feet)	N/A	N/A			25 [10]
J	Minimum Spacing Between Buildings in a Multi-building Development (linear feet)	N/A	N/A			[11]
K	Maximum Building Height (feet/stories) [12]	36/3	N/A			36/3

NOTES:
[1] Site-built single-family detached residential dwellings may be developed at densities of 7 units an acre.
[2] Site-built single-family detached residential dwellings may be developed on lots of 6,000 square feet.
[3] Development in the WPO is subject to built-upon limits in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District.
[4] Site-built single-family detached residential dwellings may be developed on lots with a width of 50 feet.
[5] Open space set-aside requirements applied to subdivisions of five or more lots.
[6] Open space set-aside shall be configured with at least 50 percent devoted to active recreation features in accordance with Section 7.1, Open Space Set-Aside.
[7] In cases where development is in a subdivision established prior to the effective date of this Ordinance, no setback shall be required to be greater than the average setback of existing residential structures on the same side of the block or within a distance of 500 feet horizontally on either side when blocks are not present.
[8] On corner lots of record, the street setback may be reduced by 50 percent on the long side of the lot.
[9] 20 feet from an internal street.
[10] Applied in lieu of side or rear setbacks in multi-building developments.
[11] In accordance with the North Carolina Building Code.
[12] Development in the AHO is subject to the maximum building heights in Section 3.20.B, Airport Height Overlay (AHO) District.

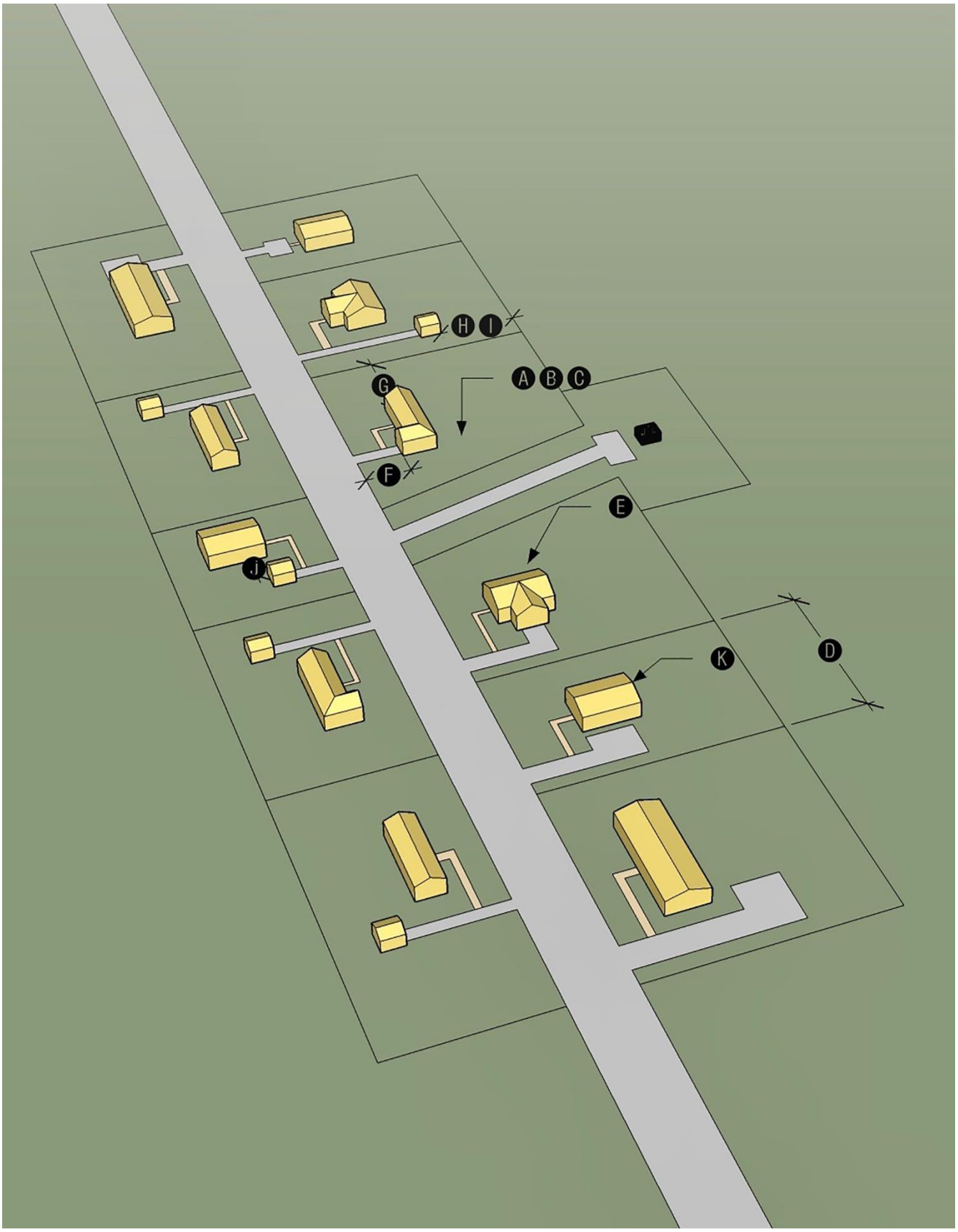
C. DEVELOPMENT EXAMPLES

E. LOTTING PATTERN EXAMPLES

D. DIMENSIONAL EXAMPLE



F. DEVELOPMENT CONFIGURATION EXAMPLE



3.17. CONDITIONAL ZONING DISTRICTS

A. PURPOSE AND INTENT

(AMENDED 10.20.20 UDOTA-03-20)

The purpose of this conditional zoning districts section is to establish the range of available conditional zoning districts in accordance with Section 2.4.P, Rezoning. Applicants seeking to establish a conditional zoning district may select one from the range of districts included in this section. More specifically, these standards are intended to:

1. Provide an alternative to conventional zoning districts when a conventional zoning district may allow a range of uses that could have adverse impacts on public facilities or surrounding lands;
2. Create an adequate amount of flexibility in addressing the standards of this Ordinance to accommodate unique site-specific conditions or contexts;
3. Allow a landowner to propose, and the City Council to consider, conditions, restrictions, or deviations on the range of allowable uses, use-specific standards, development intensities, development standards, and other applicable regulations;
4. Allow a landowner to propose, and the City Council to consider, a reduction in some development standards that would otherwise apply; and
5. Establish a legislative means to accommodate desirable development while avoiding or addressing anticipated problems that may arise from the proposed development.

B. CLASSIFICATION

Lands shall be classified into one of the conditional zoning districts identified in this section only in accordance with the standards in Section 2.4.P, Rezoning.

C. DISTRICTS ESTABLISHED

The conditional zoning districts are established in accordance with Table 3.1.C, Zoning Districts Established.

D. CONDITIONS

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

1. Generally

Applications for the establishment of a conditional zoning district shall include conditions proposed in accordance with the following standards:

a. Conditions associated with a conditional zoning district may be proposed by an applicant or the City Council. Regardless of how proposed, only those conditions agreed to by both the applicant and the City Council shall be included in the approved conditional rezoning.
b. Every applicable condition shall be consented to in writing by the applicant prior to the approval of the application establishing the conditional zoning district.
c. Conditions shall be subject to the standards in Section 2.4.P.11, Conditions Associated with a Conditional or Limited Use Rezoning Application, and Section 3.17.D.23.17.D.2, Limitations on Conditions.
d. All applications for establishment of or revision to a conditional zoning district shall include a site plan or generalized location of proposed development and a detailed written list of potential principal use types derived from Table 4.2.C, Principal Use Table, as well as potential accessory uses that shall be attached to the application as a proposed condition.

2. Limitations on Conditions

In no instance shall any of the following standards in this Ordinance be waived or reduced as part of an application for a conditional rezoning:

a. Any of the applicable overlay district standards in Section 3.20, Overlay Districts;
b. The maximum allowable residential density unless subject to a sustainable development incentive in accordance with Section 7.6, Sustainability Incentives;
c. Any applicable conservation subdivision standards in Section 6.10, Conservation Subdivision;
d. The multi-family design standards in Section 5.5.D, Multi-Family Residential Design Standards, if applicable;
e. The commercial design standards in Section 5.5, Design Standards and Guidelines, if applicable;
f. The mixed-use design standards in Section 5.5.C, Mixed-Use Design Standards, if applicable;
g. The signage standards in Section 5.6, Signage;
h. The open space set-aside standards in Section 7.1, Open Space Set-Aside;

i. The applicable greenway standards in Section 6.6, Greenways; and
j. The street and sidewalk standards in Section 6.3, Streets, and Section 6.4, Sidewalks.

E. APPLICABLE STANDARDS

(AMENDED 10.20.20 UDOTA-03-20)

Development in a conditional zoning district shall be subject to all the use and development standards and requirements that apply to development in a corresponding conventional zoning district, plus any conditions imposed as part of the conditional zoning approval (including a site plan, if provided).

1. Conditional Residential (CR) District

(AMENDED 10.20.20 UDOTA-03-20)

a. Purpose and Intent

The Conditional Residential (CR) district is hereby established in order to accommodate residential developments that may incorporate all the use types indicated as permitted in the CR column of Table 4.2.C, Principal Use Table.

b. District Standards

i. All development within the CR zoning district shall comply with the following standards:
   a) The design guidelines for single-family detached, attached, and duplex development in Section 5.5.E, Single-Family Residential Design Guidelines;
   b) The dimensional and district-specific standards for the Medium Density Residential (MDR) district in Section 3.10, Medium Density Residential (MDR) District;
   c) The use-specific standards identified in Table 4.2.C, Principal Use Table, for the use types listed in the application materials seeking to establish the CR district;
   d) Any applicable accessory use or temporary use standards in CHAPTER 4. USE STANDARDS;
   e) Any applicable development and design standards in CHAPTER 5. DEVELOPMENT STANDARDS;
   f) The subdivision requirements in CHAPTER 6. SUBDIVISIONS; and
   g) Any applicable standards in CHAPTER 7. ENVIRONMENT.

ii. Applicants may request additional requirements and standards be placed onto their property or request that their property be exempted or subject to a reduced level of compliance with certain standards in this Ordinance, subject to Section 3.17.D.23.17.D.2, Limitations on Conditions.

iii. If no specific request regarding the addition or reduction of applicable requirements is made by the applicant, or if the application is silent on this point, the conventional MDR district dimensional and district-specific standards shall apply in addition to all other applicable standards in this Ordinance.

2. Conditional Office-Institutional (COI) District

(AMENDED 10.20.20 UDOTA-03-20)

a. Purpose and Intent

The Conditional Office-Institutional (COI) district is hereby established in order to accommodate office and institutional developments that may incorporate all the use types indicated as permitted in the COI column of Table 4.2.C, Principal Use Table.

b. District Standards

i. All development within the COI zoning district shall comply with the following standards:
   a) The dimensional and district-specific standards for the Office Institutional (OI) district in Section 3.14, Office Institutional (OI) District;
   b) The use-specific standards identified in Table 4.2.C, Principal Use Table, for the use types listed in the application materials seeking to establish the COI district;
   c) Any applicable accessory use or temporary use standards in CHAPTER 4. USE STANDARDS;
   d) Any applicable development and design standards in CHAPTER 5. DEVELOPMENT STANDARDS;
   e) The subdivision requirements in CHAPTER 6. SUBDIVISIONS; and
   f) Any applicable standards in CHAPTER 7. ENVIRONMENT.

ii. Applicants may request additional requirements and standards be placed onto their property or request that their property be exempted or subject to a reduced level of compliance with certain standards in this Ordinance, subject to Section 3.17.D.23.17.D.2, Limitations on Conditions.

iii. If no specific request regarding the addition or reduction of applicable requirements is made by the applicant, or if the application is silent on this point, the conventional OI district dimensional and district-specific standards shall apply in addition to all other applicable standards in this Ordinance.

3. Conditional Business (CB) District

(AMENDED 10.20.20 UDOTA-03-20)

a. Purpose and Intent

The Conditional Business (CB) district is hereby established in order to accommodate commercial developments that may incorporate all the use types indicated as permitted in the CB column of Table 4.2.C, Principal Use Table.

b. District Standards

i. All development within the CB zoning district shall comply with the following standards:

a) The dimensional and district-specific standards for the General Business (GB) district in Section 3.5, General Business (GB) District;

b) The use-specific standards identified in Table 4.2.C, Principal Use Table, for the use types listed in the application materials seeking to establish the CB district;

c) Any applicable accessory use or temporary use standards in CHAPTER 4. USE STANDARDS;

d) Any applicable development and design standards in CHAPTER 5. DEVELOPMENT STANDARDS;

e) The subdivision requirements in CHAPTER 6. SUBDIVISIONS; and

f) Any applicable standards in CHAPTER 7. ENVIRONMENT.

g) Applicants may request additional requirements and standards be placed onto their property or request that their property be exempted or subject to a reduced level of compliance with certain standards in this Ordinance, subject to Section 3.17.D.23.17.D.2, Limitations on Conditions.

ii. If no specific request regarding the addition or reduction of applicable requirements is made by the applicant, or if the application is silent on this point, the conventional GB district dimensional and district-specific standards shall apply in addition to all other applicable standards in this Ordinance.

4. Conditional Industrial (CI) District

(AMENDED 10.20.20 UDOTA-03-20)

a. Purpose and Intent

The Conditional Industrial (CI) district is hereby established in order to accommodate industrial developments that may incorporate all the use types indicated as permitted in the CI column of Table 4.2.C, Principal Use Table.

b. District Standards

i. All development within the CI zoning district shall comply with the following standards:

a) The dimensional and district-specific standards for the Heavy Industrial (HI) district in Section 3.6, Heavy Industrial (HI) District;

b) The use-specific standards identified in Table 4.2.C, Principal Use Table, for the use types listed in the application materials seeking to establish the CI district;

c) Any applicable accessory use or temporary use standards in CHAPTER 4. USE STANDARDS;

d) Any applicable development and design standards in CHAPTER 5. DEVELOPMENT STANDARDS;

e) The subdivision requirements in CHAPTER 6. SUBDIVISIONS; and

f) Any applicable standards in CHAPTER 7. ENVIRONMENT.

g) Applicants may request additional requirements and standards be placed onto their property or request that their property be exempted or subject to a reduced level of

compliance with certain standards in this Ordinance, subject to Section 3.17.D.23.17.D.2, Limitations on Conditions.

ii. If no specific request regarding the addition or reduction of applicable requirements is made by the applicant, or if the application is silent on this point, the conventional HI district dimensional and district-specific standards shall apply in addition to all other applicable standards in this Ordinance.

3.18. LIMITED USE ZONING DISTRICTS

(AMENDED 1.4.22 UDOTA-1-22)

A. PURPOSE AND INTENT

The purpose of limited use zoning districts is to allow an applicant to request a zoning district that is similar to a corresponding conventional zoning district but that has a reduced range of allowable principal and accessory use types. More specifically, these standards are intended to:

1. Provide an alternative to conventional zoning districts when a conventional zoning district may allow a wider range of use types than that desired by the applicant; and
2. Allow a landowner to propose, and the City Council to consider, a reduction in the range of allowable uses permitted in a particular zoning district.

B. CLASSIFICATION

Lands shall be classified into one of the limited use zoning districts identified in this section only in accordance with the standards in Section 2.4.P, Rezoning.

C. APPLICATION

1. Applicants for the establishment of a limited use zoning district shall file a rezoning application along with a textual description of the principal and accessory uses that the applicant wishes to prohibit in the limited use district. This list need only identify the range of principal and accessory use types permitted in the corresponding conventional zoning district, but which are not desired by the applicant in the limited use zoning district.
2. Applications for a limited use zoning district shall not include a conceptual plan or site plan depicting proposed development.

D. DISTRICTS ESTABLISHED

The limited use zoning districts are established in accordance with Table 3.1.C, Zoning Districts Established.

E. CONDITIONS

1. The list of the use types the applicant wishes to be prohibited in the limited use zoning district shall amount to a condition placed upon the land as part of the approval of the rezoning application.
2. No conditions, other than the list of proposed prohibited uses, may be included with an application for a limited use zoning district.
3. The list of prohibited uses shall be agreed to by both the applicant and the City Council.
4. The applicant shall consent to the list of prohibited uses, in writing, prior to the approval of the application establishing the limited use zoning district.

3.19. PLANNED DEVELOPMENT (PD) DISTRICTS

A. PURPOSE AND INTENT

The Planned Development (PD) and the Planned Development Downtown (PDD) districts are established and intended to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and other City goals and objectives by:

1. Reducing or diminishing the inflexibility or uniform design that sometimes results from strict application of zoning and development standards designed primarily for individual lots;
2. Allowing greater freedom in selecting the means of providing access, open space, and design amenities;
3. Allowing greater freedom in providing a well-integrated mix of residential and non-residential land uses in the same development, including a mix of housing types, lot sizes, and densities;
4. Creating a system of incentives for redevelopment and infill in order to revitalize the downtown area;
5. Promoting a vibrant public realm in the lands around downtown by placing increased emphasis on active ground floor uses, pedestrian-oriented building façade design, intensive use of sidewalks, and establishment of public gathering areas;
6. Providing for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and
7. Promoting quality design and environmentally sensitive development that respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, estuaries, shorelines, special flood hazard area, and historic features.

B. GENERAL STANDARDS FOR ALL PLANNED DEVELOPMENTS

1. How Established

A planned development is established in a manner similar to the establishment of a conditional zoning district in accordance with the procedures and requirements in Section 2.4.M, Planned Development, and Section 3.19, Planned Development (PD) Districts.

2. Districts Distinguished

(AMENDED 12.3.19 UDOTA-01-20)

This Ordinance establishes the following two types of planned development district:

a. The basic Planned Development (PD) district, which is available to all lands in the City's jurisdiction outside of the area eligible for the Planned Development Downtown (PDD) district; and
b. The Planned Development Downtown (PDD) district, which is available solely to the lands around the downtown area located within the PDD-Eligibility Boundary depicted on the Official Zoning Map. Application for the rezoning of lands within the PDD-Eligibility Boundary to the PDD district shall be reviewed in accordance with the standards in this section. Applications to rezone land within the PDD-Eligibility Boundary to a zoning district other than the PDD district are hereby declared inconsistent with the City's adopted policy guidance and this Ordinance, and may not be approved by the City Council.
c. In cases where a portion of a lot is within the PDD eligibility boundary, the entire lot shall be considered to be within the PDD eligibility boundary.

3. Master Plan Required

All development configured as a PD or PDD shall be subject to a master plan submitted and approved as part of the application to establish the district. The master plan shall:

a. Include a statement of planning objectives for the district;
b. Describe the specific ways in which any modifications to the generally applicable standards in this Ordinance will result in a development of higher quality than would have otherwise resulted if the development was established without any proposed modifications to the standards in this Ordinance;
c. Identify the general location of individual development areas, identified by land use(s) and/or development density or intensity;
d. Depict the general configuration and relationship of the principal elements of the proposed development, including general building types;
e. Identify for the entire district and each development area the acreage, types and mix of land uses, number of residential units (by use type), non-residential floor area (by use type), residential density, and non-residential intensity (floor area);

f. Identify the general location, amount, and type (whether designated for active, passive, or urban) of open space;
g. Identify the location of environmentally sensitive lands, wildlife habitat, and resource protection lands;
h. Identify the on-site transportation circulation system, including the general location of all streets, existing or projected transit service, pedestrian and vehicular circulation features, and how they will connect with existing and planned systems;
i. Identify the general location of on-site potable water and wastewater facilities, and how they will connect to existing systems;
j. Identify the general location of on-site stormwater control measures, and how they will connect to existing public systems;
k. Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, bus shelters, and facilities for fire protection, police protection, EMS, and solid waste management; and
l. Describe and depict how the proposed development complies with the PDD Design Principles in Section 3.19.F.2, Statement of PDD Design Principles, if land is proposed for designation as a PDD district.

4. Densities/Intensities

The densities for residential development and the intensities for non-residential development applicable in each development area of a PD or PDD district shall be as established in the master plan, and shall be consistent with adopted policy guidance.

5. Dimensional Standards

The dimensional standards applicable in each development area of a PD or PDD district shall be as established in the master plan. The master plan shall include at least the following types of dimensional standards:

a. Minimum lot area;
b. Minimum lot width;
c. Minimum and maximum setbacks;
d. Maximum lot coverage;
e. Maximum building height;
f. Maximum individual building size;
g. Floor area ratio; and
h. Minimum setbacks from adjoining residential development or residential zoning districts.

6. Development Standards

a. All development in a PD or PDD district shall comply with the development standards of CHAPTER 5. DEVELOPMENT STANDARDS, the subdivision and infrastructure design standards of CHAPTER 6. SUBDIVISIONS, and the environmental protection standards in CHAPTER 7. ENVIRONMENT, unless modified in accordance with this section.
b. In no instance shall a planned development district seek to modify, waive, or reduce any of the following standards:
  i. Section 3.20, Overlay Districts;
  ii. Section 7.4, Stormwater;
  iii. Section 5.6, Signage; or
  iv. Section 6.9, Owner Associations.
c. In cases where a planned development district is proposed as part of redevelopment of an existing site and the existing site does not comply with the standards in subsection (b) above, the development contemplated in the planned development shall not be required to achieve full compliance, but shall not increase the degree to which the development fails to comply with the standards in subsection (b) above.

7. Consistency with Adopted Policy Guidance

The PD or PDD zoning district designation, the master plan, and the terms and conditions document should be consistent with the Comprehensive Land Use Plan, and any applicable functional plans and small area plans adopted by the City.

8. Compatibility with Surrounding Areas

a. Development along the perimeter of a PD district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the master plan shall provide for transition areas at the edges of the PD district that provide for appropriate buffering and/or ensure a complementary character of uses. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, siting of service areas, or other aspects identified by the City Council.

b. The standards in this subsection shall only apply to lands along the edge of the PDD Eligibility Boundary when applied to development in the PDD district.

9. Development Phasing Plan

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

10. Conversion Schedule

a. The planned development application may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use or one type of non-residential use may be converted to another type of non-residential use (i.e., residential to residential, or non-residential to non-residential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.

b. In the event an applicant seeks to revise the development in accordance with an approved conversion schedule, the applicant shall provide a revised site plan depicting the proposed conversions to the Technical Review Committee for review and approval prior to commencing any conversions.

11. On-Site Public Facilities

a. Design and Construction

The master plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable City, State, and federal regulations.

b. Dedication

The master plan shall establish the responsibility of the developer/landowner to dedicate to the public the right-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable City, State, and federal regulations.

c. Modifications to Street Standards

(AMENDED 10.20.20 UDOTA-03-20)

In approving a master plan, the City Council may approve modifications or reductions of street design standards—including those for right-of-way widths, pavement widths, required materials, provision of public transit amenities, and turning radii, with NCDOT approval, on finding that:

i. The master plan provides for adequate separation/integration of vehicular, pedestrian, and bicycle traffic;

ii. Access for emergency service vehicles is not substantially impaired;

iii. Adequate space for on-street parking is provided, if proposed; and

iv. Adequate space for public utilities is provided within the street right-of-way.

12. Uses

The uses allowed in a PD or PDD district are identified in Table 4.2.C, Principal Use Table, as allowed subject to a master plan. Allowed uses shall be established in the master plan. Allowed uses shall be consistent with adopted policy guidance, the purpose of the particular type of PD or PDD district, and subject to any additional limitations or requirements set forth in Section 4.4, Use-Specific Standards, for the particular type of PD or PDD district. Nothing shall limit an applicant from seeking to modify an otherwise applicable use-specific standard in accordance with the standards in Section 3.19.B.3, Master Plan Required.

C. PLANNED DEVELOPMENT TERMS AND CONDITIONS

(AMENDED 10.20.20 UDOTA-03-20)

The terms and conditions document shall incorporate by reference or include, but not be limited to:

1. Conditions related to approval of the application for the PD or PDD zoning district classification;
2. Any necessary details with respect to density/intensity standards, dimensional standards, and development standards established in the master plan;
3. Conditions related to the approval of the master plan, including any conditions related to the form and design of development shown in the master plan;
4. Provisions addressing how transportation, potable water, wastewater, stormwater management, and other infrastructure will be provided to accommodate the proposed development;
5. Provisions related to environmental protection and monitoring; and
6. Any other provisions the City Council determines are relevant and necessary to the development of the PD or PDD in accordance with applicable standards and regulations.

D. RELATIONSHIP TO OVERLAY DISTRICTS

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying conditional zoning district. If the standards governing a conditional zoning district expressly conflict with those governing an overlay zoning district, the standards in Section 3.1.B, Zoning Districts Distinguished, shall control.

E. AMENDMENTS TO APPROVED MASTER PLAN

Amendments or modifications to a master plan shall be considered in accordance with the standards in Section 2.4.M.12, Amendment.

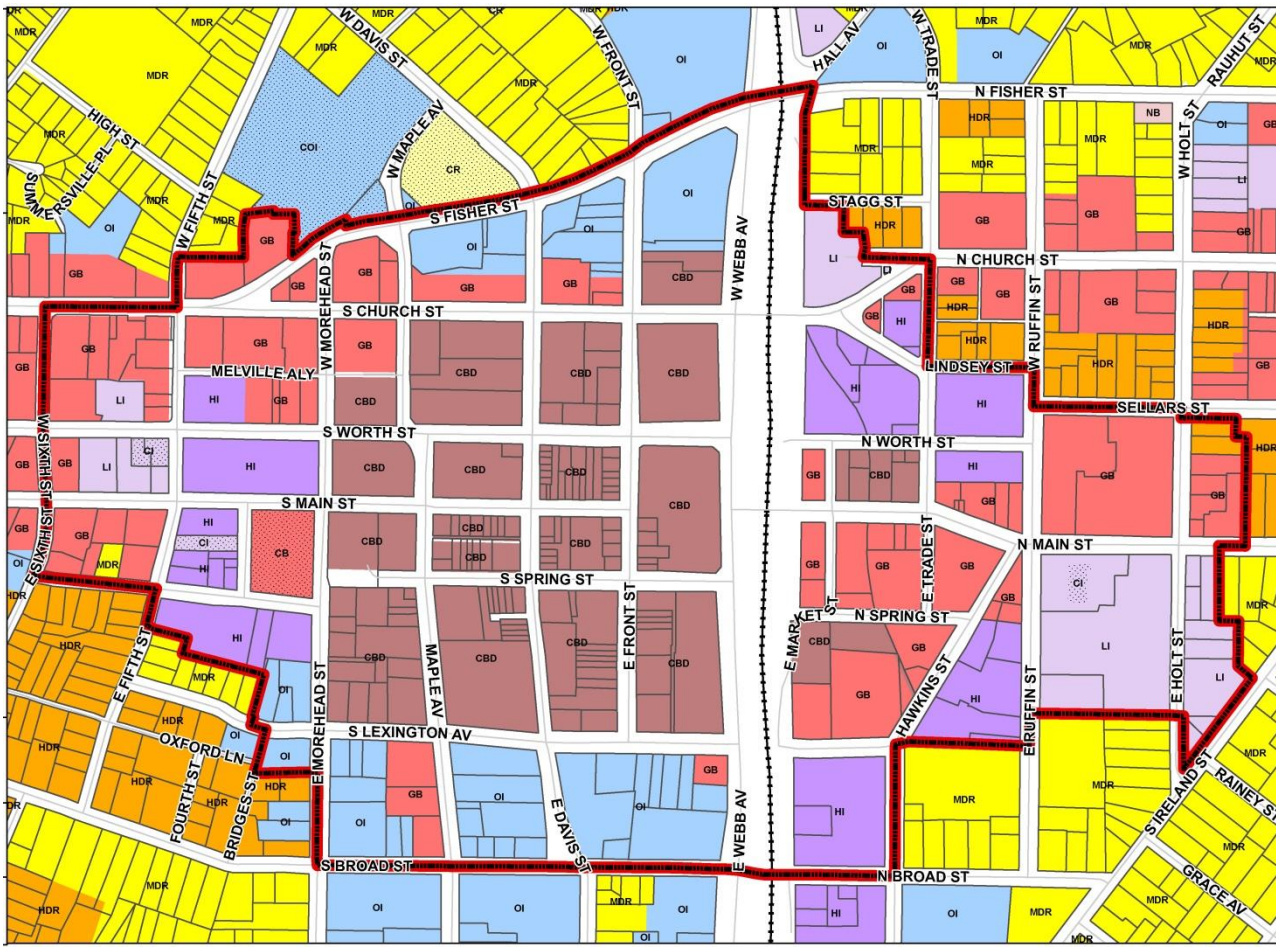
F. ADDITIONAL STANDARDS IN THE PLANNED DEVELOPMENT DOWNTOWN (PDD) DISTRICT

1. Where Applicable

(AMENDED 12.3.19 UDOTA-01-20)

a. Only land located within the PDD Eligibility Boundary on the Official Zoning Map may be designated to the PDD district (see Figure 3.19.F: PDD Eligibility Boundary).
b. Only those rezoning applications seeking to establish the PDD designation in accordance with these standards shall be approved for lands within the PDD Eligibility Boundary.

FIGURE 3.18.E: PDD ELIGIBILITY BOUNDARY



2. Statement of PDD Design Principles

a. New development within a PDD shall address and maintain consistency with the design principles in Table 3.19.F.2: PDD Design Principles.

b. Redevelopment of conforming buildings lawfully established prior to November 1, 2019, shall comply with these standards only where practicable, as determined by the City Council.

TABLE 3.18.E.2: PDD DESIGN PRINCIPLES

(AMENDED 12.3.19 UDOTA-01-20)

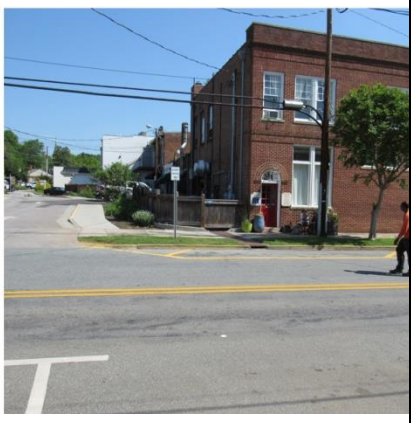
a. Development is configured in order to place active uses on the ground floor adjacent to sidewalks.

TABLE 3.18.E.2: PDD DESIGN PRINCIPLES

(AMENDED 12.3.19 UDOTA-01-20)

b. Buildings or building walls are built close to the edge of the sidewalk.

c. Off-street parking is setback at least 20 feet from the sidewalk and located to the rear of the lot, behind building walls, or behind screening.



d. The districts is established based on a fine-grained street network with block faces of less than 500 feet long and blocks served by internal alleys. New streets extend and continue the grid system.

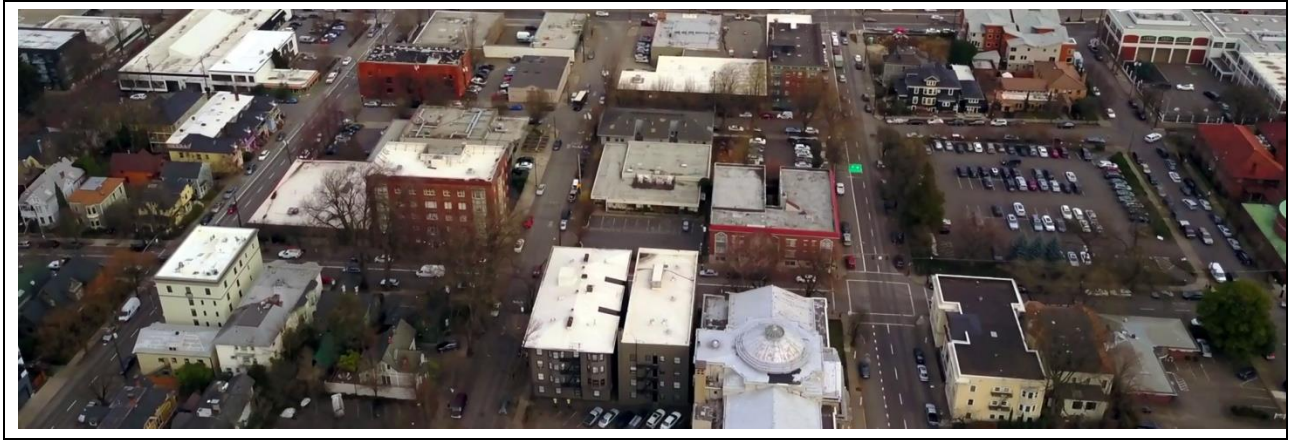


TABLE 3.18.E.2: PDD DESIGN PRINCIPLES

(AMENDED 12.3.19 UDOTA-01-20)

e. Public gathering areas are located on sidewalks in front of or beside buildings. These areas include spaces for seating, outdoor dining, public art, and places for vendors.

f. Buildings are configured with pedestrian-oriented first floor facades that include large display windows, building articulation that avoids large monolithic building walls lacking architectural interest, primary entrances that face the sidewalk, and protection from the weather for pedestrians.

g. Signage is configured for view by pedestrians on sidewalks, not persons in automobiles.

TABLE 3.18.E.2: PDD DESIGN PRINCIPLES

(AMENDED 12.3.19 UDOTA-01-20)

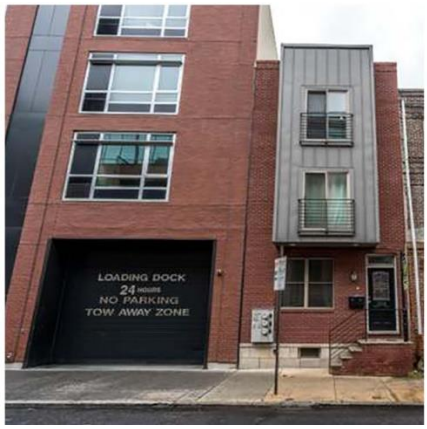
h. Building placement, building height, and basic building configuration shall match the building on the opposing side of the street when the building on the opposing side of the street is configured in accordance with these principles.

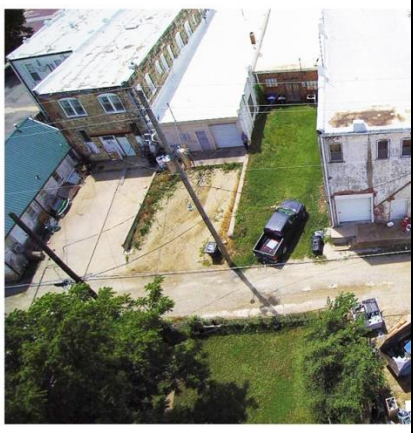
i. Development includes a mix of uses in a building or on a site.

j. Loading or service areas are located to the rear or integrated in ways that do not interfere with pedestrian orientation.

TABLE 3.18.E.2: PDD DESIGN PRINCIPLES

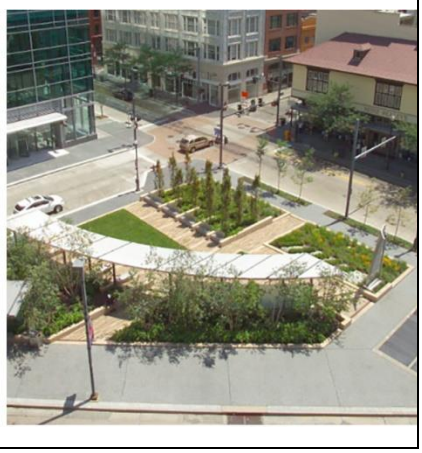
(AMENDED 12.3.19 UDOTA-01-20)





k. Sidewalk areas include street trees and street furniture such as pedestrian-scale street lighting, trash receptacles, and seating – all located between the curb and the main travelway for the sidewalk, which is typically adjacent to the building wall.

l. Public parks, plazas, and gathering spaces are located at prominent points such as the termination of vistas or in locations that can connect one development to another development.



3. Review for Compliance with Design Principles

Review of proposed development for compliance with the PDD Design Principles may take place as part of the master plan review associated with the typical planned development review procedure in Section 3.19, Planned Development (PD) Districts, or the Technical Review Committee may conduct a special meeting(s) for the express purpose of review of the proposed development's design and consistency with these principles.

4. Application to Additions and Expansions of Existing Buildings

In cases where land proposed for re-designation to the PDD district contains existing development, the PDD design principles shall be applied only to:

a. New site features proposed as part of the application;
b. New building floor area;
c. The expanded portion of an existing building; and
d. New streets, alleys, sidewalks, or other elements of the public realm.

3.20. OVERLAY DISTRICTS

A. GENERALLY

(AMENDED 10.20.20 UDOTA-03-20)

1. Purpose

Overlay zoning districts are superimposed over either all or a portion of one or more underlying conventional zoning districts or conditional zoning districts with the intent of supplementing generally applicable development regulations with additional development regulations that address special area-specific conditions, features, or plans while maintaining the character and purposes of the underlying zoning district.

2. Establishment

a. Table 3.20.A.2, Overlay Zoning Districts Established, sets out the overlay zoning districts established by this Ordinance.

TABLE 3.19.A.2: OVERLAY ZONING DISTRICTS ESTABLISHED

OVERLAY DISTRICT NAME	ABBREVIATION
Airport Height Overlay	AHO
Gateway Corridor Overlay	GCO
Local Historic Overlay	LHO
Flood Hazard Overlay	FHO
Watershed Protection Overlay	WPO

b. Some overlay district boundaries are depicted on the Official Zoning Map, though sub-areas within individual overlay districts may be shown on other maps or diagrams which are made a part of this Ordinance and maintained by the City.

3. Classification

Land shall be classified or reclassified into an overlay zoning district only in accordance with the procedures and requirements set forth in Section 2.4.P, Rezoning, and this section.

4. Relationship to Underlying Zoning Districts

a. Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying conventional or conditional zoning district, unless otherwise expressly stated.

b. If the standards governing an overlay zoning district expressly conflict with those governing an underlying conventional or conditional zoning district, the standards governing the overlay district shall control, unless otherwise stated.

c. Where land is classified into multiple overlay zoning districts and the standards governing one overlay zoning district expressly conflict with those governing another overlay district, the more restrictive standard shall apply.

B. AIRPORT HEIGHT OVERLAY (AHO) DISTRICT

1. Purpose and Intent

The purpose and intent of the Airport Height Overlay (AHO) district is to:

a. Restrain influences that are adverse to the proper and safe conduct of aircraft operations in the vicinity of the Burlington-Alamance Regional Airport;
b. Prevent creation of conditions hazardous to aircraft operation;
c. Prevent conflict with land development that may result in loss of life and property; and
d. Encourage development that is compatible with airport use characteristics.

2. Authority

(AMENDED 10.20.20 UDOTA-03-20)

The standards in this section are adopted pursuant to Section 160D-904 of the North Carolina General Statutes.

3. Applicability

These standards are applied to all development on lands located within the AHO district as depicted on the Airport Height Restriction Zoning Plan on file in the offices of the City of Burlington Department of Planning and Community Development.

4. AHO Standards

a. Height Limitation Areas

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained and no trees shall be allowed to grow in or into any of the following areas (see Figure 3.20.B: AHO Height Limitation Areas):

i. Precision Instrument Runway Approach Zone (APA)

The height restriction in the Precision Instrument Approach Zone is established as a slope 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surfaces and extending to a horizontal distance of 10,000 feet along the extended runway centerline; then slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

ii. Transitional Zones (APT)

The following are established as height restrictions in the Transitional Zones:

a) A slope seven feet outward for each foot upward beginning at the side of and at the same elevation as the primary surface and the approach surface and extending to a height of 100 feet above the airport elevation, which is 616.1 feet above mean sea level;
b) A slope seven feet outward for each foot upward beginning at the sides and at the same elevation as the approach surfaces and extending to where they intersect the conical surface; and
c) Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

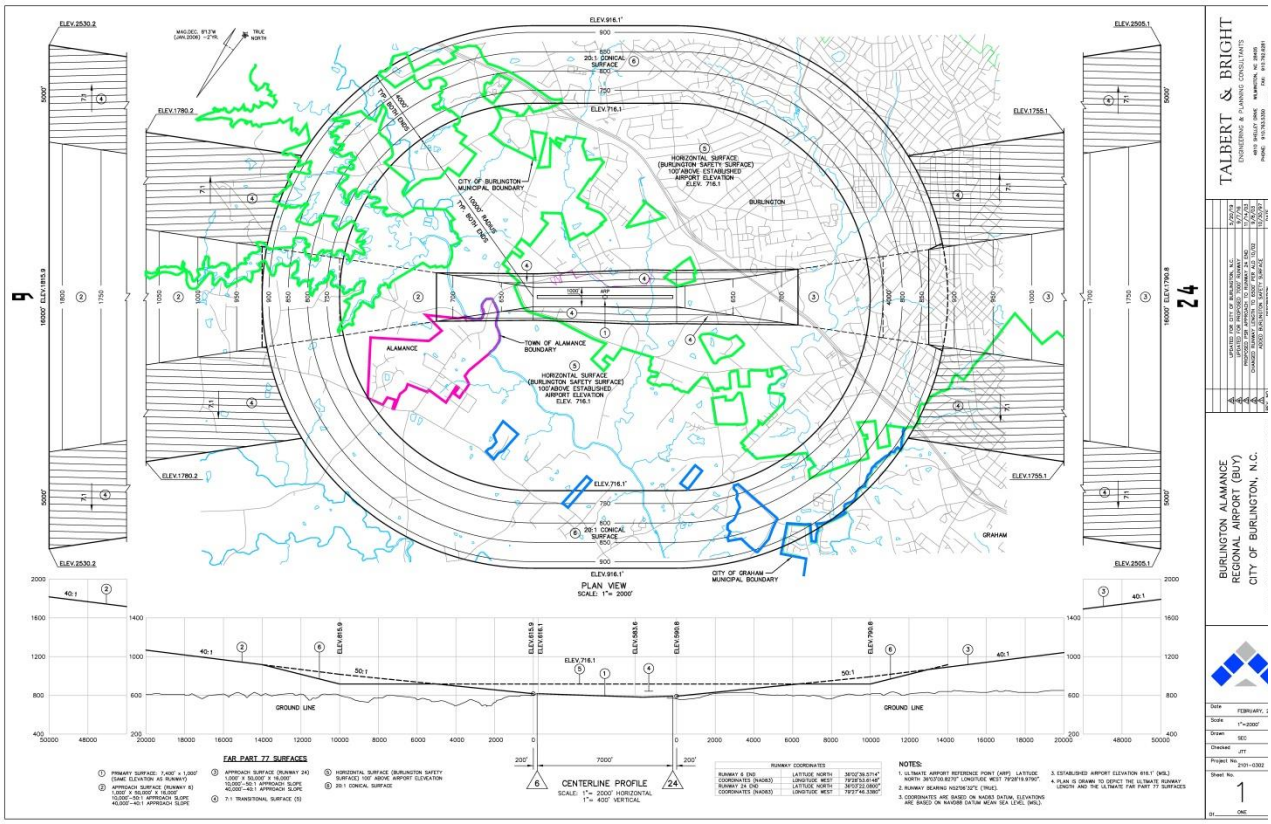
iii. Horizontal Zone (APH)

The height restriction in the Horizontal Zone (APH) is established at 100 feet above the airport or at an elevation of 716.1 feet above the mean sea level.

iv. Conical Zone (APC)

The height restriction in the Conical Zone (APC) is established as a slope 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 100 feet above the airport elevation and extending to an elevation of 916.1 feet above mean sea level.

FIGURE 3.19.B: AHO HEIGHT LIMITATION AREAS



b. Use Restrictions

Principal, accessory, or temporary use types that result in any of the following conditions shall be prohibited in the AHO.

- **i.** Create electrical interference with navigational signals or radio communication between the airport and aircraft;
- **ii.** Uses that make it difficult for pilots to distinguish between airport lights and other exterior lighting;
- **iii.** Uses or site features that result in glare in the eyes of pilots using the airport;
- **iv.** Uses or site features that impair visibility in the vicinity of the airport;
- **v.** Uses, site features, or site configurations (including stormwater control measures) that attract birds or create a higher likelihood of bird strike hazards; or
- **vi.** Uses that otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft using the airport in any way.

c. Obstruction Marking and Lighting

Applications for uses, including variances, inside the AHO shall be subject to conditions requiring obstruction marking and lighting in accordance with all applicable FAA standards.

d. Permits

(AMENDED 10.20.20 UDOTA-03-20)

No permits for construction of a building or structure, including expansions or outdoor use areas shall be issued within the AHO until the City has determined that the proposed development complies with the applicable standards in this section.

e. Growth of Trees

(AMENDED 10.20.20 UDOTA-03-20)

No existing trees or newly planted trees within the AHO shall be permitted to grow to an elevation that exceeds the height restrictions as outlined in Section 3.20.B.4.a, Height Limitation Areas.

f. Nonconforming Uses

i. Existing Nonconformities May Remain

a) The standards prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alterations of any structure or tree not conforming to the standards as of November 1, 2019, or otherwise interfere with the continuance of nonconforming use.

b) Nothing shall require any change in the construction or alteration of which was begun prior to November 1, 2019, and is diligently prosecuted.

ii. Marking and Lighting of Existing Obstructions

a) The owner of an existing nonconforming structure or tree as described in section (i) above shall permit the installation, operation, and maintenance of markers and lights as deemed necessary by the Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of the obstruction.

b) Obstruction markers and lights shall be installed, operated, and maintained at the expense of the Airport Authority.

iii. Nonconforming Uses or Trees Abandoned or Destroyed

Whenever the Planning Director determines that a nonconforming tree or structure in the AHO has been abandoned or more than 75 percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow the structure or tree to exceed the applicable height limits or otherwise deviate from the standards in this section.

g. Variances

i. In cases where an applicant seeks to increase the height of a structure or permit the growth of a tree beyond the standards in this section, the applicant shall apply for a variance in accordance with Section 2.4.BB, Zoning/Subdivision Variance.

ii. The Planning Director shall forward applications for variances within the AHO to the Airport Authority for review prior to consideration by the Board of Adjustment.

iii. The FAA may provide additional comments regarding approval of a variance within the AHO.

C. FLOOD HAZARD OVERLAY (FHO) DISTRICT

1. District Established

(AMENDED 10.20.20 UDOTA-03-20)

The Flood Hazard Overlay (FHO) district is hereby established in accordance with the following:

a. Chapter 143, Article 21, Part 6 of the North Carolina General Statutes;
b. Chapter 160A, Article 8 of the North Carolina General Statutes;
c. Chapter 160D, Articles 1, 7, and 11 of the North Carolina General Statutes;
d. Chapter 160D, Article 9, Part 2 of the North Carolina General Statutes; and
e. The standards in this section.

2. Purpose and Intent

The FHO district is intended to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by establishing provisions that:

a. 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;
b. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
d. Control filling, grading, dredging, and all other development that may increase erosion or flood damage;
e. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters, or which may increase flood hazards to other lands; and
f. Ensure that potential buyers are aware that property is located within the FHO.

3. Applicability

These standards are applied to all development only on the following lands:

a. Lands Identified by FEMA

The standards in this section shall apply to lands within the City's jurisdiction determined to be within Special Flood Hazard Areas as identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Alamance County dated September 6, 2006, which with accompanying supporting data, and any revision thereto, including letters of map amendment or revision, are adopted by reference and declared to be a part of this Ordinance.

b. Lands Identified Engineering Analysis

In addition to areas shown on the Flood Insurance Rate Maps (FIRM), the Special Flood Hazard Areas shall also include lands not indicated on the FIRM, but defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated on the FIRM. This includes, but is not limited to, detailed flood data that results from:

i. Data generated by the Floodplain Administrator through their regular course of duties identified in Section 10.7.C, Stormwater Administrator;
ii. Preliminary FIRMs that are more stringent than the effective FIRM; or
iii. Post-disaster flood recovery maps.

c. Lands Subject to Annexation

The special flood hazard areas identified by FEMA or produced under the CTS between the State of North Carolina and FEMA for unincorporated areas of Alamance or Guilford Counties, with accompanying maps and other supporting data and any revision thereto, upon annexation by the City or inclusion in the City's ETJ.

4. Effective Date

The standards in this section became effective on September 6, 2006.

5. Compliance Required

No structure or land within the FHO area shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this section and other applicable regulations.

6. Establishment of Floodplain Development Permit

a. A floodplain development permit issued in accordance with Section 2.4.L, Floodplain Development Permit, shall be required in conformance with the provisions of these standards prior to the commencement of any development activities within the FHO.

b. The floodplain development permit shall include, but not be limited to all of the following:

i. A description of the development to be permitted;
ii. The flood zone for the proposed development;
iii. The regulatory flood protection elevation required for the reference level and all attendant utilities;
iv. The regulatory flood protection elevation required for the protection of all public utilities;
v. All certification submittal requirements with timelines;
vi. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable;
vii. The flood openings requirements, if in Zones A, AO, AE or A1-30; and
viii. Limitations of below BFE enclosure uses (if applicable).

7. Elevation and Floodproofing Certificates

a. Elevation Certificates

All development subject to these standards, other than non-residential development employing flood proofing mechanisms, shall prepare and submit elevation certificates in accordance with the following requirements:

i. Required Prior to Start of Construction

An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction in accordance with the following:

a) The applicant shall provide a certification of the elevation of the reference level, in relation to mean sea level to the Floodplain Administrator.
b) 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.
c) Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

ii. Second Certificate Required after Reference Elevation Established

An elevation certificate (FEMA Form 81-31) is required after the reference level is established in accordance with the following:

a) Within seven calendar days of establishment of the reference level elevation via the elevation certificate submitted prior to the start of construction, the floodplain development permit holder shall submit the second certification of the elevation of the reference level, in relation to mean sea level to the Floodplain Administrator.
b) Any work done within the period prior to submission of the second certification shall be at the permit holder's risk.
c) The Floodplain Administrator shall review the certificate data submitted.
d) Deficiencies detected by the review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed.
e) Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

iii. Third Certificate Required following Construction

A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to issuance of a certificate of occupancy issuance in accordance with the following:

a) The floodplain development permit holder shall submit a certification of final as-built construction of the elevation of the reference level and all attendant utilities to the Floodplain Administrator.
b) The Floodplain Administrator shall review the certificate data submitted.
c) Deficiencies detected by such review shall be corrected by the permit holder prior to certificate of occupancy issuance.
d) In some instances, another certification may be required to certify corrected as-built construction.

e) Failure to submit the certification or failure to make required corrections shall be cause to withhold the certificate of occupancy.

b. Floodproofing Certificate

i. If floodproofing is used to meet the regulatory flood protection elevation requirements for a non-residential building or structure, a floodproofing certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction.

ii. The applicant shall submit a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level to the Floodplain Administrator.

iii. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect licensed to practice in the State of North Carolina and certified by the professional engineer or architect.

iv. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by the 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 occupancy.

c. Certification Exemptions

The following structures, if located within Zone A, AO, AE or A1-30 flood zones, are exempt from the elevation/floodproofing certification requirements in this section:

i. Recreational vehicles meeting requirements of Section 3.20.C.14.b.viii, Recreational Vehicles;

ii. Temporary structures meeting requirements of Section 3.20.C.14.b.ix, Temporary Structures; and

iii. Accessory structures less than 150 square feet meeting requirements of Section 3.20.C.14.b.x, Accessory Structures.

8. Alteration of a Watercourse

a. Alteration or relocation of a watercourse as part of development in the FHO shall require a report prepared by a professional engineer licensed by the State of North Carolina detailing the extent of watercourse alteration or relocation, the effects of the proposed project on the flood-carrying capacity of the watercourse, and the anticipated effects to properties located both upstream and downstream.

b. The report shall include 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.

9. Variance from Requirements

Applicants for development inside the FHO may request to reduce or deviate from the standards in this section only through the procedures and requirements in Section 2.4.AA, Water-Related Variance.

10. Abrogation and Greater Restrictions

These standards are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these standards conflict or overlap with other standards, the provisions that impose the more stringent restrictions shall control.

11. Determination

In the determination and application of these standards, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the applicant; and

c. Deemed neither to limit nor repeal any other powers granted under state statutes.

12. Violation

Development in the FHO that fails to comply with the standards in this section shall be in violation of this Ordinance and shall be subject to the provisions in Section 2.5, Enforcement.

13. Warning and Disclaimer of Liability

a. The degree of flood protection required by these standards is considered reasonable for regulatory purposes and is based on scientific and engineering consideration; larger floods can and will occur on rare occasions and actual flood heights may be increased by man-made or natural causes.

b. These standards do not imply that land outside the FHO or uses permitted within such areas will be free from flooding or flood damages.

c. These standards shall not create liability on the part of the City or by any officer or employee thereof for any flood damages that result from reliance on these standards or any administrative decision lawfully made in accordance with these standards.

14. Flood Hazard Overlay (FHO) District Standards

a. General Standards Applicable to All Areas and Developments

The following requirements apply to all development within the FHO:

i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

ii. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

iii. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.

iv. 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 meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator, etc.), hot water heaters, electric outlets/switches.

v. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

vi. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

vii. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

viii. Any alteration, repair, reconstruction, or improvements to a structure which is in compliance with the provisions of these standards, shall meet the requirements of "new construction" as contained in these standards.

ix. Non-conforming structures or other development shall not be enlarged, replaced, or rebuilt unless such enlargement or reconstruction is accomplished in conformance with the provisions of these standards. Provided, however, nothing in these standards shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of these standards and located totally or partially within the floodway, non-encroachment area, or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback is not increased and provided that such repair, reconstruction, or replacement meets all of the other requirements of these standards.

x. New solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in special flood hazard areas. 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 special 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 3.20.C.7, Elevation and Floodproofing Certificates.

xi. All developments, including subdivisions, shall be configured to maintain adequate drainage and minimize flood damage.

xii. All developments shall receive 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. 1334.

b. Specific Standards for Use Types

i. Residential Construction

New construction and substantial improvement of any residential structure (including new and replacement manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation.

ii. Non-Residential Construction

a) New construction or 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.

b) Structures located in A, AO, AE and A1-30 flood zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation, provided that all areas of the structure below the required 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.

c) A professional engineer or architect licensed by the State of North Carolina shall certify that the development is in compliance with the certification standards in Section 3.20.C.7, Elevation and Floodproofing Certificates.

iii. Additional Requirements for Manufactured Homes

a) Manufactured homes shall include a certified engineered foundation or shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement in accordance with the State of North Carolina Regulations for Manufactured/Mobile Homes, 1995 Edition, and any revision thereto adopted by the Commissioner of Insurance pursuant to Section 143-143.15 of the North Carolina General Statutes.

i) When the elevation requirements are 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 other foundation elements of at least equivalent strength.

ii) When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

b) All foundation enclosures or skirting shall be in accordance with Section 3.20.C.14.b.iv, Enclosures Beneath Elevated Buildings.

c) 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.

iv. Enclosures Beneath Elevated Buildings

Fully enclosed areas below the regulatory flood protection elevation associated with new construction or a substantial improvement to an existing building shall:

a) Not be designed to be used for human habitation;

b) Be designed to be used only for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises;

c) Be served by accessways sized to be the minimum necessary (to allow for parking of vehicles via garage door, or limited storage of maintenance equipment used in connection with the premises via standard exterior door, or entry to the living area via stairway or elevator);

d) Not be partitioned or finished into separate rooms, except as needed for storage purposes;

e) Be constructed entirely of flood resistant materials below the regulatory flood protection level;

f) Automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters when proposed in A, AO, AE, and A1-30 zones. To meet this requirement, the foundation must either be certified by a professional engineer or architect, or meet the following minimum design criteria:

i) Provide a minimum of two openings on different sides of each enclosed area subject to flooding;

ii) The total net area of all openings must be at least one square inch for each square foot of each enclosed area subject to flooding;

iii) If a building has more than one enclosed area, each area must have openings on exterior walls to allow floodwater to directly enter;

iv) The bottom of all required openings shall be no higher than one foot above the adjacent grade; and

v) Openings may be equipped with screens, louvers, or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions.

vi) Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore, such skirting does not require hydrostatic openings as outlined above.

vii) Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with these standards.

v. Nonstructural Fill

Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios, and walkways, provided:

a) The fill material is similar and consistent with the natural soils in the area;

b) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two feet;

c) Fill greater than two feet in thickness shall include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures; and

d) Nonstructural fill with finished slopes that are steeper than five horizontal units to one vertical unit shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

vi. Additions and Improvements to Pre-FIRM Structures

a) Substantial Improvement Determination

Additions or improvements to pre-FIRM structures, in combination with any interior modifications to the existing structure, shall be considered as either a substantial improvement or shall not be considered a substantial improvement in accordance with the definitions in Section 8.4, Definitions.

b) Additions or Improvements Not Constituting a Substantial Improvement

i) Additions or improvements to a pre-FIRM structure that are not considered a substantial improvement shall be designed to minimize the potential for flood damage.

ii) Only the addition or improvement meet the standards for new construction (not the existing structure); and

iii) Additions or improvements shall be no more nonconforming than the original structure.

iv) Where a fire wall or independent perimeter load-bearing wall is provided between an addition and the existing building, the addition shall be considered a separate building and only the addition must comply with the standards for new construction.

c) Additions or Improvements Constituting a Substantial Improvement

Additions or improvements to a pre-FIRM structure that are considered a substantial improvement shall be configured so that both the addition or the improvement and the existing structure comply with the standards for new construction.

vii. Additions and Improvements to Post-FIRM Structures

Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards for new construction.

viii. Recreational Vehicles

Recreation vehicles placed on sites within the FHO shall either:

a) 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

b) Meet all the requirements for new construction, including anchoring and elevation requirements of Section 3.20.C.7, Elevation and Floodproofing Certificates, Section

3.20.C.14.a, General Standards Applicable to All Areas and Developments, and Section 3.20.C.14.b.iii, Additional Requirements for Manufactured Homes.

ix. Temporary Structures

Prior to the issuance of a floodplain development permit for a temporary structure, the applicant shall submit a plan for removal of the temporary structure in the event of a hurricane or flash flood warning notification. The plan shall include at least the following information:

a) A specified time period for which the temporary use will be permitted;
b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
c) The timeframe prior to the event at which a structure will be removed (e.g., a minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
d) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed; and
e) Designation, accompanied by documentation, of a location outside the special flood hazard area to which the temporary structure will be moved.

x. Accessory Structures

When accessory structures (e.g., sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

a) Accessory structures shall be designed to have low flood damage potential;
b) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
c) Accessory structures shall be firmly anchored in accordance with Section 3.20.C.14.a, General Standards Applicable to All Areas and Developments;
d) All service facilities such as electrical and heating equipment shall be installed in accordance with Section 3.20.C.14.a, General Standards Applicable to All Areas and Developments;
e) Openings to relieve hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with Section 3.20.C.14.b.iv, Enclosures Beneath Elevated Buildings; and
f) An accessory structure with a footprint less than 150 square feet does not require an elevation or floodproofing certificate, but elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 3.20.C.7, Elevation and Floodproofing Certificates.

15. Standards for Floodplains Without Established Base Flood Elevations

The following provisions shall apply to lands within the FHO where no base flood elevation has been provided:

a. 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 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.
b. If development is configured in accordance with the need to minimize flood damage and base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of these standards and shall be elevated or floodproofed in accordance with elevations established by the Floodplain Administrator in accordance with Section 10.7.C, Stormwater Administrator.
c. When base flood elevation (BFE) data is not available from a federal, State, or other source, the reference level, including basement, shall be elevated at least two feet above the highest adjacent grade.

16. 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 inclusion in the FHO or in the FIS report, the following requirements shall apply to all development within such areas:

a. The standards in Section 3.20.C.14.a, General Standards Applicable to All Areas and Developments;

b. The applicable standards in Section 3.20.C.14.b, Specific Standards for Use Types; and

c. 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 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 City's planning area.

17. Floodways and Non-Encroachment Areas

All development located within a floodway or non-encroachment area shall be subject to the standards in Section 3.20.C.14.a, General Standards Applicable to All Areas and Developments, Section 3.20.C.14.b, Specific Standards for Use Types, and the following:

a. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless it has been demonstrated that:

i. 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

ii. A conditional letter of map revision (CLOMR) has been approved by FEMA.

b. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

c. All development shall comply with all applicable flood hazard reduction provisions of this Ordinance.

d. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

i. The anchoring and the elevation standards of Section 3.20.C.14.b.iii, Additional Requirements for Manufactured Homes; and

ii. The no encroachment standard of Section 3.20.C.18, Standards for Areas of Shallow Flooding (Zone AO).

18. Standards for Areas of Shallow Flooding (Zone AO)

All development located within an area of shallow flooding shall be subject to the standards in Section 3.20.C.14.a, General Standards Applicable to All Areas and Developments, and the following:

a. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (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.

b. Non-residential structures may, in lieu of elevation, be floodproofed 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 in accordance with Section 3.20.C.7, Elevation and Floodproofing Certificates, is required.

c. Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

19. Unmapped Streams where Regulatory Flood Elevations or Floodways have not been Provided

The following standards shall apply to development located adjacent to unmapped streams without regulatory flood elevations of mapped floodways.

a. New Development Disturbing One Acre or More

i. Development shall maintain a 30-foot-wide undisturbed buffer along each side of small unmapped streams.

ii. Structures or impervious surfaces shall not be constructed closer than 20 feet from the edge of the 30-foot buffer.

b. New Development Disturbing Less than One Acre

For new development where the total area of disturbance is less than one acre and the drainage area for the creek or stream adjacent to the development is greater than 25 acres, the following requirements shall apply:

i. No building or fill material shall be located closer to the centerline of the adjacent streambed than the distance determined by adding the required distance from Table 3.20.C, Minimum Separation from Unmapped Stream, below to the average width of the streambed adjacent to the site.

TABLE 3.19.C: MINIMUM SEPARATION FROM UNMAPPED STREAM

AREA OF DRAINAGE BASIN (ACRES)	REQUIRED DISTANCE (FEET)
25 to 100	15
101 to 200	20
201 to 400	25
401 to 640 or the limits of a detailed flood study by FEMA	30

ii. The lowest floor, including basement, of residential structures shall be elevated not less than two feet above a reference elevation that is to be determined as follows:

a) The elevation of the lowest point where stormwater would overtop the curb, pavement, fill material, etc. above the nearest downstream culvert pipe, bridge, dam, etc. that crosses the adjacent stream shall be determined.

b) The reference elevation shall be the sum of the elevation determined in (b.i) above plus the amount of the change in elevation of the streambed between a point adjacent and perpendicular to the most downstream point of the proposed structure and the streambed at the downstream location used in (B.i) above.

iii. The lowest floor, including basement, of non-residential structures shall be elevated not less than two feet above a reference elevation that is determined as follows, or together with attendant utility and sanitary facilities be flood proofed to this required elevation.

a) The elevation of the lowest point where stormwater would overtop the curb, pavement, fill material, etc. above the nearest downstream culvert pipe, bridge, dam, etc. that crosses the adjacent stream shall be determined.

b) The reference elevation shall be the sum of the elevation determined in (b.i) above plus the amount of the change in elevation of the streambed between a point adjacent and perpendicular to the most downstream point of the proposed structure and the streambed at the downstream location used in (b.i) above.

iv. The standards in this subsection shall not apply when the proposed project involves the expansion of an existing building, or no part of the proposed expansion shall be closer to the adjacent streambed that the perpendicular distance between the closest point of the existing structure and the adjacent streambed.

D. GATEWAY CORRIDOR OVERLAY (GCO) DISTRICT

1. Purpose and Intent

The Gateway Corridor Overlay (GCO) district regulations are intended to enhance the visual appeal of certain roadways in the City, and to:

a. Designate, preserve, and enhance key roadways that serve as gateways to the City in order to create aesthetically pleasing and welcoming entryways for residents and visitors;

b. Capitalize on the development potential within "Opportunity Corridors" as designated in the adopted policy guidance;

c. Encourage redevelopment and investment in underutilized, outdated, or otherwise "Challenged Corridors," as designated in the City's comprehensive plan; and

d. Address development issues of special concern along these gateways, with specific requirements which relate to use, development form, traffic movement, access, environment, landscaping, visual quality, image, and aesthetics.

2. Gateway Corridor Plan Required

a. Prior to establishment of a GCO district for a specific gateway corridor, a gateway corridor plan for the specific area shall be adopted by the City Council.

b. The gateway corridor plan shall describe the conditions, boundaries, development goals, and standards for the proposed GCO district. The plan shall, at a minimum, address the following:

i. The unique qualities of the corridor, such as significant buildings, views and vistas, and natural features which lend themselves to special consideration.

ii. The value of the corridor as an entryway to the City which can influence the perception of citizens and persons or businesses considering investment in the City.

iii. Transportation conditions on the corridor, including vehicular access, dedication of right-of-way, public transit, pedestrian and bicycle circulation, driveway limitations, and traffic impact.

iv. The arrangement of uses along the corridor which shall create a visually pleasing impression.

v. The vision and general goals for development along the corridor, and specific recommendations for regulatory changes to achieve the vision and development goals.

3. Gateway Corridor Plan Approval

The gateway corridor plan shall be forwarded to the Planning and Zoning Commission for its review and recommendation. Upon completion of its review, the plan along with the recommendations of the Planning and Zoning Commission shall be forwarded to the City Council for review. A gateway corridor plan shall be approved by the City Council for a specific gateway corridor before establishment of a GCO sub-district for the specific corridor.

4. Establishment of a Gateway Corridor Overlay Sub-district

a. The standards establishing a specific GCO sub-district may only be established in accordance with Section 2.4.P, Rezoning, and Section 2.4.W, Text Amendment.

b. Corridor-specific standards shall be developed and included as a sub-district in this section.

c. Nothing shall limit amendment to Section 3.20.D.5, General Standards Applicable to All Gateway Corridor Sub-districts.

5. General Standards Applicable to All Gateway Corridor Sub-districts

a. GCO district standards for a specific gateway corridor shall follow the policy direction in the gateway corridor plan approved by the City Council. The GCO district shall, at a minimum, address the following elements:

i. The name and boundaries of the overlay district.

ii. The development along the corridor to which the overlay district applies (typically all new development and certain expansions and remodels).

iii. Any variations from the requirements of the underlying conventional zoning district(s).

iv. The uses allowed in the district, if appropriate.

v. The development and form standards of the overlay district, including some or all of the following:

a) Dimensions (height, setbacks, build-to-lines, etc.);

b) Streetscape landscaping;

c) Sidewalks and pedestrian circulation features;

d) Off-street parking;

e) Landscaping and tree preservation/reforestation;
f) Open space set-asides;
g) Signage;
h) Exterior lighting;
i) Building design and form;
j) Transit amenities; and
k) Road access and traffic circulation.

vi. The extent to which a general or district-specific standard may be modified.

b. Outdoor advertising is prohibited in the GCO.

6. Maple Avenue (GCO-M) Sub-district

<placeholder>

E. LOCAL HISTORIC OVERLAY (LHO) DISTRICT

1. Purpose and Intent

These standards establish the procedures for creation or modification of a local historic overlay (LHO) district as well as the designation of an individual historic property. These standards are intended to:

a. Promote the sound and orderly preservation and conservation of historic properties and areas;
b. Protect, safeguard, and conserve the heritage of the City and any individual properties within the City that embody important elements of its social, economic, cultural, political, or architectural history or prehistory;
c. Provide for the education, pleasure, and enrichment of residents and all citizens;
d. Foster civic beauty;
e. Stabilize and enhance property values; and
f. Contribute to the improvement of the general health and welfare of the City of Burlington.

2. Establishment of a Local Historic Overlay (LHO) District

(AMENDED 10.20.20 UDOTA-03-20)

a. Character of the Local Historic Overlay District

i. Local historic overlay (LHO) districts established in accordance with these standards and Section 160D-944 of the North Carolina General Statutes, shall consist solely of areas deemed to be of special significance in terms of any of the following:

a) Their history;
b) Prehistory;
c) Architecture; or
d) Cultural significance.

ii. In addition, development, buildings, or structures within a LHO shall possess integrity of design, setting, materials, feeling, and association.

b. Designation of Local Historic Overlay Districts

i. The City Council may designate, and amend by ordinance, one or more local historic overlay districts, the boundaries of which shall be indicated on the Official Zoning Map.
ii. Designation of land to be included in an LHO shall only take place in accordance with the standards in this section, Section 2.4.P, Rezoning, and Section 160D-944 of the North Carolina General Statutes.
iii. Uses of land within an LHO shall be subject to the underlying conventional or conditional zoning district requirements in accordance with Table 4.2.C, Principal Use Table.
iv. Any building construction, reconstruction, alteration, restoration, demolition, moving, or any other activity that alters the exterior appearance of any building, structure, appurtenant feature, or site feature within a historic district, shall require a certificate of appropriateness issued in accordance with Figure 2.4.D.4, Certificate of Appropriateness Procedure.

c. Required Designation and Amendment Procedures

Designation of a new LHO or amendment to the boundary of an existing LHO shall only take place in accordance with Section 2.4.P, Rezoning, and the following:

i. Historic Preservation Commission Report

The Historic Preservation Commission shall prepare an investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in the LHO and a description of the LHO boundaries.

ii. Analysis by the NC Department of Cultural Resources

a) The City shall forward the report along with a written request for review to the North Carolina Department of Cultural Resources. The Department, or a designee, shall review the report and provide a written recommendation within 30 calendar days of receipt.
b) Failure of the Department to provide a written recommendation with 30 calendar days shall relieve the City of any responsibility for awaiting such recommendation and the City may proceed with its consideration.

iii. City Council Decision

The City Council shall review the report and recommendations and make a decision in accordance with Section 2.4.P, Rezoning.

d. Exceptions to Required Dimensional and Parking Regulations

i. LHO Dimensional Standards Control

Development within an LHO shall comply with the density and dimensional standards applicable in the underlying conventional or conditional zoning district unless different requirements are applied within the LHO. In cases where density or dimensional standards in the LHO differ from those applicable in an underlying zoning district, the standards in the LHO shall control.

ii. Restoration to Pre-Existing Nonconforming Structure

a) Restoration, reconstruction, repair, or other development activity associated with a lawfully-established nonconforming building, structure, or site in an LHO shall comply with the applicable provisions and requirements in CHAPTER 9. NONCONFORMITIES.

b) Where the Historic Preservation Commission finds that an authentic restoration or reconstruction of a building or structure in the LHO that existed at the same location, but the building or structure does not comply with the dimensional requirements of the applicable zoning district, the Historic Preservation Commission may recommend to the Board of Adjustment that a variance be issued in accordance with Section 2.4.BB, Zoning/Subdivision Variance. The Board of Adjustment shall give deference to the recommendation by the Historic Preservation Commission except in cases where approval of a variance would constitute a threat to public health, safety, or welfare.

c) In no instance shall a variance be issued that authorizes a use type or development activity that is prohibited in the underlying conventional or conditional zoning district.

iii. Reduction in Off-Street Parking Requirements

Where the Historic Preservation Commission finds that compliance with the required number of off-street parking spaces or parking area design standards would render the building or site incompatible with the historic aspects of the LHO, it may recommend to the Board of Adjustment that a variance be issued in accordance with Section 2.4.BB, Zoning/Subdivision Variance. The Board of Adjustment shall give deference to the recommendation by the Historic Preservation Commission except in cases where approval of a variance would create problems due to increased on-street parking in the area, or otherwise constitute a threat to public health, safety, or welfare.

e. Elements within a Public Right-of-Way

(AMENDED 10.20.20 UDOTA-03-20)

i. Any items restored, reconstructed, or maintained on, over, or within a public sidewalk, public alley, or other similar public right-of-way shall be the responsibility of the owner, their heirs, and assigns.

ii. The owner's restoration, reconstruction, or maintenance of any such item within such areas shall constitute the owner's agreement to protect and hold the City blameless against any and all liability, cost, damage, or expense suffered by the City as a result of or growing out of the restoration, reconstruction, or maintenance thereof.

iii. Such items, so approved, may be lawfully restored, reconstructed, or maintained. Any such item projecting over the right-of-way of a street or alley shall be, at its lowest point, 14 feet above the travel way.

3. Designation of Historic Properties

a. Adoption of an Ordinance of Designation

(AMENDED 10.20.20 UDOTA-03-20)

The City Council may adopt, amend, or repeal an ordinance designating one or more historic properties within the City's jurisdiction as historic properties only in accordance with the standards of this section and Section 160D-946 of the North Carolina General Statutes.

b. Ordinance Requirements

i. The ordinance shall describe each property designated therein, the owners of the property, elements of the property that are integral to its historical, architectural, or archaeological significance, and any other information the Historic Preservation Commission and the City Council deem necessary.

ii. For each building, structure, site, area, or object designated as a historic property, the ordinance shall require that the waiting period set forth in Section 2.4.D.7, Delay in Relocation, Demolition, or Destruction, be observed prior to its demolition.

iii. For each designated historic property, the ordinance may also provide for a suitable sign on the property stating that the property is a designated historic property. If the owner consents, the sign shall be placed upon the property. If the owner objects, the sign shall be placed on a nearby public right-of-way.

c. Criteria for Historic Property Designation

(AMENDED 10.20.20 UDOTA-03-20)

No property, building, structure, site, area, or object shall be recommended for designation as a historic property unless the Historic Preservation Commission and City Council find it to be of special significance in terms of its historical, pre-historical, architectural, or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling, or association in accordance with Section 160D-945 of the North Carolina General Statutes.

d. Required Historic Property Designation Procedures

No ordinance designating a historic building, structure, site, area, or object as a historic property nor any amendment thereto may be adopted, nor may any property be accepted or acquired by the Historic Preservation Commission or the City Council until all the following procedural steps have been taken:

i. Application by Property Owner

(AMENDED 10.20.20 UDOTA-03-20)

a) To receive consideration for designation of a property as historic, a property owner must prepare an application meeting the minimum standards contained in Section 3.20.E.3.d.iii, Standards for Designation Reports, and the Procedures Manual.

b) The Designation Committee of the Historic Preservation Commission is available to meet with the applicant at an early stage in the process of preparing the application in order to advise the applicant informally concerning the Commission's standards for reports, the criteria for designation, the boundaries of the property to be designated, and other relevant matters.

c) The Designation Committee, collectively and individually, shall refrain from any indication of approval or disapproval, but shall not for that reason, be barred from reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the committee at such information meeting(s) shall in any way be official or binding upon the Historic Preservation Commission.

d) An application for designation prepared by the property owner and meeting all of the standards contained in Section 3.20.E.3.d.iii, Standards for Designation Reports, and the Procedures Manual, must be received at least 14 calendar days prior to the next meeting of the Historic Preservation Commission to be considered at that meeting.

ii. Designation Report by Historic Preservation Commission

a) As an alternative to receipt of an application by a property owner for designation of a historic property, the Designation Committee of the Historic Preservation Commission may review the inventory of properties of historical, architectural, archaeological, and cultural significance and recommend the designation of historic properties.

b) If the Historic Preservation Commission accepts the recommendation, it shall prepare a report meeting the minimum standards in the following Section 3.20.E.3.d.iii, Standards for Designation Reports.

c) The Chair of the Historic Preservation Commission shall notify by mail (mailed not less than seven calendar days prior to the meeting at which the matter is to be heard) the owners of the designated property and the owners of land abutting the designated property.

iii. Standards for Designation Reports

(AMENDED 10.20.20 UDOTA-03-20)

Applications for designation prepared by a property owner or designation reports by the Designation Committee shall be prepared in accordance with the requirements in the City's historic design standards, which may be obtained from the Planning and Community Development Department, as well as the requirements in Section 160D-946 of the North Carolina General Statutes.

iv. Consideration of the Report

a) The Historic Preservation Commission may accept, amend, reject, or recommend further study associated with the designation report.

b) If the designation report is accepted by the Historic Preservation Commission, the Planning Director shall forward it to the Division of Archives and History, North Carolina Department of Cultural Resources, for review.

v. Review by the Department of Cultural Resources

(AMENDED 10.20.20 UDOTA-03-20)

a) The Department, or a designee, shall review the report in accordance with Section 160D-946 of the North Carolina General Statutes, and provide a written recommendation within 30 calendar days of receipt.

b) Failure of the Department to provide a written recommendation with 30 calendar days shall relieve the City of any responsibility for awaiting such recommendation and the City may proceed with its consideration.

vi. Submission to City Council

If the Department of Cultural Resources prepares a set of comments and recommendations, the Historic Preservation Commission shall submit a copy of the designation report, materials from the Department of Cultural Resources, and a copy of the proposed ordinance of designation to the City Council.

vii. Public Hearing

a) The Historic Preservation Commission and the City Council shall hold a joint or separate public hearing(s) on the proposed ordinance.

b) Reasonable notice of the time and place of each hearing shall be given in accordance with the standards for a rezoning found in Section 2.3.H, Public Notification.

viii. Decision by City Council

Following the joint or separate public hearing(s), the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

ix. Written Notification of Decision

(AMENDED 10.20.20 UDOTA-03-20)

a) Upon adoption of the ordinance, the owners and occupants of each designated historic property shall be given written notification of such designation in accordance with Section 2.3.K, Written Notice of Decision.

b) One copy of the ordinance and each amendment thereto shall be filed by the Historic Preservation Commission in the office of the Register of Deeds of the county where the property is located. Each historic property designated in the ordinance shall be indexed accordingly to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office.

c) A second copy of the ordinance and each amendment thereto shall also be kept on file in the office of the City Clerk and be made available for public inspection at any reasonable time.

d) A third copy of the ordinance and each amendment thereto shall be given to the City or County Building Inspector. The fact that a building, structure, site, area or object has been designated a historic property shall be clearly indicated on all official tax maps for such period as the designation remains in effect.

x. Recordation with Tax Supervisor

Upon adoption of the historic property ordinance or any amendment thereto, the Historic Preservation Commission shall give notice thereof to the tax supervisor of the county where the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes, in accordance with Section 105-278 of the North Carolina General Statutes.

e. Designation of Interior Features

(AMENDED 10.20.20 UDOTA-03-20)

i. In addition to the exterior features of a building, structure, or site, specific interior features of architectural, artistic, or historical significance in publicly-owned properties and of privately-owned properties that the owner has given consent for interior review may be designated as historic properties in accordance with Section 160D-947 of the North Carolina General Statutes.

ii. This designation authority does not apply to interiors of buildings or structures owned by the State of North Carolina.

iii. The consent of an owner for interior review of privately-owned properties shall bind future owners and/or successors in title, provided such consent has been filed in the office of the Register of Deeds of the county where located and indexed according to the name of the owner in the grantee and grantor indexes.

iv. The historic properties designation ordinance shall specify the interior features to be reviewed and the specific nature of the Historic Preservation Commission's jurisdiction over the interior.

4. Architectural and Historic Standards

(AMENDED 10.20.20 UDOTA-03-20)

a. The Historic Preservation Commission shall adopt detailed architectural and historic standards for all designated historic districts and designated historic properties. These standards shall take into account the historic and architectural significance and visual and historic elements of properties and of structures unique to the district.

b. In reviewing a certificate of appropriateness, the Commission shall consider the exterior form and appearance of any proposed addition or modification to a historic property or structure within the district in accordance with these adopted standards.

c. All adopted architectural and historic standards shall be updated at least every five years by the Historic Preservation Commission. Amendments to the standards shall be considered by the Commission only at advertised public hearings.

d. At a minimum, the standards shall contain criteria addressing the following factors:

i. Historic Significance or Quality

The presence of historic quality or historical significance worthy of protection may be found in buildings, sites, structures, objects, or entire districts in the City. Integrity of location, design, setting, materials, workmanship, feeling, and association are important elements in determining the extent and type of protection required. Association with historic significance might take the following forms:

a) Events that have made a significant contribution to the broad patterns of local, State, or national history;

b) Association with the lives of persons significant to the City, State, or national history;

c) Embodiment of distinctive characteristics of a type, period, or method of construction;

d) Representation of a period or method of construction of an acknowledged master;

e) Examples of high artistic value;

f) Representation of a significant and distinguishable entity whose components may lack individual distinction; or

g) Entities that have yielded or may yield information in prehistory or local, State, or national history.

ii. Form and Appearance of Exterior Features

a) In addition to historic significance or quality, the standards shall also address the form and appearance of exterior features. Exterior features, include, but are not limited to:

i) The architectural form and style;

ii) General design and general arrangement of the exterior of a building or other structure;

iii) The kind and texture of the building material;

iv) The size and scale of the building; and

v) The type, pattern and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures.

b) In the case of signs, exterior features shall be construed to mean the style, material, size, and location of all such signs.

c) In considering exterior form and appearance, the Historic Preservation Commission may take into account, but is not limited to, the following elements to ensure that they are consistent with the historic or visual character of characteristics of the district:

i) The height of the building;
ii) The setback and placement on lot of the building, including lot coverage and orientation;
iii) Exterior construction materials, including textures, patterns, and color;
iv) Architectural detailing, such as lintels, cornices, brick bond, foundation materials, and decorative wooden features;
v) Roof shapes, forms, and materials;
vi) Proportions, shapes, positioning and locations, patterns, and sizes of any elements of fenestration;
vii) General form and proportions of buildings and structures;
viii) Appurtenant fixtures and other features such as lighting, historic signs, outdoor advertising signs or other types of signs, with the exception of traffic control signs;
ix) Structural condition and soundness;
x) Use of local or regional architectural traditions;
xi) Significant archaeological features of the area; and
xii) Effect of trees and other important landscape and natural features.

5. Appropriations

a. The City Council is authorized to make appropriations to the Historic Preservation Commission established pursuant to this Ordinance in any amount that it may determine necessary for the expenses of the operation of the Historic Preservation Commission and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation, and management of historic buildings, structures, sites, areas, or objects designated as historic properties or within designated local historic overlay districts, or of land on which historic buildings or structures are located or to which they may be removed.

b. All lands, buildings, structures, sites, areas, or objects acquired by funds appropriated by the City shall be acquired in the name of the City of Burlington unless otherwise provided by the City Council. So long as owned by the City, historic properties may be maintained by or under the supervision and control of the City. However, all lands, buildings, or structures acquired by the Historic Preservation Commission from funds other than those appropriated by the City may be acquired and held in the name of the Historic Preservation Commission, the City of Burlington, or both.

6. Certain Changes Not Prohibited

Nothing in this Ordinance shall be construed to prevent:

a. The ordinary maintenance or repair of any exterior architectural feature in the LHO or of a historic property that does not involve a change in design, material, or appearance thereof.

b. The construction, reconstruction, alteration, restoration, moving, or demolition of any historic feature to protect the public safety because of any unsafe or dangerous condition, as certified by Building Inspector or other City official.

c. A property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations.

d. The maintenance, or in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the Historic Preservation Commission.

F. WATER SUPPLY WATERSHED PROTECTION OVERLAY (WPO) DISTRICT

1. District Established

The Water Supply Watershed Protection Overlay (WPO) district is hereby established in accordance with Section 143-214.5 of the North Carolina General Statutes and this section.

2. Purpose and Intent

The purpose of the Water Supply Watershed Protection Overlay (WPO) district is to ensure the availability of public water supplies at a safe and acceptable level of water quality. More specifically, these standards are intended to:

a. Ensure compliance with all applicable State and federal laws governing the protection of water supply watersheds;

b. Protect those portions of designated water supply watersheds which lie closest to existing and proposed water supply reservoirs from activities which could degrade water quality in the reservoirs;

c. Minimize pollution entering drinking water sources to assure the public health; and

d. Encourage a low intensity of land development in the most sensitive portions of the water supply watershed.

3. Applicability

(AMENDED 10.20.20 UDOTA-03-20)

Except for development exempted in accordance with Section 3.20.F.4, Exemptions, the standards in this section shall apply to all development on land located within the WPO as indicated on the Official Zoning Map and North Carolina Department of Environmental Quality's Water Supply Watershed Map.

4. Exemptions

An existing vacant lot owned by the same individual prior to the effective date of these WPO standards may be developed for single-family residential purposes without complying with these standards.

5. Effective Date

The standards in this section became effective on March 5, 1996.

6. Watershed Areas Distinguished

a. The Lake Mackintosh Watershed is the only water supply watershed in the City's jurisdiction subject to these standards, and it is divided into two distinct areas based on proximity to potable water intake facilities that deliver water to the area. The two distinct areas are:

i. The WS-IV-CA Watershed Critical Area (WCA); and

ii. The Balance of the Watershed (BOW).

b. The WCA and BOW are depicted on the map entitled "Watershed Protection Map of Burlington, North Carolina", which is hereby adopted and incorporated by reference into these regulations.

c. The Watershed Protection Map is on file and is available for public inspection in the offices of the Planning Department during normal working hours.

d. The WCA is closer to the water intake facility, and as such has more restrictive standards on development density and configuration.

7. Procedures for Development

(AMENDED 10.20.20 UDOTA-03-20)

a. Any development proposed inside the WPO shall require a Water Supply Watershed Protection Permit as described in Section 2.4.Z, Water Supply Watershed Protection Permit.

b. No building or built-upon area shall be erected, moved, enlarged, or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Stormwater Administrator.

c. Applicants for development inside the WPO may request to reduce or deviate from the standards described in Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District, by following the procedure described in Section 2.4.AA, Water-Related Variance.

8. Principal Use Provisions

All land within the WPO shall comply with the following allowable and prohibited use requirements.

a. Allowable Uses

i. Agriculture

a) Agricultural uses shall be permitted in the WPO, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation, and Trade Act of 1990.

b) All agricultural activities conducted after January 1, 1993 shall maintain a ten-foot vegetative buffer (or equivalent as determined by the Soil and Water Conservation Commission) along the banks of all perennial streams located within the WPO.

c) Animal operations permitted under 15A NCAC 211.02171 are allowed, as authorized by the Soil and Water Conservation Commission.

ii. Residential

All residential uses identified in Table 4.2.C, Principal Use Table, are permitted within the WPO.

iii. Non-residential

Except for the uses listed in Section 3.20.F.8.b, Prohibited Uses, all non-residential uses (including institutional uses) shall be permitted in the WPO.

iv. Utilities

Utility uses, including subsurface septic tanks and the extension of public sewer lines, are permitted in the WPO.

b. Prohibited Uses

The following uses shall be prohibited within the WPO regardless of whether the use is allowed in the underlying general or conditional zoning district:

i. Sites for land application of residuals or petroleum contaminated soils;
ii. Landfills, incinerators, and waste processors;
iii. Commercial uses that sell, store, or distribute motor fuel or other hazardous materials;
iv. Solid waste management facilities;
v. Airports;
vi. Light or heavy manufacturing uses;
vii. Metal salvage facilities, including junkyards;
viii. Manufacturing, use, or storage of any hazardous production material (HPM) or highly toxic material (HTM) or any material or substance determined by the City Council to be injurious to the public's health, safety, or welfare due to the explosive, flammable, or toxic characteristics of the materials;
ix. Package treatment plants and community sewage facilities unless the public health department with jurisdiction over the area determines that a public health problem can be alleviated by constructing such facilities; and
x. Underground fuel or chemical storage tanks.

c. Hazardous Materials

The City's jurisdiction shall be included in the Alamance County Watershed Management Plan, and an inventory of hazardous materials applicable to the Alamance County Watershed Management Plan shall be maintained in the offices of the Planning Department.

9. Development Standards Applied to Lands in the WCA

The standards in this subsection shall apply to all new development constructed after March 5, 1996 on lands located within the WCA portion of the WPO.

a. Density and Lot Coverage Limitations

i. All new development on land within the WCA portion of the WPO shall be configured either under the low density or the high-density option in accordance with Table 3.20.F, Development Configuration in the WCA.

TABLE 3.19.F: DEVELOPMENT CONFIGURATION IN THE WCA

Density Option	Type of Development	Maximum Number of Dwelling Units Per Acre (#)	Minimum Lot Area (SF)	Maximum Built-Upon Area (% of total lot area)
Low Density	Single-family detached dwellings (traditional configuration)	0.5	80,000 [1]	No limit
	Single-family detached dwellings (cluster configuration) [2]	0.5	None	6
	All other uses	No limit	None	6 [3]
High Density [4]	Single-family detached dwellings (traditional configuration)	1.5	None [5]	No limit
	Single-family detached dwellings (cluster configuration) [2]	1.5	None [5]	24
	All other uses	No limit	None	24 [3]

NOTES:
[1] Excludes any road right-of-way.
[2] Requires compliance with the standards in Section 3.20.F.9.d, Cluster Development.
[3] Built-upon area shall be determined based on the total acreage in the tract to be developed.
[4] The high-density option requires all development to be served by public water, public sewer, and engineered stormwater controls configured in accordance with Section 3.20.F.9.c, Stormwater Runoff Control Requirements.
[5] Minimum lot area of at least one acre is required on all lots within 400 feet of the normal pool level.

ii. Any new development subject to these standards and including an above-ground storage tank with 250 gallons of capacity or more shall submit for approval and comply with a City-approved spill containment plan.

b. Riparian Buffers Required

(AMENDED 10.20.20 UDOTA-03-20)

All development within the WPO shall maintain a 50-foot-wide riparian buffer directly adjacent to surface waters, configured in accordance with the standards in Section 7.3.F, Riparian Area Protection within the Jordan Reservoir Watershed.

c. Stormwater Runoff Control Requirements

(AMENDED 10.20.20 UDOTA-03-20)

Development configured in accordance with the high-density option shall provide stormwater runoff control in accordance with the standards in this section.

i. Stormwater runoff control shall be by use of an approved stormwater control measure (SCM) configured to meet the performance standards of control of the first one inch of rainfall and removal of 85 percent total suspended solids (TSS) and meeting the guidelines in the North Carolina Department of Environmental Quality's Stormwater Design Manual.

ii. All SCMs required by this section shall be designed by a professional with qualifications appropriate for the type of system being employed. Professionals authorized to design an SCM in accordance with these standards include:

a) Professional engineers or landscape architects licensed by the State of North Carolina; and

b) Professional land surveyors in cases when the design represents incidental drainage within a subdivision as provided in Section 89 (C)-3(7) of the North Carolina General Statutes.

iii. When an SCM serves more than one lot, a homeowners' association or other party shall be responsible for the maintenance of the structure(s).

iv. Maintenance of an SCM shall be performed at such time as the designated sediment storage volume of the measure has been lost to sediment or a part of the installation is not functioning as originally designed, as determined by the Stormwater Administrator.

v. The Stormwater Administrator shall inspect SCMs annually, record the results on forms approved or supplied by the North Carolina Division of Water Resources, and notify the responsible party when maintenance or repairs are required.

vi. All required repairs and maintenance shall be performed within 90 days after notice From the Stormwater Administrator.

vii. In case of failure by the responsible party to perform the required maintenance or repairs within the stated period, the City may perform the maintenance or repairs and recover all costs plus an additional 10 percent from the responsible party.

d. Cluster Development

(AMENDED 10.20.20 UDOTA-03-20)

Single-family detached development within the WPO may be clustered in accordance with the following standards:

i. Cluster development shall be configured in accordance with the standards in Table 3.20.F, Development Configuration in the WCA;

ii. All built-upon areas shall be designed and located to minimize runoff impact to the receiving waters and minimize concentrated stormwater flow;

iii. The remainder of the tract not occupied by dwellings shall be considered as an open space set-aside, and shall remain in a vegetated or natural state.

iv. The title to the open space set-aside area shall be conveyed to any of the following:

a) A homeowners' association;

b) To a local government for preservation as a park or open space; or

c) To a conservation organization for preservation in a permanent easement.

v. Where a homeowners' association is not incorporated, a maintenance agreement shall be filed with the property deeds.

10. Standards for Existing Development

Any existing development located within a WPO may be continued and maintained subject to the following:

a. Expansion

i. Expansions to existing structures shall comply with these requirements.

ii. The total built-upon area added to a lot after March 5, 1996 shall not exceed the built-upon requirements of the WCA.

iii. The built-upon area of the existing development is not required to be included in the built-upon area calculations.

b. Reconstruction of Buildings or Built-Upon Areas

Any existing building or built-upon area not in conformance with the restrictions of these standards that has been damaged or removed may be repaired or reconstructed in accordance with the provisions of CHAPTER 9. NONCONFORMITIES.

The total amount of space devoted to a built-upon area may not be increased unless the additional built-upon area meets the requirements in Table 3.20.F, Development Configuration in the WCA.

c. Nonconforming Uses

Lawfully established uses in place prior to the effective date of these standards may be maintained and remain in accordance with the standards in Section 9.2, Nonconforming Uses.

d. Vacant Lots

i. A vacant lot of record may be used for any use allowable in the WPO and the underlying general or conditional zoning district.

ii. Lots of record that do not conform to these standards may be used in accordance with the standards in Section 9.4, Nonconforming Lots of Record.

CHAPTER 4. USE STANDARDS

4.1. Chapter Organization **4-2**
A. Uses Distinguished 4-2
B. Chapter Organization 4-2

4.2. Principal Uses **4-2**
A. Use Organization System 4-2
B. Unlisted Uses 4-2
C. Principal Use Table 4-3

4.3. Prohibited Uses **4-10**
A. Prohibited Everywhere 4-10
B. Prohibited by Overlay District Standards 4-10

4.4. Use-Specific Standards **4-11**
A. Residential Use Types 4-11
B. Institutional Use Types 4-26
C. Commercial Use Types 4-38
D. Industrial Use Types 4-48
E. Agricultural Uses 4-54

4.5. Accessory Uses **4-56**
A. Purpose 4-56
B. Organization of These Standards 4-56
C. Procedure For Establishment 4-56
D. General Standards for Accessory Uses and Structures 4-56
E. Common Accessory Use Table 4-57
F. Specific Standards for Selected Accessory Uses 4-59

4.6. Temporary Uses **4-70**
A. Purpose 4-70
B. Applicability 4-70
C. General Standards for Temporary Uses and Structures 4-70
D. Standards for Specific Temporary Uses 4-71

4.1. CHAPTER ORGANIZATION

A. USES DISTINGUISHED

Chapter 4: Use Standards, contains all the standards related to the use of land in the City's jurisdiction, and is organized by the three types of land uses: principal, accessory, or temporary.

1. Principal uses are the primary, permanent use types proposed on a lot (like a single-family home).
2. Accessory uses are subordinate to the principal use located on the same lot (like a detached garage serving a single-family home).
3. Temporary uses are uses allowed for a short duration of time (like a portable storage container used for the purposes of storing or moving a household's belongings).

B. CHAPTER ORGANIZATION

1. Principal Uses

a. Section 4.2, Principal Uses, explains the use organization system and sets out the summary use table, or the master listing of principal use types and the districts where they are allowed. Individual principal use types are defined in Section 8.4, Definitions.

b. Section 4.4, Use-Specific Standards, sets out the requirements for designated individual use types, regardless of the zoning district where it is located.

c. Section 4.3, Prohibited Uses, identifies the use types that are prohibited throughout the City's jurisdiction.

2. Accessory Uses

Section 4.5, Accessory Uses, sets out the general standards applicable to all accessory uses as well as any additional standards applicable to specific accessory uses.

3. Temporary Uses

Section 4.6, Temporary Uses, sets out the standards for temporary uses, including the districts where allowed, the maximum duration, and any additional standards applicable to specific temporary uses.

4.2. PRINCIPAL USES

A. USE ORGANIZATION SYSTEM

Individual uses of land, or use types, are organized into one of five use classifications as described below.

1. Use Classifications

a. Use classifications are the top tier in the system and are the broadest groupings of land uses. There are five use classifications used in this Ordinance:

i. Residential uses;
ii. Institutional uses;
iii. Commercial uses;
iv. Industrial uses; and
v. Agricultural uses;

b. The primary purpose of the use classifications is to serve as an organizing principal for distinguishing between the different use types.

2. Use Types

a. Use types are the specific individual uses included within a particular use classification.

b. Individual use types are defined in Section 8.4, Definitions.

3. Developments with Multiple Principal Uses

Developments with multiple principal uses, such as shopping centers, shall incorporate only those use types allowed in the applicable zoning district.

B. UNLISTED USES

The Planning Director shall determine whether or not an unlisted use is similar to an existing use type set out in Table 4.2.C, Principal Use Table, based on the definitions in Section 8.4, Definitions, and the standards for unlisted uses in Section 2.4.F, Determination. Nothing shall limit the Planning Director from seeking input from City staff, Planning and Zoning Commission, or City Council in making a determination of how to categorize an unlisted use. In cases where a proposed unlisted use type is not found to be similar to an existing use type, the Planning Director may, but shall not be required to, initiate a text

amendment application to revise the text of this Ordinance to add the use type in accordance with Section 2.4.W, Text Amendment.

C. PRINCIPAL USE TABLE

1. Table Structure

a. Table 4.2.C, Principal Use Table, lists principal use types and indicates whether the principal use type is permitted by-right, by a special use permit, as part of a conditional zoning district, or prohibited in a particular zoning district. It also includes a reference to any applicable specific standards that may apply to a particular use type.

b. Individual use types are listed alphabetically by use classification.

c. The right-most column includes a reference to any applicable use-specific standards associated with a use type. Unless otherwise stated in the standards, a use-specific standard applies to a particular use regardless of the zoning district where it is located.

2. Uses Permitted By-Right

A "P" in a cell of the principal use table indicates that the specific use type is permitted by-right in the corresponding zoning district, subject to compliance with any additional use-specific standards referenced in the principal use table, and any other applicable standards in this Ordinance.

3. Uses Permitted By Special Use Permit

An "S" in a cell of the principal use table indicates that the specific use type is permitted in the corresponding zoning district only upon approval of a special use permit in accordance with Section 2.4.T, Special Use Permit, any additional use-specific standards referenced in the principal use table, and any other applicable requirements of this Ordinance.

4. Uses Permitted in a Conditional Zoning District

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

a. A "C" in a cell of the principal use table indicates that a specific use type is permitted as part of the approval of a CR, COI, CB, or CI conditional zoning district, provided the particular use type is identified on a site plan, concept plan, or as an allowable use type in the conditions of approval establishing the district on a particular lot or site.

b. In no instance shall a use type not specifically identified in a conditional zoning district approval be allowed in the district. Accommodating permitted, but unidentified, uses will require a subsequent rezoning in accordance with Section 2.4.P, Rezoning.

5. Uses Permitted in a Limited Use Zoning District

(AMENDED 1.4.22 UDOTA-1-22)

Any use type permitted in a conventional zoning district shall also be permitted in the same fashion in a corresponding limited use zoning district except for the use types identified in the conditions approved with the application to establish the limited use zoning district.

6. Uses Allowed in a Planned Development District

a. An "A" in a cell of the principal use table indicates that the specific use type is permitted in a planned development district, provided the specific use type is included in the list of potential use types in the master plan or terms and conditions document.

b. Allowed uses are subject to any additional use-specific standards referenced in the principal use table.

c. If a use type is listed as prohibited in a planned development district in Table 4.2.C, Principal Use Table, it may not be included in a master plan or terms and conditions document.

7. Use-Specific Standards

a. When a specific use type is permitted in a zoning district, there may be use-specific standards that are applicable. Such additional standards are referenced in the principal use table column titled "Use-Specific Standards." These standards shall apply to a specific use type regardless of the zoning district, unless otherwise specified.

b. Use types are also subject to any district standards listed in the applicable zoning district in CHAPTER 3. ZONING DISTRICTS.

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

"A" = Allowed if included in master plan or terms and conditions document
"C" = Permitted, subject to Section 2.4.P, Rezoning, applicable use-specific standards, and identified in conditions of approval
"P" = Permitted, subject to applicable use-specific standards
"S" = Permitted subject to Section 2.4.T, Special Use Permit, and applicable use-specific standards
" " (blank cell) = Prohibited or no use-specific standard

Use Type [2]	PC	Residential					Commercial				Indust.			Conditional and Planned Development					Use Specific Standards
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
RESIDENTIAL USE CLASSIFICATION																			
Assisted Living Facility														C	C	C	C	A	4.4.A.1
Boarding/Rooming House							S	S										A	4.4.A.2
Bungalow Court (AMENDED 12.3.19 UDOTA-01-20)				P	P			P										A	4.4.A.3
Continuing Care Retirement Community														C	C	C		A	4.4.A.4
Duplex Dwelling				P	P	P												A	
Family Care Home		P	P	P	P	P	P	P										A	4.4.A.5
Group Home					S	S	S		S									A	4.4.A.6
Halfway House					S		S												4.4.A.7
Live/Work Dwelling						P	P	P	P	P								A	4.4.A.8
Manufactured Dwelling		P																	4.4.A.9
Manufactured Dwelling Park														C					4.4.A.10
Mobile Home																			4.4.A.11
Mobile Home Park																			4.4.A.12
Multi-family Dwelling				P	P	P	P	P	P	P								A	4.4.A.13
Pocket Neighborhood (AMENDED 12.3.19 UDOTA-01-20)				P	P			P										A	4.4.A.14
Nursing Home														C	C	C	C	A	4.4.A.1
Single-Family Attached Dwelling				P	P	P	P											A	4.4.A.15
Single-Family Detached Dwelling		P	P	P	P	P	P	P										A	4.4.A.16
Triplex/Quadriplex				P	P	P												A	4.4.A.17
Upper-Story Residential (AMENDED 10.20.20 UDOTA-03-20)						P		P	P	P								A	4.4.A.18
INSTITUTIONAL USE CLASSIFICATION																			
Adult Day Care Center		S		S	S	P	P	P	P	P								A	4.4.B.1
Airport and Related Facilities																C	C		
Antenna Collocation, Major						P	P	P	P	P	P	P	P					A	4.4.B.2
Antenna Collocation, Minor		P	P	P	P	P	P	P	P	P	P	P	P					A	4.4.B.2
Arboretum or Formal Garden	P	P	P	P	P	P	P	P	P									A	
Auditorium						P		P	P	P								A	4.4.B.3
Blood/Tissue Collection							P		P									A	
Broadcasting Studio						S	P		P	P	P	P	P					A	4.4.B.4

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

"A" = Allowed if included in master plan or terms and conditions document
"C" = Permitted, subject to Section 2.4.P, Rezoning, applicable use-specific standards, and identified in conditions of approval
"P" = Permitted, subject to applicable use-specific standards
"S" = Permitted subject to Section 2.4.T, Special Use Permit, and applicable use-specific standards
" " (blank cell) = Prohibited or no use-specific standard

Use Type [2]	PC	Residential					Commercial				Indust.			Conditional and Planned Development					Use Specific Standards
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
Cemetery, Columbarium, or Mausoleum														C	C	C	C	A	4.4.B.5
Child Day Care Center		S		S	S	P	P	P	P	P								A	4.4.B.6
College or University						P	P		P	P	P							A	
Community/Youth/Senior Center				P	P	P	P	P	P	P								A	4.4.B.7
Community Garden		P	P	P	P	P	P	P	P	P								A	
Coliseum, Convention/Conference Center									P		P	P						A	4.4.B.8
Correctional Facility																	C		
Cultural Facility, Library, or Museum						P	P	P	P	P								A	
Drug/Alcohol Treatment							S				P							A	4.4.B.9
Fire/EMS/Police Station (AMENDED 1.4.22 UDOTA-1-22)		P	P	P	P	P	P	P	P	P	P	P	P	C				A	
Fraternal Club or Lodge					P	P	P	P	P	P	P							A	4.4.B.10
Government Administration/Office (AMENDED 1.4.22 UDOTA-1-22)		P	P	P	P	P	P	P	P	P	P	P	P					A	
Government Maintenance, Storage, Distribution (AMENDED 1.4.22 UDOTA-1-22)		P	P	P	P	P	P	P	P		P	P	P					A	
Helicopter Landing Pad									P	P	P	P	P		C			A	4.4.B.11
Hospital							P		P									A	4.4.B.12
Laboratory						P	P	P	P	P	P	P	P					A	
Outpatient Treatment Facility						P	P	P	P	P	P							A	
Park (public or private)	P	P	P	P	P	P	P	P	P	P								A	
Passenger Terminal (rail or bus)									P	P	P	P	P		C			A	
Police/Fire Training Facility																	C	A	
Post Office						P	P	P	P	P	P	P	P					A	
Psychiatric Treatment Facility							P		P		P							A	
Religious Institution		P	P	P	P	P	P	P	P	P	P							A	4.4.B.13
School, Elementary				S	S	P	P	P	P	P								A	
School, High/Middle				S	S	P	P	P	P									A	4.4.B.14
School, Vocational						P	P	P	P		P	P	P					A	4.4.B.15
Small Wireless Facility		P	P	P	P	P	P	P	P	P	P	P	P					A	4.4.B.16
Telecommunications Tower, Major													S			C	C	A	4.4.B.17

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

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"S" = Permitted subject to Section 2.4.T, Special Use Permit, and applicable use-specific standards
" " (blank cell) = Prohibited or no use-specific standard

Use Type [2]	PC	Residential					Commercial				Indust.			Conditional and Planned Development					Use Specific Standards
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
Telecommunications Tower, Minor or Concealed		P	P	P	P	P	P	P	P	P	P	P	P	C	C	C	C	A	4.4.B.17
Urgent Care						P	P	P	P		P							A	
COMMERCIAL USE CLASSIFICATION																			
Adult Bookstore, Video Store									P		P					C	C		4.4.C.1
Adult Cabaret									P		P					C	C		4.4.C.1
Adult Motel									P		P					C	C		4.4.C.1
Adult Use, Other									P		P					C	C		4.4.C.1
Aircraft Parts, Sales, and Maintenance									P		P	P	P					A	
Animal Day Care						P		P	P		P		P					A	4.4.C.2
Animal Grooming						P			P	P						C	C	A	4.4.C.3
Animal Shelter																C	C		4.4.C.4
Automobile Repair and Servicing (without painting/bodywork)									P		P	P	P					A	4.4.C.5
Automobile Sales or Rentals									P		P							A	4.4.C.6
Automotive Painting/Body Shop									P		P		P					A	4.4.C.7
Automotive Parts and Accessory Sales								P	P	P	P							A	
Automotive Towing and Storage Lot (AMENDED 3.17.20 UDOTA-02-20)									P		P	P	P					A	4.4.C.8
Bar, Cocktail Lounge, or Private Club						P			P	P	P							A	4.4.C.9
Bed and Breakfast			P	P	P	P	P	P	P	P								A	4.4.C.10
Boat and Marine Rental, Sales, and Service									P		P	P	P					A	
Bottle Shop (with on premise consumption)						P		S	P	P	P							A	4.4.C.11
Bulky Items Sales									P		P							A	4.4.C.12
Business Incubator						P	P	P	P	P	P	P	P					A	4.4.C.13
Campground									P									A	4.4.C.14
Car Wash or Automobile Detailing									P		P							A	4.4.C.15
Catering Establishment						S	P		P	P	P	P						A	
Check Cashing/Payday Lending									P		P							A	
Coffee Shop (AMENDED 1.4.22 UDOTA-1-22)						P	P	P	P	P	P							A	4.4.C.16
Computer-related Service						P	P	P	P	P								A	

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

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" " (blank cell) = Prohibited or no use-specific standard

Use Type [2]	PC	Residential					Commercial				Indust.			Conditional and Planned Development					Use Specific Standards
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
Convenience Store (no gasoline sales)						P		P	P	P	P	P						A	
Convenience Store (with gasoline sales)						P		P	P		P							A	4.4.C.17
Co-Working Space						P	P	P	P	P	P	P						A	4.4.C.18
Electronic Gaming Operation (AMENDED 12.3.19 UDOTA-01-20) (AMENDED 3.17.20 UDOTA-02-20)																C			4.4.C.19
Equipment and Tool Rental									P		P								
Event Venue (AMENDED 3.17.20 UDOTA-02-20)									P	P	P	P						A	4.4.C.20
Fairgrounds																C	C	A	
Financial Service						P	P	P	P	P								A	4.4.C.21
Flea Market									P		P							A	4.4.C.22
Funeral-related Service							P		P		P							A	4.4.C.23
Golf Course			P	P	P	P		P	P									A	4.4.C.24
Golf Driving Range									P									A	4.4.C.25
Gymnasium/Fitness Center						P		P	P	P	P							A	4.4.C.26
Hair, Nails, and Skin-related Service						P	P	P	P	P								A	
Heavy Equipment Sales, Rental, and Repair									P		P	P	P					A	4.4.C.27
Hotel or Motel						P			P	P	P							A	
Indoor Commercial Recreation						P		P	P	P	P							A	
Kennel, Indoor/Outdoor									P	P	P	P	P				C		4.4.C.28
Large Format Retail									P		P							A	4.4.C.29
Laundry and Cleaning Service						P		P	P	P	P	P	P					A	4.4.C.30
Microbrewery or Microdistillery						P			P	P	P	P	P					A	4.4.C.31
Nightclub or Dance Hall									P	P								A	4.4.C.32
Office, Medical						P	P	P	P	P	P							A	
Office, Professional						P	P	P	P	P	P							A	
Office, Sales and Service						P	P	P	P	P	P							A	
Outdoor Commercial Recreation									P		P							A	4.4.C.33
Outdoor Storage									P		P	P	P			C	C	A	4.4.C.34
Packaging and Printing Service						P			P	P								A	
Park and Ride Facility					S	P	P	P	P	P	P	P						A	

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

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"P" = Permitted, subject to applicable use-specific standards
"S" = Permitted subject to Section 2.4.T, Special Use Permit, and applicable use-specific standards
" " (blank cell) = Prohibited or no use-specific standard

Use Type [2]	PC	Residential					Commercial				Indust.			Conditional and Planned Development					Use Specific Standards
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
Parking Lot					S	P	P	P	P	P	P	P	P					A	4.4.C.35
Parking Structure					P	P	P	P	P	P	P	P	P					A	4.4.C.36
Pharmacy (AMENDED 3.17.20 UDOTA-02-20)						P		P	P	P	P					C	C	A	4.4.C.37
Pool Hall									P	P	P							A	
Racetrack																C	C	A	
Recreational Vehicle Park									P		P							A	4.4.C.38
Repair Shop						P		P	P	P	P				C	C	C	A	4.4.C.39
Restaurant, Indoor/Outdoor Seating (AMENDED 3.17.20 UDOTA-02-20) (AMENDED 10.20.20 UDOTA-03-20)						P	P	P	P	P	P							A	4.4.C.40
Restaurant with Drive-Through/Drive-up Service									P		P							A	4.4.C.40
Restaurant, Walk-up Only (AMENDED 10.20.20 UDOTA-03-20)						P	P	P	P	P	P							A	4.4.C.40
Retail Use, Other						P		P	P	P	P							A	
Self Service Storage, External Access									P		P	P	P					A	4.4.C.41
Self Service Storage, Internal Access						P		P	P	P	P	P	P					A	4.4.C.41
Specialty Eating Establishment						P	P	P	P	P	P							A	4.4.C.42
Tattoo and Piercing Establishment						P		P	P	P	P		P					A	
Theatre						P			P	P	P	P	P					A	
Truck Stop									P		P	P	P					A	4.4.C.43
Veterinary Clinic									P	P	P	P	P				C		4.4.C.44
INDUSTRIAL USE CLASSIFICATION																			
Asphalt or Concrete Plant (AMENDED 1.4.22 UDOTA-1-22)													P				C		4.4.D.1
Contractor Services/Yard											P	P	P				C	A	4.4.D.2
Electrical or Plumbing Fabrication											P	P	P					A	
Extractive Industry																	C		4.4.D.3
Flex Space											P	P	P					A	4.4.D.4
Fuel Oil/Bottled Gas Distributor									S		P	P	P					A	4.4.D.5
Gas Energy Conversion											S	S	S				C		
General Industrial Services											P	P	P					A	
Landfill																	C		4.4.D.6
Makerspace						P		P	P	P	P	P	P					A	4.4.D.7

TABLE 4.2.C: PRINCIPAL USE TABLE [1]

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"C" = Permitted, subject to Section 2.4.P, Rezoning, applicable use-specific standards, and identified in conditions of approval
"P" = Permitted, subject to applicable use-specific standards
"S" = Permitted subject to Section 2.4.T, Special Use Permit, and applicable use-specific standards
" " (blank cell) = Prohibited or no use-specific standard

Use Type [2]	PC	Residential					Commercial				Indust.			Conditional and Planned Development					Use Specific Standards
		RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI	CR	COI	CB	CI	PD & PDD	
Manufacturing, Heavy												S	P					A	4.4.D.8.a
Manufacturing, Light									P	P	P	P	P					A	4.4.D.8.b
Metal Fabrication											P	P	P						
Public Convenience Center/Transfer Station																	C		4.4.D.9
Recycling Center																	C		4.4.D.10
Research and Development							P		P		P							A	
Salvage or Junkyard																	C		4.4.D.11
Solar Farm											P	P	P					A	4.4.D.12
Truck or Freight Terminal									P		P	P	P					A	4.4.D.13
Utility, Major																	C	A	4.4.D.14
Utility, Minor	P	P	P	P	P	P	P	P	P	P	P	P	P					A	4.4.D.14
Warehouse, Distribution									P		P	P	P					A	4.4.D.15
Warehouse, Storage									P		P	P	P						4.4.D.15
Waste Composting																	C		
Wholesale Sales									P		P	P	P					A	4.4.D.16
Wind Energy Conversion											P	P	P				C		4.4.D.17
AGRICULTURAL USE CLASSIFICATION																			
Agriculture and Horticulture		P	P	P	P		P	P	P		P	P	P					A	4.4.E.1
Agriculture Support Services									P		P	P	P					A	4.4.E.2
Animal Husbandry														C	C		C	A	4.4.E.3
Farmer's Market						P		P	P	P								A	4.4.E.4

NOTES:
[1] Some use types may be further limited in allowable location or process for establishment in accordance with Section 4.3, Prohibited Uses, or Section 3.20, Overlay Districts.
[2] Additional information on a particular use type is available in Section 8.4, Definitions.

4.3. PROHIBITED USES

A. PROHIBITED EVERYWHERE

1. The following use types are not listed in Table 4.2.C, Principal Use Table, and are prohibited throughout the City's jurisdiction in all zoning districts.
2. In cases where one or more of these uses is lawfully established and in operation prior to November 1, 2019, the use shall be subject to the provisions in Section 1.10, Transitional Provisions.

a. Agricultural Uses

i. Concentrated animal feeding operations; and
ii. Slaughterhouses.

b. Commercial Uses

i. Outdoor advertising or billboards, except where prohibition is preempted by State or federal law. Outdoor advertising lawfully established prior to November 1, 2019, may be permitted to continue as a nonconforming use only in accordance with CHAPTER 9. NONCONFORMITIES, and Sections 136-126 through 136-140.1 of the North Carolina General Statutes; and
ii. Outdoor shooting ranges.

c. Industrial Uses

i. Acetylene gas manufacture;
ii. Acid manufacture;
iii. Ammonia, bleaching powder, or chlorine manufacture;
iv. Brick, tile, or terra cotta manufacture;
v. Cellophane manufacture;
vi. Creosote manufacture or treatment plants;
vii. Distillation of bones, coal, petroleum, refuse, tar, or wood;
viii. Explosives, ammunition, fireworks, or gunpowder manufacture;
ix. Fat rendering, or production of fats and oils from animal or vegetable products by boiling or distillation;
x. Garbage, offal, or animal reduction and processing;
xi. Glue and size manufacture;
xii. Hazardous materials handling or storage;
xiii. Leather and leather products manufacturing involving tanning;
xiv. Linseed oil, shellac, turpentine manufacture or refining;
xv. Nitrogenous tankage, fish meal or manufacture of any fertilizer materials carrying an objectionable odor;
xvi. Oilcloth or linoleum manufacture;
xvii. Ore reduction;
xviii. Pulp mills; and
xix. Vinegar manufacturing.

d. Institutional Uses

i. Package treatment plant wastewater disposal systems that discharge to surface waters; and
ii. Storage or processing of radioactive or infectious waste.

e. Residential Uses

(AMENDED 10.20.20 UDOTA-03-20)

i. Use of a boat, houseboat, or other floating structure as a temporary or permanent residence (this shall not prevent the overnight occupancy of a vessel temporarily moored while in transit on navigable waters); and
ii. Use of a recreational vehicle as a permanent residence.

B. PROHIBITED BY OVERLAY DISTRICT STANDARDS

Regardless of how a use type is permitted or prohibited in Table 4.2.C, Principal Use Table, if a lot or tract is located within one or more overlay zoning districts, any use type limitations in the overlay district standards (see Section 3.20, Overlay Districts) shall control.

4.4. USE-SPECIFIC STANDARDS

Use-specific standards are the requirements applied to individual use types, unless otherwise stated to the contrary in this Ordinance. This section identifies the use-specific standards applied to principal use types identified in Table 4.2.C, Principal Use Table, as subject to "use-specific standards."

A. RESIDENTIAL USE TYPES

1. Assisted Living Facility

(AMENDED 10.20.20 UDOTA-03-20)

a. An assisted living facility shall comply with the following standards:

- **i.** If provided, shared food preparation, service, and major dining areas shall be centrally located;
- **ii.** Common social and service facilities shall be provided at a minimum rate of 30 square feet per dwelling or rooming unit in addition to the minimum amount of required open space;
- **iii.** All facilities and services shall be solely for the use of residents and their guests;
- **iv.** Facilities for administrative services and limited medical services for the exclusive use of the residents may be located on the site; and
- **v.** For the purposes of density calculation, two bedrooms shall be equivalent to one dwelling unit.

b. Assisted living facilities and nursing homes shall comply with the multi-family residential design standards in Section 5.5.D, Multi-Family Residential Design Standards.

2. Boarding/Rooming House

(AMENDED 1.4.22 UDOTA-1-22)

Boarding or rooming houses shall comply with the following standards:

a. The property owner or a designated property manager responsible for operating the use in accordance with this Ordinance must reside on the same premise as the boarding house with the structure clearly serving as that person's permanent residence;
b. No more than five sleeping rooms shall be available for rent;
c. Separate structures, accessory buildings, and garages are not permitted to be used as boarding rooms;
d. No separate exterior doorways for individual boarding rooms shall be permitted;
e. Parking shall be provided and comply with the standards established for single-family detached dwellings except any additional parking beyond what can be accommodated in a driveway no wider than to sufficiently park two cars must be out of the required setback and yards established in that zoning district;
f. Parking for boarders shall not be served by a separate driveway from the driveway serving the principal residential structure;
g. Prompt disposal of all garbage in a sanitary condition is required; and
h. The use shall meet all requirements of Section 23.24 of the City's Code of Ordinances.

3. Bungalow Court

(AMENDED 10.20.20 UDOTA-03-20)

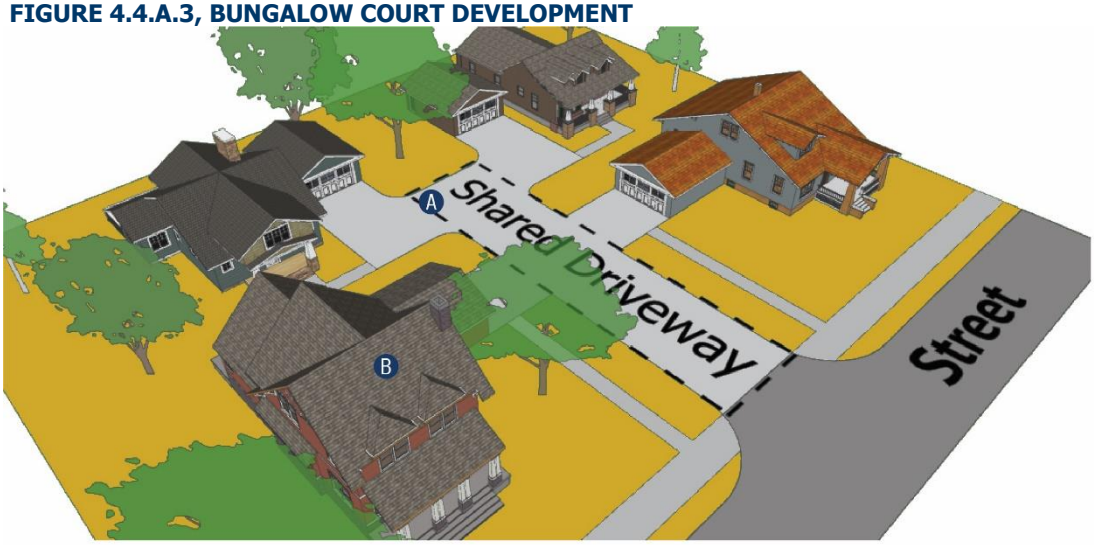
A bungalow court is a voluntary single-family detached dwelling alternative on smaller lots that allows lot access via a shared driveway configured as a central motor court. A bungalow court shall:

a. Comply with the requirements in Section 5.5.E, Single-Family Residential Design Guidelines;
b. Be located on a site of at least one acre, but not more than three acres in area;
c. Maintain a maximum density no higher than double the maximum allowable density in the zoning district where located;
d. Maintain compliance with street setbacks but may reduce compliance with other dimensional requirements by up to 50 percent, or comply with dimensional requirements for multi-family uses if configured as detached condominium dwellings;
e. Be limited to single-family detached dwellings as the principal use;
f. Ensure single-family dwellings are located either on their own individual lots or configured as detached condominium units on a single parent parcel;
g. Provide a Type C buffer along all lot lines shared with single-family detached dwellings outside the development;
h. Be configured so that each dwelling unit obtains vehicular access via a shared driveway that is:

i. Located on commonly-owned land or the subject of a shared access easement granting access to all lots or dwellings within the development;
ii. Comprised of concrete, brick, or pavers; and
iii. Located central to the development.

i. Be limited to no more than five dwelling units sharing the same driveway access (see Figure 4.4.A.3, Bungalow Court Development);
j. Comply with the dimensional requirements applied to a single-family attached development, with the exception of street setbacks; and
k. Storage of up to two unlicensed (no license plate) or inoperable vehicles or trailers may take place on a lot in the LDR, MDR, HDR, or OI districts, provided the vehicles or trailers are located within an enclosed building or located behind the principal structure and outside required setbacks.

FIGURE 4.4.A.3, BUNGALOW COURT DEVELOPMENT



LEGEND

A Shared Common Driveway Central to Development (Must be concrete, brick, or pavers)

B Maximum Five Single-Family Detached Dwellings

4. Continuing Care Retirement Community (CCRC)

a. Purpose and Intent

The purpose for these standards is to encourage the development of appropriate and adequate housing communities for the elderly. More specifically, these standards are intended to:

i. Permit creative approaches to development of a retirement center reflecting changes in the technological methods of treatment and development;
ii. Provide a variety of housing types, living arrangements, design, and configuration that meet the differing needs of elderly residents;
iii. Ensure that the types of specialized products, services, and uses necessary for the elderly are available in close proximity to housing;
iv. Provide for an efficient use of land that can result in smaller networks of utilities and streets;
v. Ensure the safety and security of community residents; and
vi. Minimize any possible adverse impacts on surrounding neighborhoods through the preservation of natural features, the provision of underground utilities, and the provision of open-space areas.

b. Establishment

i. Continuing care retirement communities may be established in accordance with the conditional rezoning provisions established in Section 2.4.P, Rezoning.

ii. A site plan must be submitted at the time of application that demonstrates how the proposed CCRC, while departing from the strict application of the conventional district requirements, is in keeping with the intent of this Ordinance.

iii. Development within a CCRC shall conform to the site plan approved with establishment of the use as well as any requirements approved by the City Council.

iv. Modification of the site plan may be made by the City Council subsequent to its initial approval upon application by the owner of the land.

c. Development Density

Maximum development density is based on the number of independent living units only and may not exceed five units per acre except as allowed in accordance with Section 4.4.A.4.d, Density Bonus.

d. Density Bonus

A CCRC may exceed five dwelling units an acre in accordance with Table 4.4.A.4.d, CCRC Density Bonus, provided the City Council makes a finding that the development will result in a significantly better environment than that would otherwise occur in accordance with the established permitted density.

TABLE 4.4.A.4.d: CCRC DENSITY BONUS

Amount of Useable Open Space Provided (% of Total Development Area) [1]	Maximum Allowable Density (Units/Acre)
20 to 29.99	5.25
30 to 39.99	5.5
40 to 49.99	5.75
50 or more	6
NOTES: [1] Open space set-aside may be provided within the CCRC, as dedicated park land outside the CCRC, or as a combination.	

e. Dimensional Requirements

Table 4.4.A.4.e, CCRC Dimensional Requirements, sets out the dimensional standards for these uses, which shall apply in lieu of the zoning district dimensional standards.

TABLE 4.4.A.4.e: CCRC DIMENSIONAL REQUIREMENTS

Feature		Requirement
Minimum Development Size (acres)		5
Single-family Detached Dwellings	Minimum Lot Area (square feet)	3,500
	Minimum Front Setback (feet)	8; One side may be zero [1]
	Minimum Side Setback (feet)	15
	Minimum Rear Setback (feet)	15
	Minimum Lot Width (feet)	N/A
	Maximum Height (feet)	35
All Other Allowable Use Types (AMENDED 10.20.20 UDOTA-03-20)	Setbacks, lot width, maximum height	As allowed in the underlying zoning district
Minimum Spacing Between Buildings on the Same Lot (feet)		30 + 5 for each building story beyond 2
Maximum Building Height		35 [2]

TABLE 4.4.A.4.e: CCRC DIMENSIONAL REQUIREMENTS	
FEATURE	**REQUIREMENT**
Total Lot Coverage in the Development (% of development area)	70
Open Space Set-Aside (% of total development area)	20 [3]
NOTES: [1] Single-family detached homes shall be at least ten feet apart. [2] Building height may be increased beyond 35 feet provided the setback from all lot lines equals or exceeds the building's height. [3] Up to one-half of the open space set-aside may be covered by water.	

f. Development Standards

i. Perimeter Planting Strip

A Type B perimeter buffer configured in accordance with Section 5.3.J, Perimeter Buffers, shall be installed around the perimeter of the development.

ii. Perimeter Fencing

To ensure the safety and security of residents within a CCRC, the development shall be surrounded by a perimeter wall or fence with a minimum height of four feet.

iii. Access and Circulation

Access and circulation shall adequately provide for firefighting equipment, service deliveries and refuse collection.

iv. Underground Utilities

Underground installation of telephone, power and cable TV lines is encouraged but not required.

v. Pedestrian Paths

Pedestrian paths shall form a logical, safe, and convenient system for pedestrian and handicap access to all on-site buildings and facilities as well as major off-site destinations.

g. Design Standards

(AMENDED 10.20.20 UDOTA-03-20)

Residential development of two or more units in a single structure within a CCRC shall comply with the standards in Section 5.5.D, Multi-Family Residential Design Standards.

5. Family Care Home

(AMENDED 10.20.20 UDOTA-03-20)

a. Family care homes shall comply with the standards in Section 160D-907 of the North Carolina General Statutes.

b. A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or a group home.

6. Group Home

A group home shall comply with the following standards:

a. A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or another group home;

b. The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;

c. The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable City regulations and State requirements;

d. The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential or mixed-use district; and

e. The use shall meet all State requirements, as well as all applicable housing and building code requirements.

7. Halfway House

A halfway house shall comply with the following standards:

a. A lot containing a halfway house shall not be located within one-half mile (2,640) feet of another lot containing a bar, cocktail lounge, nightclub, boarding or rooming house, or adult business;
b. The maximum number of residents in a halfway house shall be limited to five in addition to any staff or landowners and their families;
c. Visitation by members of the public to a resident living in a halfway house may only take place between the hours of 7:00 AM and 7:00 PM;
d. The use shall meet all State requirements, as well as all applicable housing and building code requirements; and
e. The use shall include a sign, visible from outside the front entrance, the lists an emergency contact name and telephone number that is available 24 hours a day.

8. Live/Work Dwelling

(AMENDED 10.20.20 UDOTA-03-20 & 3.4.21 UDOTA-01-21)

a. A live/work dwelling shall comply with the mixed-use design standards in Section 5.5.C, Mixed-Use Design Standards, and the following standards:
  i. The residential portion of the building shall occupy at least 50 percent of the gross floor area;
  ii. The non-residential portion of the building is limited to an office, personal service, retail sales, or restaurant use type;
  iii. Drive-through facilities are prohibited; and
  iv. Signage for the non-residential portion of the building shall be limited to wall signage or projecting signage.
b. Nothing shall limit the placement of residential floor area on the ground floor on lots within the CBD district, provided the non-residential portion of the use has its own entrance or provided that the building has a shared primary entrance. A non-residential portion of the building must occupy the front façade of the street-level ground floor.

9. Manufactured Dwelling

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

a. A manufactured dwelling located within a manufactured dwelling park shall comply with the standards in Section 4.4.A.10, Manufactured Dwelling Park.
b. A manufactured dwelling located outside a manufactured dwelling park shall comply with the following standards:
  i. It shall be located on an individual lot in the RMH district;
  ii. It shall be occupied only as a single-family dwelling;
  iii. It shall comply with Section 160D-910 of the North Carolina General Statutes;
  iv. It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;
  v. It shall maintain a minimum width of 16 feet;
  vi. It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
  vii. The towing apparatus, wheels, axles, and transporting lights shall be removed;
  viii. It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter and unpierced except for required ventilation and access;
  ix. It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;
  x. It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following:
    a) Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
    b) Cedar or other wood siding;
    c) Stucco siding; or
    d) Brick or stone siding;

xi. It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;

xii. It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction; and

xiii. It shall provide an eave projection of no less than six inches, which may include a gutter.

10. Manufactured Dwelling Park

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-1-22)

Manufactured dwelling parks may only be established in the CR district, and shall comply with the following standards:

a. Minimum Area

i. A manufactured dwelling park shall be located on a site of not less than six acres.

ii. A public street may divide the site, provided that each conterminous portion of the site shall contain not less than two acres.

b. Individual Dwelling Spaces

i. Generally

a) The site plan for a manufactured dwelling park shall indicate individual dwelling spaces.

b) Yards and setbacks shall be measured from space boundaries.

c) No more than one manufactured dwelling may be located on any single space.

ii. Specific Requirements

Individual manufactured dwelling spaces shall comply with the requirements in Table 4.4.A.10.A: Manufactured Home Park Dimensional Requirements:

TABLE 4.4.A.10.A: MANUFACTURED DWELLING SPACE DIMENSIONS

Dimensional Requirement	Amount
Minimum Space Area	6,000 sf when connected to public water & sewer; 12,000 sf for a 2-bedroom home served by a septic tank; 15,000 sf for a 3-bedroom home served by a septic tank
Minimum Space Width	50 feet for spaces served by public water & sewer; 80 feet for spaces served by septic tanks
Minimum Front Setback	20 feet for a driveway or street; or district minimum if abutting a road outside the park
Minimum Side Setback	10 feet
Minimum Rear Setback	10 feet; 0 when abutting perimeter buffer
Minimum Setback from Park Perimeter	15 feet
Minimum Distance Between Two Manufactured Dwellings	20 feet
Minimum Distance between Manufactured Dwelling and Another Structure	15 feet

c. Internal Circulation

i. Vehicular circulation within the park shall be by way of a private driveway or by a public street meeting all City standards.

ii. Private driveways shall maintain a continuous width of 25 feet and have unobstructed access to a public street.

iii. If public streets are provided for internal circulation, up to 60 feet of the width of such streets may be counted toward the minimum area requirements, but streets that are dedicated prior to the date of establishing the park shall not be credited towards the park area requirements.

d. Perimeter Buffer

A Type A perimeter buffer configured in accordance with Section 5.3.J, Perimeter Buffers, shall be installed around the perimeter of the development.

e. Drainage

No manufactured dwelling park shall be located within the FHO or other area subject to flooding, and the park shall be graded so as to prevent the accumulation or ponding of water on the premises.

f. Parking

i. Two parking spaces shall be provided and maintained for each manufactured dwelling.

ii. Parking spaces shall not be located in a driveway serving the park, in a street, over any part of a septic tank system, or over sewer cleanouts.

g. Accessory Buildings

i. No accessory building shall be located within a required front or side yard portion of a manufactured dwelling space or in the required perimeter buffer.

ii. Accessory buildings may be located in a required rear yard but no closer than five feet from any manufactured dwelling space edge.

iii. An accessory building in the required rear yard of a corner space shall not project beyond or nearer to the street than the street setback line, as extended, of the adjacent lot.

h. Open Space

i. A minimum of eight percent of the net land area of the manufactured dwelling park shall be provided as active recreation area in accordance with Section 7.1, Open Space Set-Aside.

ii. "Net land area" means the gross area of the park minus the land area in public streets and perimeter planting strips.

iii. Open space may be provided in one or more locations, but no conterminous portion of the usable open space shall have an area of less than 5,000 square feet or an average dimension of less than 60 feet.

i. Fire Protection

The park shall meet the standards for adequate fire protection established by the National Fire Protection Association Bulletin No. 501A.

j. Standards for Individual Dwellings

Dwellings in a manufactured dwelling park shall comply with the standards in Section 4.4.A.9, Manufactured Dwelling, except that such dwellings are not required to be on their own individual lot, located in the RMH district, or required to maintain a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter.

11. Mobile Home

(AMENDED 3.17.20 UDOTA-02-20)

Mobile homes on individual lots in the RMH district shall comply with the following standards:

a. All wheels and other transporting devices shall be removed from the chassis of the mobile home;

b. The mobile home shall be installed on a permanent masonry foundation that shall completely enclose a crawl space beneath the unit;

c. A door at either the rear or the end of the dwelling shall provide means of access to the crawl space. The access may be located at the front of the unit when placement at either end is impractical due to topography;

d. The minimum dimensions of the door to the crawl space shall be the same as required for a standard dwelling under the North Carolina Building Code; and

e. All mobile homes on individual lots shall have unobstructed access to a public street.

12. Mobile Home Park

Mobile home parks shall comply with the following standards.

a. Minimum Area

i. Every mobile home park shall be located on a well-drained site of not less than six acres.

ii. A public street may divide the site, provided that each conterminous portion of the site shall contain not less than two acres, and the average horizontal dimensions shall be not less than 120 feet.

b. Internal Circulation

i. Vehicular circulation within the park shall be by way of a private driveway or by a public street meeting all City standards.

ii. Private driveways shall maintain a continuous width of 25 feet and have unobstructed access to a public street.

iii. If public streets are provided for internal circulation, up to 60 feet of the width of such streets may be counted toward the minimum area requirements, but streets that are dedicated prior to the date of establishing the park shall not be credited towards the park area requirements.

c. Perimeter Buffer Required

A Type A perimeter buffer configured in accordance with Section 5.3.J, Perimeter Buffers, shall be installed around the perimeter of the development.

d. Drainage and Flooding

i. Every mobile home park shall be so graded as to prevent the accumulation or ponding of water on the premises.

ii. No mobile home park shall be located in a 100-year flood plain or other area subject to flooding.

iii. The drainage of any mobile home park shall not endanger any public or private water supply.

e. Mobile Home Spaces

i. The site plan for a mobile home park shall indicate individual mobile home spaces, regardless of whether the spaces are to be sold, rented, or leased.

ii. The area within the space shall be regarded as a mobile home "lot" for the purpose of this Ordinance.

iii. Yards and setbacks shall be measured from space boundaries.

iv. No more than one mobile home may be parked on any mobile home space.

f. Mobile Home Space Dimensional Requirements

Table 4.4.A.12.f, Mobile Home Space Dimensions, sets out the required setbacks for mobile home structures from the space boundaries:

TABLE 4.4.A.12.F: MOBILE HOME SPACE DIMENSIONS

Dimensional Requirement	Amount
Minimum Space Area	6,000 sf when connected to public water & sewer; 12,000 sf for a 2-bedroom home served by a septic tank; 15,000 sf for a 3-bedroom home served by a septic tank
Minimum Space Width	50 feet for spaces served by public water & sewer; 80 feet for spaces served by septic tanks
Minimum Front Setback	20 feet for a driveway or street; or district minimum if abutting a road outside the park
Minimum Side Setback	10 feet
Minimum Rear Setback	10 feet; 0 when abutting perimeter buffer
Minimum Setback from Park Perimeter	15 feet
Minimum Distance Between Two Mobile Homes	20 feet
Minimum Distance between Mobile Home and Another Structure	15 feet

g. Parking Spaces

i. Two parking spaces shall be provided and maintained for each mobile home.

ii. The area devoted to required parking spaces may be included within the minimum plot area calculation.

iii. Parking spaces shall not be located in a driveway, in a street, over any part of a septic tank system, or over sewer cleanouts.

h. Foundations

(AMENDED 1.4.22 UDOTA-1-22)

Mobile homes shall be installed in accordance with the set-up and installation standards for manufactured or mobile homes adopted by the Commissioner of Insurance, but mobile homes are not required to maintain a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter.

i. Accessory Buildings

- **i.** No accessory building shall be located within a required front or side yard portion of a mobile home space or in the required perimeter buffer.
- **ii.** Accessory buildings may be located in a required rear yard but not less than five feet from any mobile home space edge.
- **iii.** An accessory building in the required rear yard of a corner space shall not project beyond or nearer to the street than the front setback line, as extended, of the adjacent lot.

j. Usable Open Space

- **i.** A minimum of eight percent of the net land area of the mobile home park shall be provided as active recreation area in accordance with Section 7.1, Open Space Set-Aside.
- **ii.** "Net land area" means the gross area of the park minus the land area in public streets and perimeter planting strips.
- **iii.** The usable open space shall be centrally located with respect to the mobile homes it will serve.
- **iv.** Open space may be provided in one or more locations, but no conterminous portion of the usable open space shall have an area of less than 5,000 square feet or an average dimension of less than 60 feet.

k. Laundry Building

- **i.** Automatic clothes washing and drying machines may be provided in a separate building in parks with 50 or more mobile home spaces.
- **ii.** A laundry building shall be located on its own designated area or "lot".
- **iii.** The minimum "lot area" for a laundry building is two-and-one-half (2.5) percent of the net land area of the mobile home park.
- **iv.** The building shall be no closer than 20 feet from any line of the "lot" that it occupies.
- **v.** The maximum floor area of the laundry building shall be 0.5 percent of the net land area of the mobile home park.
- **vi.** No laundry building shall abut any public street that gives access to any property other than the mobile home park.

l. Fire Protection

The park shall meet the standards for adequate fire protection established by the National Fire Protection Association Bulletin No. 501A.

13. Multi-family Dwelling

Multi-family development shall comply with the following provisions:

a. Building Placement

(AMENDED 10.20.20 UDOTA-03-20)

- **i.** Buildings shall be setback from one another in accordance with the North Carolina Building Code.
- **ii.** Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.
- **iii.** Buildings shall be setback from public streets in the development in accordance with the street setbacks for the district where located.

b. Building Length

- **i.** The maximum length of a multi-family building shall be 250 linear feet, except in the CBD and MX districts, where no maximum length is applied.
- **ii.** No maximum building length shall be applied if the building is designed for occupancy by the elderly and it has central facilities for dining and recreation.
- **iii.** In no instance shall the provision of a firewall between different building sections constitute two separate buildings for the purpose of meeting the building length requirement.

c. Design

Multi-family development shall comply with the applicable design standards in Section 5.5.D, Multi-Family Residential Design Standards.

d. Recreation Facilities

Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family detached residential purposes.

e. Utilities

All electric, communications, water and sewer utility lines shall be installed underground.

f. Condominiums

Multi-family development configured as condominiums shall comply with the following standards:

- **i.** Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
- **ii.** Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
- **iii.** Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the City Council and recorded in the office of the Register of Deeds in the county where the development is located.

g. Screening

Utility areas such as clothes drying yards and outdoor storage areas shall be fully screened from public streets and adjacent lots zoned for single-family detached residential dwellings.

14. Pocket Neighborhood

a. Purpose and Intent

A pocket neighborhood is a group of smaller single-family detached dwellings built in close proximity to one another around a small green or commonly-owned open space with off-street parking areas to the rear or in common areas. These use types are intended to provide greater housing options as well as providing a means for accommodating infill in established portions of the City (see Figure 4.4.A.14.a: Pocket Neighborhood Design).

FIGURE 4.4.A.14.A: POCKET NEIGHBORHOOD DESIGN

b. Site Configuration

i. Development size

A pocket neighborhood shall be located on a parcel of land at least one-third (1/3) of an acre and no greater than four acres in area.

ii. Allowable Uses

a) Pocket neighborhoods shall be limited to single-family detached dwellings and accessory uses.

b) Accessory uses may include common open space, a common building for the purposes of storage or recreation, outdoor recreational features, and garages.

iii. Number of Dwellings

A pocket neighborhood shall include at least four dwellings but no more than 12 dwellings. In no instance shall the gross density of the development exceed a 10 percent increase in the density of the underlying zoning district.

iv. Common Open Space

(AMENDED 10.20.20 UDOTA-03-20)

a) A pocket neighborhood shall include common open space that comprises at least 40 percent of the total site and includes improved pedestrian walkways that provide pedestrian access to each dwelling, shared parking areas (if provided), common buildings (if provided), and connections to the public sidewalk network (if sidewalks are adjacent to the development). The common open space shall include a central green, lawn, or garden area fronting the dwellings and a perimeter buffer area that incorporates landscaping materials, existing vegetation, or other features to buffer the pocket neighborhood from adjacent development.

b) The central green or lawn area shall include at least 300 square feet of area for each dwelling in the development.

c) A common building located within the common open space area may be included as an accessory use, but in no instance shall the common building exceed 1,500 square feet or serve as a permanent dwelling unit.

v. Lot Frontage

a) At least 60 percent of the individual building lots shall front the common open space area, not a street or alley.

b) Up to 40 percent of the lots may front a street. Homes on street-facing lots shall include a front porch and shall not include an attached garage that faces the street.

vi. Surface Parking

(AMENDED 10.20.20 UDOTA-03-20)

a) Pocket neighborhoods are exempt from the off-street parking standards in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, but shall include at least one parking space for each dwelling unit plus one designated guest parking space for every four dwelling units.

b) The pocket neighborhood may include a shared parking area that accommodates resident and guest parking.

c) Provision of resident parking spaces within a shared parking area is not required in cases where resident parking is provided through individual driveways or by parking spaces along alleys.

d) In no instance shall parking areas be more than 300 linear feet from the dwelling it serves.

vii. Detached Shared Garages

If provided, detached garages serving more than one dwelling shall be accessed via a private drive or alley. A garage shall not exceed five car bays or include individual garage doors wider than 12 feet each.

viii. Storage Space

(AMENDED 10.20.20 UDOTA-03-20)

a) Each individual dwelling shall have at least 40 square feet of covered storage space outside the heated floor area. Storage space may be located on an individual lot or on common land adjacent to or within a common building.

b) Storage of up to two unlicensed (no license plate) or inoperable vehicles or trailers may take place on a lot in the MDR and HDR districts, provided the vehicles or trailers are

located within an enclosed building or located behind the principal structure and outside required setbacks.

ix. Perimeter Buffer

A pocket neighborhood shall incorporate a Type B perimeter buffer along all lot lines shared with existing single-family detached dwellings.

x. Private Access

(AMENDED 10.20.20 UDOTA-03-20)

Vehicular entryways into pocket neighborhoods and accessways serving off-street parking areas and individual dwelling lots shall be configured as private driveways.

c. Individual Lot Configuration

Table 4.4.A.14.c, Pocket Neighborhood Lots, sets out the dimensional requirements for individual lots.

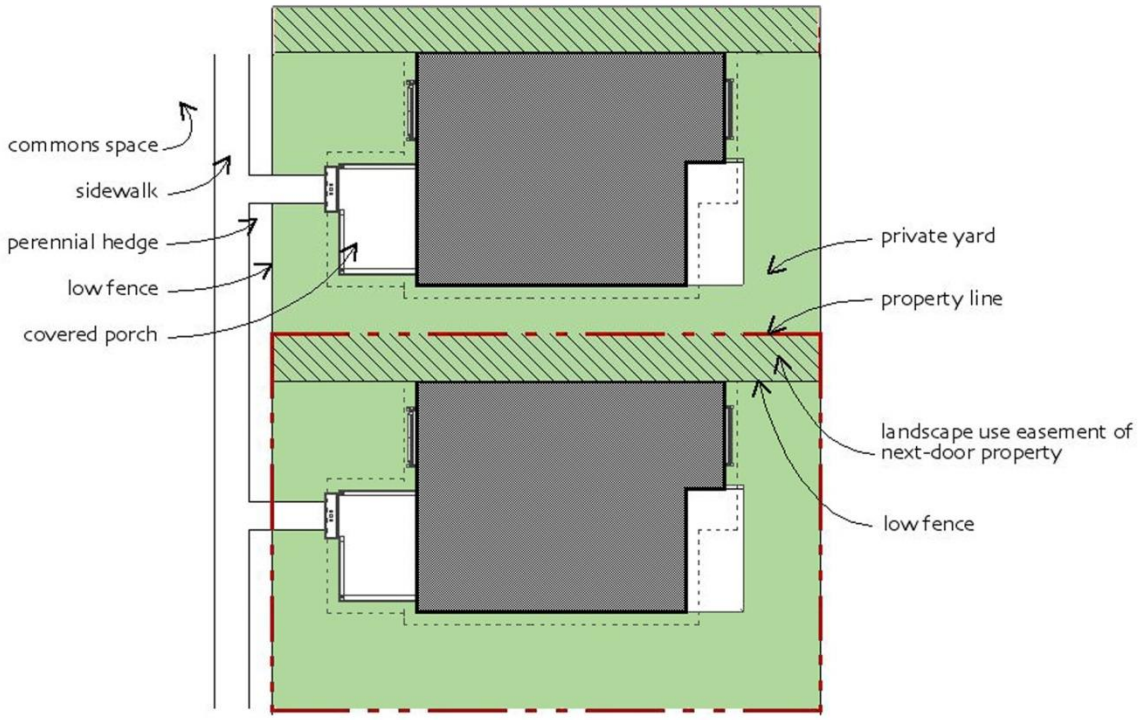
TABLE 4.4.A.14.c: POCKET NEIGHBORHOOD LOTS

FEATURE	REQUIREMENT
Minimum lot size (sq. ft.)	None
Maximum lot coverage (%)	75
Minimum lot width (ft.)	20
Minimum front setback (ft.)	10 from open space; zoning district requirement from street [1]
Minimum side setback (ft.)	3 one side; 15 other side [1]
Minimum rear setback (ft.)	None [2]
NOTES: [1] Porch steps, ramps, fences, and walkways may encroach into the front setback in accordance with Section 8.3, Rules of Measurement, but no other structures shall be permitted to encroach into the required setback. [2] When an individual lot includes a driveway, the minimum rear setback shall be 20 feet.	

i. Landscape/Use Easement

Any lot abutting another lot used for residential purposes in a pocket neighborhood shall be subject to a landscape/use easement on one side that extends from the lot line to the exterior wall of the dwelling (see Figure 4.4.A.14.c.i, Use Easement). The purpose for the use easement is to ensure each dwelling can maintain a sense of privacy and useable outdoor space within a pocket neighborhood where lots can be very small in size.

FIGURE 4.4.A.14.C.I, USE EASEMENT



d. Dwelling Unit Configuration

i. Maximum Height

A dwelling unit shall not exceed 1½ stories, or 24 feet, above grade.

ii. Dwelling Size

a) A dwelling unit shall not be more than 2,000 square feet in floor area.

b) At least two dwellings in a pocket neighborhood shall maintain a total square footage that differs by at least 200 square feet in floor area from the average square footage of all other dwellings. Nothing shall prohibit a configuration where all dwellings are different sizes.

iii. Fences

Pocket neighborhoods are exempted from the standards in Section 5.3.H.2, Fences and Walls, but shall comply with the following:

a) Fences within front yards or side yards forward of the front façade plane shall not exceed three feet in height;

b) Fences in rear yards or side yards behind the front facade plane shall not exceed six feet in height; and

c) In no instance shall a fence be placed within a use or access easement.

iv. Homeowner's Association

A pocket neighborhood shall include a homeowners' or property owners' association that maintains control of common areas and takes responsibility for maintenance of common features in the neighborhood established and configured in accordance with Section 6.9, Owner Associations.

15. Single-Family Attached Dwellings

Single-family attached development shall comply with the following provisions:

a. Building Placement

i. A minimum ten feet of separation shall be maintained between all buildings in the development.

ii. Buildings must be set back from private drives and parking lots a minimum of ten feet as measured from back of curb or edge of pavement, if no curb is provided.

iii. Buildings shall be set back from public streets in the development in accordance with the street setbacks for the district where located.

b. Maximum Number of Units per Building

Table 4.4.A.15.b, Maximum Number of Units in a Buildings, sets out the maximum number of attached residential dwelling units allowed in a single building by zoning district:

TABLE 4.4.A.15.b: MAXIMUM NUMBER OF UNITS IN A BUILDING
(AMENDED 12.3.19 UDOTA-01-20)

ZONING DISTRICT	MAXIMUM NUMBER OF UNITS IN A SINGLE BUILDING (#)
MDR	5
HDR	10
MX	8
OI	7
NB	6
CBD	10

c. Design

(AMENDED 10.20.20 UDOTA-03-20)

Single-family attached development may comply with applicable design standards in Section 5.5.D, Multi-Family Residential Design Standards, with the consent of the landowner(s) at the time of application to establish the development.

d. Recreation Facilities

Active recreation facilities must be placed a minimum of 50 feet from adjacent land used for single-family detached residential purposes.

e. Utilities

All electric, communications, water and sewer utility lines shall be installed underground.

f. Condominiums

Single-family attached development configured as condominiums shall comply with the following standards:

i. Condominiums shall conform to the use and development requirements of this Ordinance for the zoning district(s) where located.
ii. Condominiums shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.
iii. Condominium ownership may be created by the owner or co-owners of a structure(s) by an express declaration of their intention to submit such property to the provisions of the North Carolina Condominium Act, which declaration shall be subject to approval by the City Council and recorded in the office of the Register of Deeds in the county where the development is located.

g. Access

i. Single-family attached developments shall abut a public street.
ii. Individual single-family attached lots need not abut a public street provided that every dwelling unit shall be provided access to their property via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership with other property owners in the development.
iii. Adequate access shall be provided for firefighting equipment, service deliveries, and refuse collection.

h. Storage of Unlicensed or Inoperable Vehicles or Trailers

(AMENDED 10.20.20 UDOTA-03-20)

Storage of up to two unlicensed (no license plate) or inoperable vehicles or trailers may take place on a lot in the MDR, HDR, or OI districts, provided the vehicles or trailers are located within an enclosed building or located behind the principal structure and outside required setbacks.

16. Single-Family Detached Dwelling

(AMENDED 10.20.20 UDOTA-03-20)

a. Modular homes shall comply with the standards in Section 160D-911 of the North Carolina General Statutes and shall be treated as site-built single-family detached structures.

b. Storage of up to two unlicensed (no license plate) or inoperable vehicles or trailers may take place on a lot in the LDR, MDR, HDR, or OI districts, provided the vehicles or trailers are located within an enclosed building or located behind the principal structure and outside required setbacks.

c. Single-family detached dwellings constructed in the CR district shall comply with the standards in Section 5.5.E, Single-Family Residential Design Guidelines. Single-family detached development in all other conventional districts may comply with Section 5.5.E, Single-Family Residential Design Guidelines, with the consent of the landowner(s) at the time of application to establish the development.

17. Triplex/Quadriplex

(AMENDED 10.20.20 UDOTA-03-20)

Triplex and quadriplex dwellings shall comply with Section 5.5.D, Multi-Family Residential Design Standards, and the following standards:

a. The dwelling shall face the street from which the dwelling derives its street address.

b. If a parking lot is provided, it shall be located to the interior side or rear of the dwelling and not be located between the dwelling and the street.

c. Storage of up to two unlicensed (no license plate) or inoperable vehicles or trailers may take place on a lot in the MDR or HDR districts, provided the vehicles or trailers are located within an enclosed building or located behind the principal structure and outside required setbacks.

18. Upper-Story Residential

(AMENDED 10.20.20 UDOTA-03-20 & 3.4.21 UDOTA-01-21)

a. Generally

i. Upper-story residential dwelling units shall occupy the second or higher floor of a building with a non-residential use on the ground floor.

ii. Upper story residential units shall comply with the mixed-use design standards in Section 5.5.C, Mixed-Use Design Standards.

iii. Upper-story residential units configured as condominiums shall comply with the standards in Section 4.4.A.15.f, Condominiums.

b. Within the CBD District

Nothing shall limit the placement of residential floor area on the ground floor on lots within the CBD district, provided the non-residential portion of the use has its own entrance or provided that the building has a shared primary entrance. A non-residential portion of the building must occupy the front façade of the street-level ground floor.

B. INSTITUTIONAL USE TYPES

1. Adult Day Care Center

An adult day care center use shall comply with the following requirements:

a. The use shall be certified by the North Carolina Department of Health and Human Services;
b. The use shall obtain all required licenses and permits from the State;
c. The use shall include a fenced outdoor gathering area of at least 25 square feet per patron receiving care; and
d. The use includes a pick-up and drop-off area that allows patrons to enter and exit vehicles without crossing a parking lot or vehicular accessway.

2. Antenna Collocation (Major or Minor)

Major and minor antenna collocations shall comply with the applicable standards in Section 4.4.B.17, Telecommunications Tower, Major, Minor, or Concealed.

3. Auditorium

Auditoriums shall comply with the following standards:

a. The parcel or site shall have an area of at least three acres;
b. The building shall be located at least 500 feet from any lot in a single-family residential zoning district; and
c. No products shall be sold on-site except those that are clearly incidental and integral to training programs and seminars conducted in the auditorium (e.g., food items, shirts, glasses and mugs, pens and pencils, and similar items bearing the logo of conference or seminar sponsors or participants).

4. Broadcasting Studio

Broadcasting studios shall comply with the following standards:

a. The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;
b. Any broadcasting towers associated with the use shall be setback from all lot lines a minimum distance equal to the height of the tower;
c. The above-grade floor area associated with the use shall not exceed 5,000 square feet; and
d. The use shall not include a helipad or helicopter landing facilities.

5. Cemetery, Columbarium, or Mausoleum

Except as otherwise required in this Ordinance, new cemeteries and the expansion of existing cemeteries (as a principal use) shall comply with the following standards:

a. New cemeteries shall be located on a site or parcel with an area of at least two-and-one-half acres; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;
b. New cemeteries shall be located on a site or parcel that fronts an arterial or collector street; this standard shall not apply to existing cemeteries or the expansion of existing cemeteries;
c. Cemeteries shall include drive aisles or vehicular accessways of at least 12 feet in width or greater as needed for the parking and maneuvering of funeral processions; and
d. Interments shall take place at least 25 feet from any lot line and comply with all applicable requirements of the North Carolina General Statutes.

6. Child Day Care Center

Child day care centers shall comply with the standards in Article 7, Chapter 110, of the North Carolina General Statutes, as well as the Summary of North Carolina Child Care Laws and Rules pamphlet prepared by the NC Department of Health and Human Services.

7. Community/Youth/Senior Center

A community center, senior center, or youth center shall comply with the following standards:

a. Not front on or gain access from a residential local street;
b. Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a single-family residential district; and
c. Uses in residential districts shall be on a lot of at least two acres in area.

8. Coliseum, Convention Center, Conference Center

Coliseums, convention centers, and conference centers shall comply with the following standards:

a. The parcel or site shall have an area of at least five acres;

b. The building shall be located at least 500 feet from any lot in a single-family residential zoning district;
c. Dining and banquet facilities may be provided for employees, trainees, and conferees, provided the gross floor area devoted to such facilities does not exceed 50 percent of the total floor area of the principal building;
d. On-site recreational facilities may be provided for use by employees, trainees, or conferees; and
e. No products shall be sold on-site except those that are clearly incidental and integral to training programs and seminars conducted in the center (e.g., food items, shirts, glasses and mugs, pens and pencils, and similar items bearing the logo of conference or seminar sponsors or participants).

9. Drug/Alcohol Treatment

A drug or alcohol treatment facility shall comply with the following standards:

a. Be at least 500 feet from any other such facility; and
b. Be at least 500 feet from any lot in a single-family residential district, school, child care center, and religious institution that has a child care center or school.

10. Fraternal Club or Lodge

When proposed within a residential district, the OI district, or the NB district, fraternal clubs and lodges shall comply with the following:

a. The club or lodge shall be on a lot of at least two acres in area;
b. No structure, off-street parking, or activity area shall be closer than 40 feet to any lot line;
c. A Type A buffer configured in accordance with Section 5.3.J, Perimeter Buffers, shall be provided along all side and rear lot lines;
d. Exterior lighting shall be so shielded as to cast no direct light upon adjacent lands; and
e. Public address systems are prohibited except when contained entirely within a building.

11. Helicopter Landing Pad

A helicopter landing pad shall comply with the following standards:

a. The helicopter landing pad shall provide adequate land area for safe take-offs and landings in accordance with standards of the Federal Aviation Administration (FAA); and
b. When located within 500 feet of a single-family residential zoning district, or existing single-family residential use, a helicopter landing pad shall provide a Type A buffer along side and rear lot lines to ensure the facility does not adversely impact surrounding uses.

12. Hospital

A hospital shall comply with the following standards:

a. Be located on a site or parcel with an area of at least five acres;
b. Be located on a parcel that fronts or has direct access to an arterial or collector street;
c. Locate the emergency vehicle entrance on an arterial or collector street;
d. Not locate an emergency vehicle entrance in an area across the street from a residential zoning district;
e. Be served by a public water and wastewater system; and
f. Ensure that principal structures are located at least 100 feet from any lot line.

13. Religious Institution

Religious institutions shall comply with the following standards:

a. A religious institution with seating for 500 or more persons shall:
  i. Be on a lot of at least three acres in area; and
  ii. Meet the minimum off-street parking standards for a religious institution as well as for any accessory uses (e.g., a school, day care, etc.) in Table 5.1.D.2, Minimum Off-Street Parking Spaces Required.
b. Regardless of the zoning district where located, religious institutions of any size shall provide a Type A buffer along lot lines shared with single-family residential dwellings.

14. School, High

A high school shall not front or gain primary access from a local street serving a residential neighborhood.

15. School, Vocational

Facilities within a vocational school which generate significant noise or fumes, such as auto body or engine repair, industrial/auto body painting, or manufacturing processes, and that are adjacent to a residential district shall be at least 100 feet from any lot line abutting the residential district.

16. Small Wireless Facility

a. Small wireless facilities located outside a public right-of-way shall comply with the applicable standards in Section 4.4.B.17, Telecommunications Tower, Major, Minor, or Concealed.

b. Small wireless facilities located within a public right-of-way shall comply with the City's Right-of-Way Management Ordinance.

17. Telecommunications Tower, Major, Minor, or Concealed

(AMENDED 3.17.20 UDOTA-02-20); (AMENDED 10.20.20 UDOTA-03-20)

Major, minor, and concealed telecommunications towers shall comply with the standards in Chapter 160D Article 9, Part 3, of the North Carolina General Statutes, and the following standards:

a. Purpose and Intent

This section establishes general standards for the siting of wireless telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the City's jurisdiction have reliable access to wireless telecommunications services. More specifically, the provisions of this section are intended to:

i. Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless telecommunications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;

ii. Encourage the placement of wireless telecommunications facilities in non-residential areas;

iii. Minimize the number of new telecommunications towers in the City;

iv. Create conditions where wireless telecommunications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with state and federal law;

v. Strongly encourage the joint use or collocation of new and existing wireless telecommunications facilities so as to minimize the number of new telecommunications towers throughout the City;

vi. Establish collocation and concealed towers as the preferred options for the accommodation of wireless telecommunications equipment; and

vii. Ensure that wireless telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

b. Applicability

The standards in this section shall apply to all wireless telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

i. Removal of antennas, antenna support structures, or wireless telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;

ii. The operation of a small wireless facility solely within the interior of a structure, stadium, or athletic facility;

iii. Routine maintenance on an existing wireless telecommunication facility;

iv. Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;

v. Installation, modification, or operation of FCC-licensed amateur ("ham") radio equipment; and

vi. Dish antenna or earth stations.

c. General Standards Applicable to All Types of Wireless Telecommunications Facilities

The following requirements shall apply to all new wireless telecommunications facilities and any modifications to an existing wireless telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.

i. Building Permit Required

Prior to installation or modification exceeding the scope of routine maintenance, all wireless telecommunications facilities shall receive a building permit in accordance with the requirements in this Ordinance.

ii. Compliance with Federal and State Regulations

a) All wireless telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities.

b) In addition to federal requirements, all wireless telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities in Sections 160D-930 through 160D-934 of the North Carolina General Statutes.

iii. Interference

No wireless telecommunication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless communications signals in accordance with FCC requirements.

iv. Structurally Sound

All elements of a wireless telecommunication facility shall demonstrate, to the satisfaction of the City, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.

v. Sight Distance at Intersections

All elements of a wireless telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distances at street intersections. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the City.

vi. Accessory Equipment

a) Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing wireless telecommunications equipment and other supplies in direct support of the operation of the wireless telecommunications facility.

b) Any equipment or materials not used in direct support of such operation shall not be stored on the site.

vii. Site Grading

Grading and vegetation removal for a wireless telecommunications facility shall comply with the standards in Section 7.5, Soil Erosion and Sedimentation, and be limited to the area necessary for the facility and any required accessory structures, including: stormwater management devices, access drives, or off-street parking.

viii. Lighting

a) Lighting of a wireless telecommunications facility shall be limited to that required for compliance with FAA minimum standards.

b) Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA.

c) Nighttime strobing or flashing lights are prohibited, unless required by the FAA.

d) Lights serving equipment compounds or other service areas shall be configured so that the source of illumination is not visible from off-site areas.

e) All exterior lighting shall comply with the lighting regulations of this Ordinance.

ix. Signage

a) Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the City.

b) If the electrical service is in excess of 220 volts, the wireless telecommunications facility shall include signs located at least every 20 feet around the perimeter that display the words "HIGH VOLTAGE - DANGER" in bold, high contrast letters with minimum height of four inches for each letter.

c) No signage shall be posted higher than 15 feet above grade.

d) Signage required by this section shall be considered to be safety or governmental signage that is not subject to 1st Amendment protection regarding the regulation of sign content.

x. Unauthorized Access Prohibited

Telecommunications towers and vertical projections with wireless telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the wireless telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade and configured in accordance with the standards in Section 5.3.H.2, Fences and Walls, or anti-climbing devices.

d. Standards for Specific Types of Wireless Telecommunication Facilities

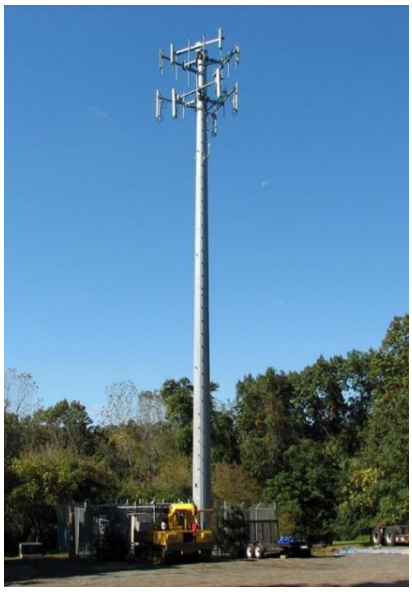
Table 4.4.B.17.d, Standards for Specific Types of Wireless Telecommunication Facilities, sets out the standards that apply to the identified type of wireless telecommunications facility, and shall apply in addition to the standards in Section 4.4.B.17.c, General Standards Applicable to All Types of Wireless Telecommunications Facilities.

TABLE 4.4.B.18.d: STANDARDS FOR SPECIFIC TYPES OF WIRELESS TELECOMMUNICATION FACILITIES		
i. Telecommunications Tower, Major		
New or replacement major telecommunications towers shall comply with the following standards:		
	Towers Distinguished	i. A new or replacement telecommunications tower with a height of 30 feet or more above grade is a major telecommunications tower subject to these standards. ii. A new or replacement telecommunications tower with a height less than 30 feet above grade shall be considered a minor telecommunications tower and shall be subject to the standards for a concealed or minor telecommunications tower in this table.
	Type of Structure	i. Telecommunications towers shall be configured as a monopole, self-supporting tower, or be concealed in accordance with this table. ii. Construction of new guyed telecommunications tower configurations are prohibited.
	Location	New major telecommunications towers are prohibited within the LHO and GCO districts.
	Setbacks	i. Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height. ii. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements in subsection (i) above, to the maximum extent practicable. iii. Accessory structures, including equipment cabinets and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
	Maximum Height	i. The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. ii. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. iii. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed 200 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.
	Collocation Required	i. Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards: (a) Towers of 30 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment. (b) Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment. (c) Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment. ii. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than 14 days following installation of a replacement telecommunications tower constructed to accommodate a collocation.
	Screening	i. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two

TABLE 4.4.B.18.d: STANDARDS FOR SPECIFIC TYPES OF WIRELESS TELECOMMUNICATION FACILITIES

i. Telecommunications Tower, Major

		staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. ii. Chain-link fencing is a ground-based element subject to these screening requirements. iii. Screening in a residential or mixed-use district is not required for ground-based equipment that is not visible from off-site areas. iv. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. v. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.
	Example Images	The following images depict potential monopole telecommunications tower configurations, and are provided for informational purposes only.

		
Typical monopole with collocated antennae	Monopole with "birdcage" antenna mounts	"Mast" monopole configuration with integral antennae

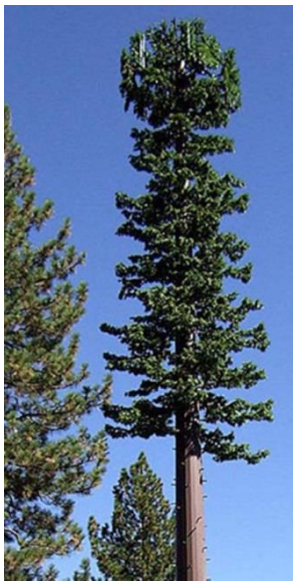
ii. Telecommunications Tower, Concealed and Minor

New or replacement concealed or minor telecommunications towers shall comply with the following standards:

	Towers Distinguished	i. A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional wireless telecommunications facility. ii. A minor wireless telecommunications tower is a use that is designed to appear as a traditional wireless telecommunications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.
	Location	Concealed and minor telecommunications towers are prohibited within the LHO and GCO districts.
	Appearance of a Concealed Tele-communications Tower	i. A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related wireless telecommunications equipment in order to obscure its purpose as a wireless telecommunications facility, to the maximum extent practicable. ii. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. iii. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as wireless telecommunications equipment to the casual observer. iv. Equipment cabinets and related structures shall be designed, located, and camouflaged in a manner that is compatible with the tower portion of the facility.

ii. Telecommunications Tower, Concealed and Minor		
		v. Placement of ground-based wireless telecommunications equipment associated with a concealed telecommunications tower is strongly encouraged to be located indoors or underground.
	Setbacks	i. Concealed and minor telecommunications towers and associated accessory structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. ii. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. iii. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements in subsection (i) above, to the maximum extent practicable.
	Maximum Height	i. The maximum height for any concealed wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. ii. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. iii. The maximum height for a minor telecommunications tower is less than 30 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.
	Collocation	i. Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. ii. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. iii. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. iv. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.
	Screening	i. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. ii. Chain-link fencing is a ground-based element subject to these screening requirements. iii. Screening in a residential or mixed-use district is not required for ground-based equipment that is not visible from off-site areas. iv. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. v. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas.
	Example Images	The following images depict potential concealed telecommunications tower configurations, and are provided for informational purposes only.

ii. Telecommunications Tower, Concealed and Minor

			
Tree configuration	Steeple configuration	Clock tower configuration	Flag pole configuration

iii. Collocation

Collocations, whether on a building wall or roof, a telecommunications tower, or on another vertical projection such as a water tank or electrical transmission tower, shall comply with the following standards:

	Collocations Distinguished	All collocations shall be classified as either a major collocation or a minor collocation in accordance with Section 8.4, Definitions, and the following: i. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: (a) A building's roof; (b) A building's wall; (c) A vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless telecommunications services; or (d) An existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and Section 160D-931 of the North Carolina General Statutes. ii. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and Section 160D-931 in the North Carolina General Statutes, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and Section 160D-931 of the North Carolina General Statutes. iii. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof. iv. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.
	Substantial Modification	Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification: i. Increasing the existing overall height of the telecommunications tower by the greater of: (a) 20 feet; or (b) More than ten percent; or ii. Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of:

iii. Collocation		
		(a) More than the width of the telecommunications tower at the height of the appurtenance; or (b) More than 20 feet from the edge of the tower; or iii. Increasing the square footage of an existing equipment compound by more than 2,500 square feet. iv. Substantial modifications that require an increase in the overall height of an existing telecommunications tower or require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower subject to the standards in this table. v. In no instance shall an existing telecommunications tower be permitted to remain in place for a period of more than 14 days following installation of a replacement telecommunications tower constructed to accommodate a collocation.
	Collocation Prohibited	In no instance shall a collocation take place on or in a single-family detached, duplex, or attached residential structure.
	In Historic District	A collocation on building, telecommunications tower, or other vertical projection located within a historic district shall obtain a certificate of appropriateness and shall be configured to minimize visibility of the facility, to the maximum extent practicable.
	Maximum Height	Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building's roof or parapet wall.
	Method of Attachment	i. Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. ii. The Planning Director shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.
	Appearance when Concealed	When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.
	Setbacks	i. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height, to the maximum extent practicable. ii. Accessory structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
	Screening	i. Except when located in commercial or industrial zoning districts, all ground-based elements, such as an equipment compound or equipment cabinets, shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based elements. ii. Chain-link fencing is a ground-based element subject to these screening requirements. iii. Screening in a residential or mixed-use district is not required for ground-based equipment that is not visible from off-site areas. iv. Landscaping material shall reach and maintain a minimum height of six feet above grade within four years of planting. v. Landscaping material is not required in front of access gates, provided the gates are fully opaque or are not visible from off-site areas. vi. Roof- or building wall-mounted wireless telecommunications equipment (excluding antennae and antenna-support structures) shall be screened from view or shall be camouflaged in order to minimize its appearance from on-site and off-site areas.
	Example Images	The following images depict potential collocation configurations, and are provided for informational purposes only.

iii. Collocation

Typical collocation on a building	Concealed collocation on a building (red circle added for clarity)

iv. Small Wireless Facility

Small wireless facilities may be located within a public right-of-way, other right-of-way, or on an individual lot only in accordance with the following standards:

	Consolidated Application	An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the City may choose to issue separate decisions on one or more of the facilities included within a consolidated application.
	Located within Public Right-of-Way	In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with the standards in the City's Right-of-Way Management Ordinance instead of the standards in this section. The Right-of-Way Management Ordinance is on file and available for inspection in the City's Transportation Department.
	Timeframe for Review	Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the City and the applicant from mutually agreeing to a longer review period.
	Timing for Operation	Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.
	In Historic District	A small wireless facility located within a historic district shall obtain a certificate of appropriateness in accordance with Section 160D-947 of the North Carolina General Statutes and shall be configured to minimize visibility of the facility, to the maximum extent practicable.
	Maximum Equipment Size	i. In no instance shall a small wireless facility exceed the following maximum size limitations: (a) Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less. (b) All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure. ii. A small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation.
	Maximum Height	i. No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. ii. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. iii. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. iv. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. v. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement structure shall be reviewed and decided in accordance with the standards for a collocation.

iv. Small Wireless Facility		
	Placement	A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.
	Method of Attachment	i. Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. ii. The Planning Director shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.
	Appearance	i. The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. ii. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed solely for the purposes of providing wireless telecommunications services, the City may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.
	Screening	i. Except when located in commercial or industrial zoning districts, all ground-based equipment shall be completely screened from off-site views through the use of a fully opaque wooden privacy fence, masonry wall, or two staggered rows of evergreen shrubs located around the perimeter of the ground-based equipment. ii. Chain-link fencing is a ground-based element subject to these screening requirements. iii. Screening in a residential or mixed-use district is not required for ground-based equipment that is not visible from off-site areas.
	Electrical Service	In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.
	Example Images	The following images depict potential small wireless facility configurations, and are provided for informational purposes only.

Typical placement on an electrical utility pole	Typical placement on a street light	Typical placement on a street sign

e. Nonconforming Wireless Telecommunications Facilities

i. Lawfully established wireless telecommunications facilities in operation prior to November 1, 2019, that do not comply with these standards may remain and operate as nonconforming uses.

ii. In the event of conflict between these standards and the standards for nonconforming situations in CHAPTER 9. NONCONFORMITIES, the standards in this section shall control with respect to wireless telecommunications facilities.

iii. Ordinary and routine maintenance may be performed on a nonconforming wireless telecommunications facility.

iv. Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed in accordance with the requirements in Table 4.4.B.17.d, Standards for Specific Types of Wireless Telecommunication Facilities, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.

v. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and Section 160D-932 of the North Carolina General Statutes, be permitted on a nonconforming wireless telecommunications facility.

vi. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.

f. Cessation, Abandonment, and Removal of Wireless Telecommunications Facilities

i. Cessation

a) A wireless telecommunication facility shall be considered to have ceased operation if:

i) The City receives written notice from a wireless services provider that it intends to cease operations at a particular wireless telecommunication facility; or

ii) A wireless telecommunications facility ceases to transmit a wireless telecommunications signal for a period of 30 consecutive days or longer.

b) Upon receipt of a written notice from a wireless services provider or upon determination that a wireless telecommunication facility has ceased operation, the City shall forward written documentation of the cessation to the wireless services provider, or the owner of the land, if different.

ii. Abandonment

a) The wireless telecommunications facility shall be deemed abandoned if wireless telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.

b) Upon making a determination that a wireless telecommunications facility has been abandoned, the City shall forward written documentation of the abandonment to the wireless services provider, or the owner of the land, if different.

iii. Removal

a) The City may require the wireless services provider or the owner of the land, if different, to remove an abandoned wireless telecommunications facility within 30 days of the date it is deemed abandoned.

b) Should the wireless services provider, or the owner of the land, if different, fail to remove the abandoned wireless facility within 30 days of the date that notice of abandonment is filed, the City may cause the wireless telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider, or the owner of the land, if different.

C. COMMERCIAL USE TYPES

1. Adult Use Types

All adult bookstores, adult video stores, adult cabarets, adult motels, or any other adult business shall comply with the following standards:

a. Dimensional Property Separation

i. No adult business use shall be located within 1,000 feet of any other adult business use. Measurements shall be made from lot line to lot line.

ii. No adult business use shall be located within 1,500 feet of any religious institution, elementary or secondary school, public park, child day care center, or land zoned for residential uses. Measurements shall be made from lot line to lot line.

iii. No adult business use shall be located within 500 feet of any land in the OI zoning district. Measurements shall be made from lot line to lot line.

b. Signage

Except for on premise business signs permitted by this Ordinance, promotional materials shall not be visible to the public from sidewalks, walkways, or streets.

c. Restriction of Uses on the Same Property or in the Same Building, Structure, or Portion Thereof

i. There shall not be more than one adult business use in the same building, structure, or portion thereof.

ii. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult business use.

2. Animal Day Care

Animal day care uses shall comply with the following standards:

a. Overnight boarding of animals shall not be permitted;

b. Outside play areas for animal day care uses shall not be located within 100 feet of any residentially-zoned property or property being used for residential purposes;

c. No more than one animal day care or animal grooming and day care in combination operating as one business shall be allowed within a multi-tenant building;

d. Animal day care uses located within multi-tenant structures shall be soundproofed; and

e. Free-standing animal day care uses located within 100 feet of property zoned residential or being used as residential shall be soundproofed.

3. Animal Grooming

Animal grooming uses shall comply with the following standards:

a. Overnight boarding of animals shall not be permitted;

b. Outside play areas for animal day cares shall not be located within 100 feet of any residentially zoned property or property being used as residential;

c. No more than one animal grooming, or animal grooming and day care in combination operating as one business shall be allowed within a multi-tenant building;

d. Animal grooming uses located within multi-tenant structures shall be soundproofed;

e. Free-standing animal grooming facilities located within 100 feet of land zoned residential or being used as residential shall be soundproofed; and

f. Animal grooming located within the CBD district shall be conducted within a completely enclosed building. No outside activity shall be permitted.

4. Animal Shelter

a. All activities associated with the use shall take place within enclosed and soundproofed structures, or the use shall comply with the following separation requirements:

i. All activities shall be at least 500 linear feet from a lot in a residential or OI zoning district; and

ii. All activities shall be at least 300 linear feet from land zoned NB.

b. Outdoor areas used to house or exercise animals shall be protected from the weather and enclosed by a fence at least six feet in height.

5. Automobile Repair and Servicing (without painting/bodywork)

(AMENDED 10.20.20 UDOTA-03-20)

If the property abuts a lot in a residential zoning district, the following requirements shall be met:

a. A Type A perimeter buffer shall be provided along any lot line abutting a residential zoning district; and

b. Side yards abutting a lot in a residential zoning district shall be at least 20 feet in width.

6. Automobile Sales or Rentals

(AMENDED 10.20.20 UDOTA-03-20)

Uses primarily involving the sales or rental of automobiles, trucks, or recreational vehicles shall comply with the following standards:

a. Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone;

b. No vehicles or other similar items shall be displayed on the top of a building;

c. All lights and lighting shall be designed and arranged so no source of light is directly visible from any adjacent property; and

d. Repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.

7. Automotive Painting/Body Shop

Automobile painting/body shop uses shall comply with the following standards:

a. The use shall be located at least 250 feet from any residential district, school (except vocational schools), or child day care center;

b. Vehicles shall not be parked or stored as a source of parts; and

c. Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and fully screened by an opaque fence or wall of at least six feet in height.

8. Automotive Towing and Storage Lot

(AMENDED 3.17.20 UDOTA-02-20)

Automotive towing and storage lot uses shall comply with the following requirements:

a. Motor Vehicles

i. A maximum of no more than 50 vehicles at any one time shall be stored on the property.

ii. All towed vehicles must be stored in an approved vehicle towing and storage area.

b. Vehicle Storage Area

i. Size

The minimum size of the fenced storage area shall be 5,000 square feet.

ii. Security

a) A chain link fence, a minimum of six feet in height, shall be provided around all accessible sides of the storage area.

b) All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.

iii. Screening

Storage of motor vehicles shall comply with the applicable standards in Section 5.4, Screening.

iv. Surface

(AMENDED 3.17.20 UDOTA-02-20)

The storage area shall be paved with asphalt or concrete to minimize dust emissions and the buildup of dirt, mud, and other debris.

v. Lighting

All lighting shall be shielded so as not to cast direct light upon any adjacent residential lot.

vi. Location

No storage area shall be permitted within 100 feet of any residentially-zoned property or within any required front yard.

c. Storage Buildings

All buildings used to protect stored motor vehicles shall be located on the same lot.

9. Bar, Cocktail Lounge, or Private Club

A bar, cocktail lounge, or private club shall comply with the following requirements:

a. Such uses shall be separated from a religious institution or a school by at least 200 feet;
b. The minimum separation requirement above is reduced to 100 feet in the MX district and there is no separation requirement in the CBD or district;
c. The use shall not orient the primary entrance toward an abutting lot in a residential district;
d. The use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district;
e. Outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:
   i. The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and
   ii. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

10. Bed and Breakfast

A bed and breakfast shall comply with the following standards:

a. Be owner-occupied or have a manager who resides on the premises;
b. Have no more than six sleeping rooms;
c. Have only one kitchen;
d. Limit meals served on the premises to overnight guests only; and
e. Limit any signage to ground signage with a maximum sign face area of six square feet.

11. Bottle Shop

A bottle shop use shall comply with the standards in Section 4.4.C.9, Bar, Cocktail Lounge, or Private Club.

12. Bulky Items Sales

The outdoor display of bulky goods shall comply with the following standards:

a. Portable storage containers and dumpsters that are utilized for the purpose of display and any item that exceeds 10 feet in height shall not be placed within required setbacks, parking, or landscape areas; and
b. Other bulky items that are less than or equal to 10 feet in height must be located at least 10 feet from any public street and shall not be placed within required parking or landscape areas.

13. Business Incubator

a. A business incubator may be provided as a principal use in its own building, as a tenant in a multi-tenant building, or as an accessory use to an existing office, personal service, or industrial use.
b. Table 4.4.C.13.b, Business Incubator Composition, sets out the types of individual uses permitted within a business incubator, based on the zoning district where proposed:

TABLE 4.4.C.13.b: BUSINESS INCUBATOR COMPOSITION

District Where Located	Allowable Firm or Activity Types
HDR	Offices, Personal Services
MX, OI	Office, Personal Services, Research and Development, Wholesale Sales (no on-site inventory)
NB, CBD	Office, Personal Services, Research and Development, On-line Retail (no on-site sales), Wholesale Sales (no on-site inventory)
GB	Office, Personal Services, Research and Development, Wholesale Sales (no on-site inventory), Industrial Services

c. When proposed as an accessory use to an existing business or development, the floor area devoted to the business incubator shall not exceed 25 percent of the building's gross floor area.
d. Business incubators shall meet the off-street parking requirement for this use type in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, not the individual types of uses within the business incubator.

e. Floor area within a building serving as a business incubator may be used for storage, but no outdoor activity or storage is permitted.

14. Campground

(AMENDED 10.20.20 UDOTA-03-20)

Campgrounds shall comply with the following standards:

a. Campgrounds shall not include permanent residences, except as necessary for caretakers;
b. Individual campsites shall maintain a minimum size of 1,200 square feet in area and at least 25 feet in width;
c. Campgrounds shall provide a common recreational area consisting of at least 100 square feet per campsite;
d. Campgrounds shall provide sufficient groundcover to prevent erosion; and
e. Individual campsites shall be set back at least 100 feet from the front lot line and at least 50 feet from the side and rear lot lines.

15. Car Wash or Auto Detailing

Car wash or auto detailing uses proposed in the NB district shall comply with the following:

a. No outdoor display or storage of merchandise, materials, or rubbish shall be permitted;
b. No flags, banners, pennants, or other devices that flutter or revolve and that are designed and used solely to attract attention shall be permitted;
c. All floodlights shall be turned off at the close of business or at 11:00 p.m., whichever is earlier;
d. No exterior lights shall be so arranged as to direct or reflect light into the windows of any residence; and
e. If the property abuts a lot in a residential zoning district, a Type A perimeter buffer shall be provided along any lot line abutting a residential zoning district.

16. Coffee Shop

Coffee shops shall comply with the following requirements:

a. To assure provision of adequate parking, the maximum amount of seating and/or square footage of the public floor area for a coffee shop in a multi-tenant building shall be specified at the time of site plan approval;
b. A coffee shop shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district;
c. Coffee shops with outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:
    i. The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and
    ii. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

17. Convenience Store (with Gasoline Sales)

Convenience stores with fuel sales shall comply with the following standards:

a. **Location of Fuel Pump Islands**
Pump islands shall be a minimum of 25 feet from any road right-of-way line, 10 feet from any other lot line, and 12 feet from any principal building. Canopies over the pump islands may be located within 10 feet of a lot line.

b. **Location of Fuel Tanks**
Gasoline and fuel storage tanks shall be located a minimum of 20 feet from any lot line or building.

18. Co-Working Space

a. Use types and activities associated with a co-working space shall be limited to the range of activities typically associated with office uses.
b. Food or beverages produced or sold within the use shall be limited to patrons of co-working space not the general public.
c. Delivery of personal services within the co-working space (manicure, massage, education, exercise classes, child care, etc.) shall be limited to patrons of the co-working space.
d. Facilities for pets shall be indoors or fully screened from adjacent streets and other uses.

19. Electronic Gaming Operation

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 10.20.20 UDOTA-03-20)

Electronic gaming operations shall comply with the following standards:

a. Such uses shall be separated from the following use types by at least one-half mile (2,640 feet):

- **i.** A bar, cocktail lounge, private club;
- **ii.** A community/youth/senior center;
- **iii.** An elementary, middle, or high school;
- **iv.** A nightclub or dancehall;
- **v.** A park (whether public or private);
- **vi.** A pool hall;
- **vii.** A religious institution; or
- **viii.** Another commercial operation offering games of skill;

b. Such uses shall not operate between the hours of 11:00 PM and 7:00 AM; and

c. Such uses shall not include or display electronic sweepstakes.

20. Event Venue

Event venues shall be operated in accordance with the following standards:

a. Setbacks

Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.

b. Maximum Number of Guests

The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure as determined by the fire marshal or fire chief.

c. Hours of Operation

Outdoor activities shall not take place between the hours of midnight and 7:00 AM.

d. Lighting

Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited. Lighting of accessible paths may be provided, if necessary.

e. Noise

The event venue must comply with noise restrictions in the City Code of Ordinances.

f. Parking

- **i.** In cases where off-site parking is employed, the event venue shall maintain an agreement with the owner of land where vehicles are parked.
- **ii.** The venue shall ensure guests may access the venue safely from off-site parking areas.
- **iii.** In no instance shall vehicles be parked along streets in ways that block driveways, sight triangles, or emergency access.

g. Trash and Debris

The event venue shall provide sufficient on-site trash receptacles, and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.

h. Outdoor Activity

Event venue uses shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests to do not inadvertently trespass on adjacent lots.

i. Emergency Access

Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.

21. Financial Service

Drive-throughs, if provided, shall be located to the side or rear of the building to the maximum extent practicable.

22. Flea Market

Flea markets shall comply with the following standards:

a. Hours of Operation

(AMENDED 12.3.19 UDOTA-01-20)

Hours of operation shall be limited to 7:00 AM to 7:00 PM;

b. Site Features

i. Off street parking shall be provided with a minimum of three spaces per stand or rented space;
ii. Sanitary facilities shall be provided for both men and women;
iii. Provisions shall be made for garbage or trash removal for each day the flea market is open to the public; and

c. **Location**
All rental spaces and buildings shall maintain a 50-foot setback from all residential development or residentially-zoned land.

23. Funeral-related Service

Funeral-related services shall comply with the following standards:

a. Crematories shall not be located within a residential zoning district;
b. All storage shall take place within enclosed buildings; and
c. Display of headstones or other memorials shall be fully screened from any lot line shared with a lot in a residential zoning district.

24. Golf Course

Golf courses shall comply with the following standards:

a. No building shall be nearer to any lot line than 100 feet;
b. No green shall be nearer to any lot line than 150 feet and
c. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

25. Golf Driving Range

Golf driving ranges shall comply with the following standards:

a. The depth of a driving range along the driving axis shall be at least 250 yards measured from the location of the tees and at 125 yards wide; and
b. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

26. Gymnasium/Fitness Center

Outdoor courts, swimming pools, and athletic fields shall be located at least 50 feet from any lot line abutting a residential district.

27. Heavy Equipment Sales, Rental, and Repair

Uses primarily involving the sales, rental, service, or storage of heavy equipment shall comply with the following standards:

a. No heavy equipment or building displays shall be located within a required setback or perimeter buffer;
b. No heavy equipment shall be displayed on the top of a building; and
c. All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use.

28. Kennel Indoor/Outdoor

All kennels shall comply with the following requirements:

a. All structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions;
b. All activities associated shall take place within enclosed and soundproofed structures, or the use shall comply with the following separation requirements:
   i. All activities shall be at least 200 linear feet from a lot in a residential or OI zoning district;
   ii. All activities shall be at least 100 linear feet from land zoned NB;
c. Outdoor areas used to house or exercise animals shall include areas protected from the weather and be enclosed by a fence at least six feet in height; and
d. Any animal suspected of showing symptoms of rabies infection shall be immediately segregated and reported to Animal Control.

29. Large Format Retail

Large format retail uses shall comply with the standards in Section 5.5.B.7, Standards for Large Format Retail Uses.

30. Laundry and Cleaning Service

When proposed in the NB district, laundry and cleaning service uses shall comply with the following standards:

a. No more than 2,000 square feet of floor area shall be devoted to the dry cleaning, laundering, or finishing processes;
b. No more than three employees (including a manager) shall be working in the use at any one time;
c. No coal-burning or smoke-producing equipment or process shall be used;
d. Washing machines shall not exceed 50 pounds of capacity; and
e. No petroleum-based chemicals in excess of 500 gallons shall be stored in above-ground tanks.

31. Microbrewery or Microdistillery

A microbrewery or microdistillery use shall comply with the standards in Section 4.4.C.9, Bar, Cocktail Lounge, or Private Club.

32. Nightclub or Dance Hall

A nightclub or dance hall shall comply with the standards in Section 4.4.C.9, Bar, Cocktail Lounge, or Private Club, and the following:

a. Such uses shall be separated from land in a residential zoning district by at least 500 feet; and
b. The building shall be configured and the use operated such that sound from amplified music or other performance taking place within the building is not audible at the lot line after 11:00 PM.

33. Outdoor Commercial Recreation

a. Generally

Outdoor commercial recreation uses shall comply with the following standards:

i. Outdoor recreation uses shall be screened from abutting arterial streets with a Type A buffer;
ii. Grading shall be limited to a maximum of five feet above or below the grade existing prior to development; and
iii. No associated outdoor features shall be located between the front façade of the building and the street fronting the lot.

b. Drive-in Theatre

A drive-in theatre shall comply with the following requirements:

i. The viewing screen shall be directed away from arterial or collector streets;
ii. Lighting shall be shielded so as to cast no direct light on adjoining lots;
iii. An eight-foot-high opaque screen shall be required around the perimeter, except at driveways;
iv. Audio shall be delivered to each car by individual speakers only; and
v. The use shall provide stacking spaces at the entrance capable of accommodating 20 percent of the vehicular capacity of the use.

c. Miniature Golf

In addition to the general standards for outdoor commercial recreation uses in subsection (a) above, miniature golf uses shall also comply with the following:

i. No green shall be allowed within a street setback or closer than 100 feet to any lot line; and
ii. Lighting shall be shielded so as to cast no direct light upon any adjacent lot.

34. Outdoor Storage

(AMENDED 1.4.22 UDOTA-1-22)

a. General Standards

The following standards shall apply to all outdoor storage areas:

i. The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use;
ii. Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
iii. Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial or collector street;
iv. No outdoor storage area shall be located within a perimeter buffer required in accordance with Section 5.3.J, Perimeter Buffers;
v. Flammable liquids or gas containers in excess of 1,000 gallons shall be stored underground;
vi. No materials shall be stored in areas intended for vehicular or pedestrian circulation;
vii. No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement; and
viii. Outdoor storage areas may be surfaced with gravel.

b. Screening Requirements

Screening of outdoor storage shall be in accordance with the applicable standards in Section 5.4, Screening.

35. Parking Lot

A commercial parking lot that is the principal use shall comply with the parking lot configuration requirements in Section 5.1, Off-Street Parking and Loading, and the following standards:

a. Parking shall be the principal use of the parking lot. Parking spaces may be rented for parking, or otherwise used in accordance with an approved temporary use permit or other permit, but no other business of any kind shall be conducted on the lot, including repair service, washing, display, or storage of vehicles or other goods;

b. Commercial parking lots shall not be located contiguous to a single-family residential zoning district; and

c. Commercial parking lots that are the principal use of the lot shall have no more than 100 feet of street frontage occupied by parking or vehicular access area. The balance of the frontage shall be screened or occupied by vegetation.

36. Parking Structure

Parking structures, whether serving as a principal or accessory use in the CBD or MX districts, shall be configured in accordance with the following standards:

a. Dimensional Requirements

Parking structures shall comply with the dimensional standards applicable to the zoning district where located.

b. Ground Floor Configuration

The ground floor of a parking structure abutting a sidewalk shall be configured as building floor area capable of accommodating a non-residential use or shall be configured with a minimum first floor ceiling height of 20 feet above grade to ease conversion of the ground floor to habitable space in the future.

c. Architecture

i. Parking structures visible from street frontages shall be designed to be compatible with the architectural character and quality of adjacent buildings and shall not adversely impact abutting sidewalks.

ii. Parking structure elevations shall use color, massing, or architectural features to reduce the appearance of bulk.

iii. Parking structure façades facing residential lots shall:

a) Be enclosed to prevent light spillover from headlights, adverse noise, or pollutants; and

b) Incorporate architectural design elements, including surface treatments, offset planes, structural articulation, and landscaping to provide visual interest and compatibility with adjacent residential uses.

d. Drainage

Parking structures shall be designed and constructed so that surface water will not drain over sidewalks or adjacent lots.

e. Lighting

i. Parking and pedestrian areas shall have adequate illumination for security and safety with a minimum of one foot candle at every point within the parking structure.

ii. Lighting fixtures shall be designed and located to illuminate only the interior of the parking structure and not project glare into adjoining land.

37. Pharmacy

A pharmacy may be permitted as an accessory to a health care use or medical office in the OI district, provided:

a. The pharmacy is on the ground floor and does not occupy more than 50 percent of the ground floor square footage; and

b. The pharmacy be limited to sales of drugs, prescription medicines, medicinal supplies and appliances, and pharmaceutical products.

38. Recreational Vehicle Park

(AMENDED 10.20.20 UDOTA-03-20)

Recreational vehicle parks shall comply with the following standards:

a. Minimum Site Area
The park shall have a minimum area of two acres of well-drained land. All areas of the premises shall be kept clean and free from weeds and undergrowth.

b. Minimum Campsite Area
The minimum campsite area occupied by any recreational vehicle shall be 1,500 square feet with a minimum width of 30 feet.

c. Minimum Spacing
A clearance of at least 20 feet shall be maintained between each, recreational vehicle and any building within the park.

d. Opaque Screen
A continuous opaque screen shall be provided along all park boundaries, except at entrances.

e. Interior Drives

i. All campsites shall abut a paved driveway with a continuous width of 25 feet.
ii. All interior drives shall have unobstructed access to a public street.

f. Fire Protection Standards
The park shall meet the standards for adequate fire protection as established by the latest edition of the National Fire Protection Association Bulletin No. 501-A.

g. Limitation of Stay
No recreational vehicle shall remain within a park for more than 30 days during any six-month period.

h. Sanitary Facilities
Each park shall provide the following bathroom facilities for every eight campsites or fraction thereof:

i. Male bathrooms to include one commode, one urinal, one lavatory and one shower;
ii. Female bathrooms to include two commodes, one lavatory and one shower; and
iii. All bathrooms shall provide an adequate supply of hot and cold running water.

i. Refuse Facilities

i. All garbage and refuse shall be stored in a suitable water-tight and fly-tight standard garbage receptacle and shall be kept covered with tight-fitting covers.
ii. At least one such receptacle shall be provided and conveniently located for every campsite, except where a dumpster or dumpsters are conveniently located and used in the same manner as separate receptacles.
iii. It shall be the duty of the park operator to ensure that all garbage and refuse is disposed of regularly and in a manner approved by the Alamance County Health Director.
iv. No materials that attract or that afford harborage for insects or rodents may be stored or allowed to remain on the premises.

39. Repair Shop

a. All repair uses shall limit repair activities to those occurring indoors.
b. Gun repair shops may include testing facility for firearms, provided:

i. The facilities are constructed in accordance with all applicable laws and regulations;
ii. The facilities include acoustical apparatus and/or materials that prevent any noise or disturbance to the owners and/or occupants of the adjoining properties; and
iii. The facilities are not used as a shooting range for target practice or the testing of marksmanship skills.

40. Restaurants

All restaurant use types shall comply with the following requirements:

a. A restaurant shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district;
b. Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

i. The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district; and

ii. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

41. Self-Service Storage, External or Internal Access

a. Generally

Self-service storage facilities shall comply with the following standards:

i. The use shall be located on a lot or site of at least two acres in area;
ii. No more than 50 percent of the total site may be occupied by buildings;
iii. External-access only storage buildings shall not exceed 20 feet or one story in height;
iv. No activity other than storage shall take place within a storage unit; and
v. Storage of hazardous, toxic, or explosive substances shall be prohibited.

b. Additional Standards for Internal-only Access Self-Storage Uses

i. No indoor storage material, racks, bins, shelving or other evidence of the operation shall be visible from the public right-of-way;
ii. Glass doors and windows shall contain curtains, blinds or other suitable treatment to screen the interior of the building from view;
iii. Windows shall not be boarded or paneled over from the outside or the inside; and
iv. Outdoor storage shall be prohibited at mini-storage facilities with internal only access.

42. Specialty Eating Establishment

Specialty eating establishments shall comply with all applicable requirements in Section 4.4.C.40, Restaurants.

43. Truck Stop

A truck stop shall comply with the following standards:

a. Setbacks

All buildings, parking, and service areas associated with the use shall be setback at least 50 feet from an abutting residential district.

b. Location

Truck stops shall have frontage on or be located within a one-half mile of an Interstate or US Primary Highway exit.

44. Veterinary Clinic

Veterinary clinics shall comply with the following requirements:

a. All structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions;
b. All activities associated shall take place within enclosed and soundproofed structures, or the use shall comply with the following separation requirements:

i. All activities shall be at least 200 linear feet from a lot in a residential or OI zoning district;
ii. All activities shall be at least 100 linear feet from land zoned NB; and
iii. Outdoor areas used to house or exercise animals shall be enclosed by a fence at least six feet in height.

D. INDUSTRIAL USE TYPES

1. Asphalt or Concrete Plant

An asphalt or concrete plant shall comply with the following standards:

a. Setbacks

An asphalt plant shall be located at least 50 feet from a lot line.

b. Security Fencing

A security fence, a minimum of six feet in height, shall be provided around the use.

c. Rehabilitation

i. Within one year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner.

ii. The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.

d. Access

i. Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.

ii. Access drives shall be located no closer than 15 feet from a lot line.

iii. A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

2. Contractor Services/Yard

(AMENDED 10.20.20 UDOTA-03-20)

a. Outdoor storage of equipment, materials, and vehicles shall be screened from view from all adjacent single-family residential uses, public rights-of-way, sidewalks, and greenways in accordance with the applicable standards in Section 5.4, Screening.

b. Equipment can exceed the required fence height but shall be stored in a manner that limits visibility from the line of sight from all street rights-of-way.

3. Extractive Industry

Quarries and other extractive industries shall comply with the following requirements:

a. General Requirements

i. The minimum development area shall be five acres.

ii. The use shall not require the use of residential neighborhood streets to gain ingress or egress.

iii. Where the final slope of areas being excavated will exceed 30 percent, such areas shall be enclosed with a fence at least five feet high located not less than ten feet from the excavation's edge.

iv. Excavated areas, stockpiles, waste storage piles, and associated processing, storage, and loading areas shall be fully screened from view from principal arterials, collector streets, and lots in residential zoning districts in accordance with the standards in Section 5.4, Screening.

v. No blasting operations shall be conducted during the hours from 6:00 p.m. to 7:00 a.m., and when conducted, shall not cause unreasonable amounts of noise, vibration, dust, or flying debris on nearby lots.

vi. No operations shall impede the normal flow of any stream or watercourse, silt up or pollute any stream, undermine any public road or bridge, or promote flooding on adjacent land.

b. Rehabilitation Plan and Guarantee Required

(AMENDED 10.20.20 UDOTA-03-20)

i. Upon discontinuance of operations, all buildings and equipment shall be removed, and excavated areas shall be rehabilitated in accordance with a rehabilitation plan included as part of the application to establish the use.

ii. The rehabilitation plan shall identify the ways the site will be to returned as closely as possible to its original condition or a condition suitable for a specified alternate use. The rehabilitation plan shall address the storage and protection of topsoil removed during the course of operations as well as regrading, re-fertilization, and replanting.

iii. The estimated cost of carrying out the rehabilitation plan shall be filed with the application. The estimate shall be certified as approximately correct by a professional engineer licensed to practice in the State of North Carolina with expertise in rehabilitation.

iv. A rehabilitation guarantee, payable to the City, shall be required in an amount equal to the estimated cost of carrying out the rehabilitation plan in accordance with Section 6.7, Performance Guarantees.

v. The rehabilitation guarantee shall be maintained as a legally binding obligation until such time as the City Council determines that all rehabilitation work has been satisfactorily completed.

vi. If the City Council finds that extractive uses have been discontinued for a period of 12 consecutive calendar months and that no major attempts have been made to implement the rehabilitation plan, it shall order forfeiture of the guarantee and the proceeds shall be used to carry out, to the extent possible, the rehabilitation plan.

4. Flex Space

(AMENDED 10.20.20 UDOTA-03-20)

Flex space use shall comply with the following standards:

a. Flex space uses shall meet the off-street parking requirement for this use type in Table 5.1.D.2, Minimum Off-Street Parking Spaces Required, not the individual types of uses within the flex space;

b. The following activities shall not be included within a flex space use type:

i. Residential dwellings;
ii. Religious institutions;
iii. Adult businesses;
iv. Eating establishments;
v. Bars, cocktail lounges, or private clubs;
vi. Nightclubs or dance halls; or
vii. Heavy manufacturing uses; and

c. Outdoor storage or business-related activity is permitted as an accessory use, subject to all applicable standards in this Ordinance.

5. Fuel Oil/Bottled Gas Distributor

Uses storing 100,000 or more gallons of petroleum products as a principal or accessory use shall comply with all applicable Burlington Fire Department and Fire Prevention Code of the National Board of Fire Underwriters requirements, all above-ground storage tanks and loading facilities shall be located at least 50 feet from any front lot line.

6. Landfill

Land clearing and inert debris (LCID) landfills and construction debris (CD) landfills shall comply with the following standards:

a. LCID and CD landfills shall be set back at least 300 feet from any existing residential use, school, or child care use, and shall provide a Type D landscape buffer around its perimeter (see Section 5.3.J, Perimeter Buffers);

b. Access to a landfill shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping;

c. All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties; and

d. No filling associated with a landfill shall take place within in any flood hazard area, drainage ways, or utility easements.

7. Makerspace

Makerspace uses shall be configured in accordance with the following standards:

a. No outdoor storage or activity shall be permitted;

b. The use shall include adequate ventilation and equipment for the dispersal of vapors, dust, or airborne contaminates created within the structure;

c. The use shall include a fire suppression system as required by the fire marshal;

d. No operation between the hours of 11:00 PM and 7:00 AM; and

e. Incidental sale of products created on site is permitted.

8. Manufacturing

a. Manufacturing, Heavy

Heavy manufacturing uses shall comply with the following standards:

i. Heavy manufacturing uses shall be located at least 1,000 feet from any residential district; and
ii. A Type D perimeter buffer of at least 25 feet in depth shall be provided along any boundary with another property not zoned for heavy industry.

b. Manufacturing, Light

All light manufacturing uses shall comply with the following standards:

i. Buffer and setback areas in the side and rear may not be used for parking; and
ii. Finished products for display and sale shall not occupy more than 40 percent of the land area between the principal building and all adjacent streets.

9. Public Convenience Center/Transfer Station

A transfer station shall comply with the following standards:

a. Access shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping;
b. Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition;
c. Be located at least 150 feet from a residential district and operated entirely within an enclosed building, except for loading facilities which may be located outdoors; and
d. Outdoor storage of waste material is prohibited.

10. Recycling Center

Recycling centers shall comply with the following standards:

a. Recycled batteries must be stored in non-porous containers;
b. All loading and storage areas shall be diked to prevent runoff/spill contamination; and
c. Recycled motor oil and grease shall be stored in above-ground tanks approved by the Burlington Fire Chief.

11. Salvage or Junkyard

Junk yards, including junked automobile storage, shall be subject to the following regulations:

a. Junk yards shall be located at least 200 linear feet, as measured from the required perimeter screening from any lot in a residential zoning district;
b. An opaque screen eight feet in height shall be required around all boundaries;
c. Any planted opaque screen shall be at least four feet in height when planted; and
d. No required front or side yard shall be used for storage purposes.

12. Solar Farm

(AMENDED 10.20.20 UDOTA-03-20)

A solar farm use shall comply with the standards in Section 160D-911 of the North Carolina General Statutes, and the following:

a. Be on a site of at least one acre in area;
b. Signage shall be limited to ownership and contact information, and any other information required by government regulation. Commercial advertising is prohibited. Nothing in this section shall prohibit signage that is legally approved for other uses on the same lot or site on which the solar array facility is located;
c. Be enclosed with a fence of at least six feet in height; and
d. Not create glare or shadows on adjacent lands.

13. Truck or Freight Terminal

Truck or freight terminals shall comply with the following standards:

a. The use shall be located at least 500 feet from any residential district, school, or child care center;
b. The use shall not locate storage areas within a required setback or perimeter buffer; and
c. The use shall have direct access onto an arterial or collector street.

14. Utilities

(AMENDED 10.20.20 UDOTA-03-20)

a. All uses in the utility use category shall comply with the following standards:

i. Where possible, utilities should be located on lots interior to a development rather than on lots abutting streets;

ii. Except when a utility crosses a street, it shall be setback at least 25 from all lot lines unless the zoning district requirements specify a deeper setback;

iii. Major utilities may only be located on lots that meet the dimensional requirements for the zoning district where located. Minor utilities may be on lots, leaseholds, or easements that do not meet the minimum dimensional standards for lots in the district where located;

iv. The design of buildings, structures, and facilities located in residential neighborhoods shall conform as closely as possible to the character of development in the area to ensure compatibility. Utility placement and screening may also be used as a means of ensuring compatibility;

v. Portions of properties not used for facilities, off-street parking, or related services shall be maintained with natural ground cover; and

vi. Service and storage yards shall not be permitted within utility facilities located in residential or OI districts.

b. Ground-based electrical substations and transformers shall be considered as minor utilities and shall also comply with the following additional standards:

i. Ground-based electrical substations and transformers may only be located on a lot of one acre in area when located in a residential or OI district;

ii. Ground-based electrical substations and transformers shall include non-climbable fences or comparable safety devises to limit accessibility by the general public;

iii. Ground-based electrical substations and transformers shall include a durable masonry wall, fence, hedge, or other natural planting of comparable opacity shall be provided along the exterior lot lines abutting a lot in a residential or OI district;

iv. Walls, fences, or hedges required in this section shall be between five and seven feet in height measured from the ground along the lot line; and

v. Plantings shall maintain an initial height of at least three feet at time of planting and shall achieve an average height of six feet within two years of the time of planting.

c. Communications or relay towers associated with a utility use type shall comply with the following additional standards:

i. Communications or relay towers associated with a utility use type may only be located on a lot of one acre in area when located in a residential or OI district; and

ii. The minimum distance from the base of any tower to the nearest property line shall be equal to the height of the tower.

15. Warehouse, Distribution or Storage

a. In the GB district, warehouse uses shall be conducted entirely indoors and no exterior storage is permitted.

b. In the CBD district, warehouse uses are only permitted as an accessory use to a separate principal use.

16. Wholesale Sales

a. In the GB district, wholesale sales uses shall be conducted entirely indoors and no exterior storage is permitted.

b. In the CBD district, wholesale sales are only permitted as an accessory use to a separate principal use.

17. Wind Energy Conversion

A wind energy conversion facility shall comply with the following standards:

a. Location

i. No tower associated with a large wind energy facility shall be located within 1,000 feet of land in the MDR district, HDR district, or a public park.

ii. All ground-based equipment buildings shall be located under the blade sweep area, to the maximum extent practicable.

b. Setbacks

i. All towers associated with a large wind energy facility shall be set back a distance equal to one-and-one-half times the overall height of the tower and associated wind turbine blade.

ii. All associated facilities other than towers and associated wind turbines shall be subject to the setback standards for the district where located.

c. Tower Structure
Large wind energy facilities shall utilize monopole or self-supporting towers

d. Common Configuration
All towers and turbines within a single large wind energy facility shall maintain uniform design in terms of the following features:

i. Tower type;
ii. Tower, turbine, and blade colors;
iii. The number of blades per turbine; and
iv. The direction of blade rotation.

e. Height
The maximum height of a large wind energy system (including the tower and extended blades) shall be 450 feet.

f. Blade Clearance
The blade tip or vane of any large wind energy facility shall have a minimum ground clearance of 75 feet above grade, as measured at the lowest point of the arc of the blades. No blades shall extend over public rights-of-way.

g. Unauthorized Access
All large wind energy facilities shall incorporate anti-climbing devices to prevent unauthorized climbing.

h. Utilities
Except for transmission lines, all utilities associated with a large wind energy facility shall be located underground.

i. Appearance
The wind turbine and tower shall be painted or finished in the color originally applied by the manufacturer, or a matte neutral color (e.g., gray, white, or galvanized steel).

j. Lighting
No illumination of the turbine or tower shall be allowed, unless required by the (FAA). In the event obstruction lighting is required by the FAA, it shall be of the lowest intensity allowed, and strobes or blinking lights shall be avoided, to the maximum extent practicable.

k. Signage Prohibited
Signage visible from any public street or off-site area shall be limited to the manufacturer's or installer's identification, appropriate warning signs, or owner identification.

l. Sound
The noise at the lot line produced by the wind energy conversion facility during operation shall not exceed 55 dBA. This standard shall not apply during power outages, windstorms, or other conditions beyond the owner's control.

m. Shadow Flicker
Shadows cast by the rotating blade of a large wind energy facility shall not fall upon off-site areas.

n. Interference
The owner shall take all reasonable steps to prevent or eliminate interference with transmission of communications signals (e.g., radio, television, telephone, etc.) resulting from a wind energy conversion facility.

o. Abandonment

i. On determining that a large wind energy conversion facility has been inoperable for 180 days or more, the Planning Director may issue a Notice of Abandonment to the facility owner.
ii. The facility owner shall restore operation of the wind energy conversion facility within 30 days of receipt of the Notice of Abandonment, or file a Notice of Termination with the Planning Director.
iii. The wind energy conversion facility shall be removed from the site within three months of the filing of a Notice of Termination.
iv. Removal of a wind energy conversion facility shall include removal of all of the following features:

a) Towers;
b) Turbines;

c) Above-ground equipment;
d) Outdoor storage;
e) Foundations to a depth of four feet below grade; and
f) Any hazardous material associated with the facility.

E. AGRICULTURAL USES

1. Agriculture and Horticulture

Sale of produce grown on-site or on an adjacent lot that is part of the same agricultural operation is permitted provided they take place outside the right-of-way.

2. Agriculture Support Services

a. General

All directly-related agricultural support services shall comply with the following standards:

- **i.** Be allowed only in direct association with an on-going agriculture, horticulture, animal husbandry, or silvicultural use;
- **ii.** Be on a lot of at least one acre in size; and
- **iii.** Be operated or maintained by the owner or occupant of the land upon which the primary agricultural activity is being conducted.

b. Agri-education and Agri-entertainment

Agri-education and agri-entertainment uses shall comply with the following standards:

- **i. Minimum Size**
  Be at least two acres in area;
- **ii. Obtain Building Permits**
  Obtain building permits and comply with the North Carolina Building Code for all structures intended for occupancy by members of the public;
- **iii. Special Event Permit**
  Obtain a special event permit for all activities drawing more than 100 people to the site per day;
- **iv. Provide Adequate Facilities**
  Provide public restrooms, adequate parking, and pedestrian circulation features; and
- **v. Comply with Minimum Requirements**
  Ensure permanent buildings within 500 feet of a public right-of-way comply with the landscaping standards in this Ordinance.

c. Equestrian Facilities

Equestrian facilities shall comply with the following standards:

- **i.** The land on which the facility is located shall be at least two acres in size;
- **ii.** No stalls or stables shall be within 200 feet of any existing adjoining residential dwelling and 100 feet from any adjoining well being used for human consumption; and
- **iii.** Stables must be operated and maintained in a healthy and safe manner. Healthy and safe is defined as, but not limited to: fences kept in good repair; potable water available on demand; protection from wind or rain; a sign posted indicating the name and phone number of the person to be contacted in case of emergency.

d. Nursery, Production

- **i.** No heated greenhouse shall be operated within 20 feet of any lot line.
- **ii.** Any outside storage of equipment, vehicles, or supplies shall be fully screened from off-site views by buildings, fencing, or landscaping.

e. Roadside Market

- **i.** Retail sales within a roadside market shall be limited to the agricultural and aquaculture products produced by the owners or vendors in the establishment.
- **ii.** At least 75 percent of the floor area shall be devoted to the direct retail sales of agricultural, seafood, or related agricultural products to the general public.
- **iii.** Temporary signage associated with a roadside market shall not be erected more than 30 days prior to the seasonal opening of the market, and shall be removed within 30 days of the closing of the season.

3. Animal Husbandry

Animal husbandry uses shall comply with the following standards:

a. Outside Corporate Limits

Animal husbandry is only permitted on lots located outside the City's corporate limits.

b. Minimum Site Size

i. Any use engaged in animal husbandry shall have a minimum lot area of at least 20,000 square feet in size.
ii. Uses maintaining non-hoofed animals shall maintain 1,500 square feet per animal kept on site.
iii. Uses maintaining hoofed animals shall maintain 9,000 square feet per animal kept on site.

c. Minimum Setbacks

All barns, pens, and enclosures shall be located at least 100 linear feet from lot lines and drinking water sources (except those intended for livestock).

d. Fencing or Pens Required

Animals (excluding waterfowl) shall be maintained within pens, fenced areas, or other suitable enclosures.

e. Maintenance Required

i. Pens, stalls, and grazing areas shall be maintained in a sanitary manner free from noxious odors.
ii. Manure stockpiles shall not exceed six feet in height and shall not be permitted during the period from May 1 until August 31.

4. Farmer's Market

A farmer's market shall comply with the following standards:

a. The use shall be a principal use of the lot where located;
b. Retail sales shall be limited to the agricultural and aquaculture products produced by the owners or vendors in the establishment; and
c. At least 75 percent of the floor area shall be devoted to the direct retail sales of agricultural, seafood, or related agricultural products to the general public.

4.5. ACCESSORY USES

A. PURPOSE

This section authorizes the establishment of accessory uses and structures that are incidental and subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses and structures, provided they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

B. ORGANIZATION OF THESE STANDARDS

These provisions set out the standards and allowable locations for accessory uses and structures in the City's jurisdiction, and are organized into the following sections:

1. Section 4.5.C, Procedure For Establishment, describes the procedure for establishing an accessory use or structure.
2. Section 4.5.D, General Standards for Accessory Uses and Structures, lists the general standards applicable to all accessory uses and structures under this Ordinance.
3. Section 4.5.E, Common Accessory Use Table, lists a series of common accessory uses and the zoning districts where they are permitted.
4. Section 4.5.F, Specific Standards for Selected Accessory Uses, sets out additional standards applied to individual accessory use types where identified in Section 4.5.E, Common Accessory Use Table.

C. PROCEDURE FOR ESTABLISHMENT

1. Accessory uses or structures may be approved in conjunction with the approval of the principal use or subsequently following the establishment of the principal use. No accessory use or structure shall be approved, established, or constructed before the principal use is approved in accordance with this Ordinance.
2. Applications to establish a conditional zoning district shall be supplemented by a site plan showing proposed accessory uses or by a written list of proposed accessory uses which shall be attached to the application approval along with other conditions of approval.
3. Section 4.5.E, Common Accessory Use Table, may not be inclusive of all possible accessory uses, and in the event an accessory use is proposed that is not listed in the table, the Planning Director shall consult Table 4.2.C, Principal Use Table, to determine if the proposed accessory use corresponds to a listed principal use. Any listed principal use is permitted as an accessory use in any zoning district where the principal use is permitted. In no instance shall an accessory use be permitted in a zoning district where it is prohibited as a principal use.
4. In the event a proposed accessory use is not listed in Section 4.5.E, Common Accessory Use Table, and there is no corresponding principal use, the Planning Director shall determine how to treat the accessory use in accordance with Section 4.2.B, Unlisted Uses.

D. GENERAL STANDARDS FOR ACCESSORY USES AND STRUCTURES

1. Permitted Accessory Uses and Structures

(AMENDED 1.4.22 UDOTA-1-22)

a. Permitted accessory uses and structures include those listed in this section and those that the Planning Director determines meet the following:
   i. Are clearly incidental to an allowed principal use or structure;
   ii. Are subordinate to and serving an allowed principal use or structure;
   iii. Are subordinate in extent and purpose to the principal use or structure;
   iv. Are smaller in terms of total floor area or square footage than the principal structure; or
   v. Contribute to the comfort, convenience or needs of occupants, business, or industry associated with the principal use or structure.

b. Barns, silos, green houses, and similar features serving as accessory structures to agricultural uses may exceed the total floor area or square footage of a single-family dwelling when the dwelling is the principal structure on the lot.

2. Location of Accessory Uses and Structures

a. Within Required Landscaping Buffers

Except for fences and walls contributing to the screening function of a buffer, no accessory structure shall be located within a required buffer except in accordance with Section 5.3, Landscaping, or Section 5.4, Screening.

b. Within a Setback

(AMENDED 3.17.20 UDOTA-02-20); (AMENDED 10.20.20 UDOTA-03-20)

i. Except for the following, no accessory use or structure may be located in a required setback:

a) Art installation;
b) Cluster box unit;
c) Fence or wall;
d) Flag pole and flag;
e) Outdoor display of merchandise; or
f) Produce stand.

ii. On corner lots, an accessory structure or use shall not be closer to the street than the street setback.

c. Within Other Areas on a Site

(AMENDED 3.17.20 UDOTA-02-20); (AMENDED 10.20.20 UDOTA-03-20)

i. No accessory use or structure shall:

a) Be within five feet of a lot line, except as authorized by Table 8.3.E, Allowable Encroachment into Setbacks;
b) Be within ten feet of the centerline of an alley except as authorized by Table 8.3.E, Allowable Encroachment into Setbacks;
c) Be located within a designated fire lane;
d) Obstruct required sight distance triangles;
e) Impede ingress or egress to a lot, site, or principal structure;
f) Be located above or beneath public utilities (except for fences or walls);
g) Interfere with drainage or stormwater control measures; or
h) Be within an emergency access route designated on an approved site plan.

ii. Accessory structures may encroach into required setbacks only in accordance with the standards in Table 8.3.E, Allowable Encroachment into Setbacks.

d. Within an Easement

Except for authorized stormwater control measures within a drainage easement, no accessory use or structure shall be located within any platted or recorded easement without the prior written consent of the landowner.

e. Within LHO District

Accessory structures located in a local historic overlay district shall be subject to a certificate of appropriateness in accordance with Section 2.4.D, Certificate of Appropriateness.

3. Structure Height

Accessory structures shall comply with the maximum building height requirements for the zoning district where located, except that accessory structures within 10 feet of a lot line shall not be taller than 15 feet.

4. Compliance with Ordinance Requirements

Accessory uses and structures shall conform to the applicable requirements of this Ordinance, including this section, the district standards in CHAPTER 3. ZONING DISTRICTS, the development standards in CHAPTER 5. DEVELOPMENT STANDARDS, and the environmental standards in CHAPTER 7. ENVIRONMENT.

5. Compliance with Design Standards

(AMENDED 3.17.20 UDOTA-02-20)

a. Accessory uses and structures serving principle uses that are subject to the design standards in Section 5.5, Design Standards and Guidelines, shall comply with the design standards applied to the principal use they serve or shall employ exterior materials, colors, and architectural details that are configured to be complimentary to the principal use.

b. The degree to which proposed exterior materials, colors, and architectural details are configured in a complimentary manner to a principal use shall be in the sole opinion of the review authority deciding the application.

E. COMMON ACCESSORY USE TABLE

1. Table as Guide

Section 4.5.E, Common Accessory Use Table, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

2. Listed Accessory Uses

(AMENDED 10.20.20 UDOTA-03-20)

Section 4.5.E, Common Accessory Use Table, lists what types of accessory uses, structures, and activities are allowed in each of the zoning districts.

a. If a specific accessory use is allowed by-right, the cell underneath the zoning district is marked with a "P".

b. If a specific accessory use is allowed subject to a special use permit, the cell underneath the zoning district is marked with a "S".

c. If the accessory use or structure is not allowed in a zoning district, the cell is blank.

d. In the case of planned development districts, if an accessory use is allowable, it is marked with an "A", and the accessory use must be set out in the approved master plan or terms and conditions document.

e. If there is a reference contained in the column entitled "Acc. Use-Specific Standards," refer to the cited section(s) for additional standards that apply to the specific accessory use.

TABLE 4.5.E: COMMON ACCESSORY USE TABLE [1]

(AMENDED 3.17.20 UDOTA-02-20)

"A" = Allowed if included in planned development master plan or terms and conditions statement
"C" = Permitted, subject to Section 2.4.P, Rezoning, applicable accessory use-specific standards, and identified in the conditions of approval
"P" = Permitted, subject to applicable accessory use-specific standards
"S" = Permitted subject to Section 2.4.T, Special Use Permit, and accessory use-specific standards
" " (blank cell) = Not allowed or no additional accessory use-specific standards

Accessory Use Type		Residential [2]				[2]	Commercial [2]				Ind. [2]			PD & PDD	Acc. Use-Specific Standards
	PC	RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI		
Accessory Dwelling Unit		P	P	P	P	P	P	P						A	4.5.F.1
Amateur Ham Radio		P	P	P	P	P	P	P	P	P	P			A	4.5.F.2
Art Installation	P	P	P	P	P	P	P	P	P	P				A	4.5.F.3
Automated Teller Machine						P	P	P	P	P	P	P	P	A	4.5.F.4
Bus Shelter	P	P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.5
Child Care, Incidental		P	P	P	P	P	P	P						A	4.5.F.6
Cluster Box Unit		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.7
Detached Carport or Garage **(AMENDED 3.17.20 UDOTA-02-20)**		P	P	P	P	P	P	P	P		P	P	P	A	
Drive Through									P	P	S	S		A	4.5.F.8
Electric Vehicle Charging Station						P	P		P	P	P	P	P	A	4.5.F.9
Family Health Care Structure		P	P	P	P	P	P	P						A	4.5.F.10
Fence or Wall	P	P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.11
Flagpole	P	P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.12
Guard House, Shelter, or Gatehouse		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.13
Helistop							P		P	P	P	P	P	A	4.5.F.14
Home Occupation		P	P	P	P	P	P	P	P	P				A	4.5.F.15
Outdoor Dining and Seating **(AMENDED 3.17.20 UDOTA-02-20)**						P	P	P	P	P				A	4.5.F.16
Outdoor Display/Sales						P		P	P	P	P			A	4.5.F.17

TABLE 4.5.E: COMMON ACCESSORY USE TABLE [1]
(AMENDED 3.17.20 UDOTA-02-20)

"A" = Allowed if included in planned development master plan or terms and conditions statement
"C" = Permitted, subject to Section 2.4.P, Rezoning, applicable accessory use-specific standards, and identified in the conditions of approval
"P" = Permitted, subject to applicable accessory use-specific standards
"S" = Permitted subject to Section 2.4.T, Special Use Permit, and accessory use-specific standards
" " (blank cell) = Not allowed or no additional accessory use-specific standards

Accessory Use Type		Residential [2]				[2]	Commercial [2]				Ind. [2]			PD & PDD	Acc. Use-Specific Standards
	PC	RMH	LDR	MDR	HDR	MX	OI	NB	GB	CBD	LI	MI	HI		
Outdoor Storage									P	P	P	P	P		4.5.F.18
Parking of Heavy Trucks or Trailers (AMENDED 3.17.20 UDOTA-02-20)									P		P	P	P	A	4.5.F.19
Parking of Recreational Vehicles (AMENDED 3.17.20 UDOTA-02-20)		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.20
Play Equipment	P	P	P	P	P	P	P	P	P	P				A	4.5.F.21
Produce Stand		P	P	P	P	P	P	P	P	P	P			A	4.5.F.22
Solar Energy Systems		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.23
Stable (horses)		P	P	P	P	P					P			A	4.5.F.24
Storage of Unlicensed or Inoperable Vehicles or Trailers (AMENDED 3.17.20 UDOTA-02-20)			P	P	P		P								4.5.F.25
Swimming Pool/Hot Tub (AMENDED 10.20.20 UDOTA-03-20)		P	P	P	P	P	P	P	P	P	P	P	P	A	4.5.F.26
Tire Storage, Outdoor (AMENDED 12.3.19 UDOTA-01-20)									P		P		P		4.5.F.27
Tool/Storage Shed		P	P	P	P	P	P	P	P	P	P	P	P	A	
Underground Storage Tank						P		P	P	P	P	P	P	A	4.5.F.28

NOTES:
(AMENDED 1.4.22 UDOTA-1-22)
[1] Unlisted accessory uses may be permitted in accordance Section 4.5.C, Procedure For Establishment.
[2] Includes limited use zoning districts in Table 3.1.C, Zoning Districts Established.

F. SPECIFIC STANDARDS FOR SELECTED ACCESSORY USES

Standards for a specific accessory use or structure shall apply to the particular individual accessory use or structure regardless of the zoning district in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This section sets forth and consolidates the standards for all accessory uses and structures for which a reference to this section is provided in the "Acc. Use-Specific Standards" column of Section 4.5.E, Common Accessory Use Table. These standards may be modified by other applicable standards or requirements in this Ordinance.

1. Accessory Dwelling Unit (ADU)

An accessory dwelling unit (ADU) is permitted as accessory to a single-family detached dwelling, and shall comply with the following standards:

a. No more than one ADU shall be located on a lot with a single-family detached dwelling;
b. An ADU shall not exceed 35 percent of the total amount of finished floor area in the principal structure;
c. An ADU shall not exceed one story, but nothing shall limit an ADU from being located on a second or third story provided the structure complies with the applicable maximum height limitations in the district where located;
d. An ADU and the principal dwelling shall have the same street address and mailbox;

e. An ADU shall not be subdivided or otherwise separated in ownership from the principal dwelling unit;

f. An ADU and the principal dwelling shall utilize the same driveway, unless the ADU is accessed from a right-of-way not used by the principal dwelling (e.g., a rear alley or separate street access on a corner or through lot); and

g. An ADU may be served by separate or shared water, sanitary sewer, gas, and electrical utilities.

2. Amateur Ham Radio

(AMENDED 10.20.20 UDOTA-03-20)

Amateur radio antennas shall comply with Section 160D-905 of the North Carolina General Statutes and the following:

a. Towers associated with an amateur ham radio operator or private television antenna shall not exceed 100 feet above grade;

b. Towers or antennas attached to a principal structure shall be located on a side or rear elevation; and

c. Freestanding towers or antennas shall be located behind the principal structure.

3. Art Installation

(AMENDED 1.4.22 UDOTA-1-22)

a. In no instance shall an art installation visible from a street or off-site area depict specified anatomical areas or specified sexual activities as defined by this Ordinance and the North Carolina General Statutes.

b. Public art or murals are exempted from the standards for signs, but shall be subject to any applicable adopted policy guidance and the following:

i. A mural or public art installation shall require approval of a site plan in accordance with the standards in Section 2.4.S, Site Plan.

ii. Murals and public art shall be maintained and periodically cleaned, refreshed, or refurbished so that the mural remains visible and consistent with its approval.

iii. In the event the owner of a building with a mural no longer wishes to maintain the mural, it shall be removed or covered with paint or other material consistent with the existing exterior material on the building wall where the mural is located. In cases where an approved mural is removed or concealed, it may only be re-established through approval of a site plan in accordance with Section 2.4.S, Site Plan.

c. Public art that is determined by the Planning Director to be a sign shall comply with the standards in Section 5.6.F.3 Public Art.

4. Automated Teller Machine (ATM)

a. An ATM designed for walk-up use and located in the exterior wall of a building or a parking area shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking areas and building entrances, or vehicular movement in front of buildings or through parking areas.

b. If an ATM is designed for use by customers in their vehicles, it shall comply with the accessory use standards (including districts where permitted) in Section 4.5.F.8, Drive Through.

c. The overall character of an automated teller machine in terms of materials, colors, and architectural character shall be compatible with that of the principal structure.

5. Bus Shelter

(AMENDED 10.20.20 UDOTA-03-20)

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

a. Maintain a maximum size or floor area of 100 square feet or less;

b. A height of 15 feet or less;

c. Be located outside any required sight distance triangles; and

d. Maintain a minimum distance of five feet from the edge of the street paving.

6. Child Care, Incidental

An incidental child care or home day care for three or more children is permitted as an accessory use to an occupied residential dwelling unit if it complies with Article 7 of Chapter 110 of the North Carolina General Statutes, and the Summary of North Carolina Child Care Laws and Rules pamphlet prepared by the NC Department of Health and Human Services.

7. Cluster Box Unit

Cluster box units shall comply with the standards of the United States Postal Service and the relevant standards in the City's Standard Details and Specifications.

8. Drive Through

Drive-through facilities shall comply with the following standards:

a. Outdoor speakers associated with a drive-through shall be at least 50 feet from any lot with a residential zoning district designation;

b. Drive-through windows, menus, or order boxes shall not be located on the front façade of the building they serve;

c. Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians along sidewalks, through areas intended for public use, or between the building entrance and customer parking spaces; and

d. Canopies or other features installed over a drive through window shall maintain common roof lines and materials with the principal structure.

9. Electric Vehicle (EV) Charging Station

a. Electric vehicle (EV) charging station spaces shall be reserved for the charging of electric vehicles only and shall be posted with signage identifying the spaces as reserved only for the charging of electric vehicles, amperage and voltage levels, any enforceable time limits or tow away provisions, and contact information for reporting non-operating equipment or other problems.

b. A required accessible parking space may also serve as an EV charging station space, provided the charging station and its controls meet ADA standards for accessibility to persons with physical disabilities.

c. EV charging station equipment shall be located so as not to interfere with vehicle, bicycle, or pedestrian access and circulation, or with required landscaping.

d. Transformers and similar equipment shall be screened in accordance with Section 5.4, Screening.

10. Family Health Care Structure

(AMENDED 10.20.20 UDOTA-03-20)

One family health care structure is permitted on a lot with a single-family detached dwelling, in accordance with the standards in Section 160D-915 of the North Carolina General Statutes, and the following standards:

a. Structure

A family health care structure is one that:

i. Is transportable and primarily assembled at a location other than the site of installation;

ii. Is located on a lot with an existing single-family detached dwelling;

iii. Is limited to one occupant who is a mentally or physically impaired person related to the caregiver;

iv. Is used by a caregiver or legal guardian in providing care for one mentally or physically impaired person on property owned or occupied as the caregiver's or guardian's residence;

v. Has no more than 300 square feet of gross floor area;

vi. Is connected with water, wastewater, and electrical systems by branching service from the single-family detached dwelling;

vii. Has the same street address and mailbox as the existing single-family detached dwelling;

viii. Uses the same driveway as the existing single-family dwelling, unless the structure is accessed from a right-of-way not used by the dwelling (e.g., a rear alley or separate street access on a corner or through lot);

ix. Meets the dimensional standards of the zoning district for a single-family detached dwelling; and

x. Meets the applicable provisions in the North Carolina Building Code; however, is not located on a permanent foundation.

b. Need and Relationship

i. The occupant of the structure must be a mentally or physically impaired person that is a resident of the State who requires assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.

ii. The caregiver must be an individual 18 years of age or older who provides care for the mentally or physically impaired person and is a first or second degree relative of the impaired person. A first or second degree relative is a spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew or niece, including half, step, and in-law relationships.

c. Permit Conditions

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

11. Fence or Wall

a. Purpose and Intent

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

i. Provide for privacy and security on individual lots;
ii. Ensure proper construction techniques are followed and that fences and walls are maintained in good repair;
iii. Assist with the transition between public and private spaces; and
iv. Ensure fencing and walls are consistent with the City's desired architectural character.

b. Applicability

i. Generally

The provisions of this section shall apply to all construction or replacement of all fences, screening walls, or retaining walls. A fence or wall may only be erected in accordance with the standards in this section and Section 2.4.J, Fence Permit.

ii. Pre-Existing Development

Lawfully established fences and walls established prior to November 1, 2019, that do not comply with these standards shall be subject to the applicable standards in CHAPTER 9. NONCONFORMITIES.

c. Exemptions

The following are exempted from the standards in this section:

i. Bona fide farms and agricultural use types in districts where these uses are permitted; and
ii. Temporary fences for construction sites, including but not limited to: fencing necessary for soil erosion and sedimentation control and tree protection.

d. Locational Standards

i. General

No fence or wall shall:

a) Be located within the public right-of-way (except for public fences or walls, or as needed for retention of soil);
b) Impede visibility of the required property address number; or
c) Block pedestrian access from doors or windows.

ii. Easements

a) In cases where a fence or wall is proposed within an easement, the applicant shall provide evidence of the easement owner's consent regarding placement of the fence or wall.

b) The landowner shall remain solely liable for any repair or replacement if any portion of the fence or wall located within a required easement is damaged during maintenance or construction activities within the easement by the easement owner or their agent.

iii. Block Drainage

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

iv. Obstructions at Intersection

Except for necessary retaining walls, no fence or wall shall be located within a required sight distance triangle (see Section 5.2.G, Sight Distance Triangles).

v. Required Setbacks

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

vi. Required Landscaping Areas

Fences or walls may be located in required landscaping areas, subject to the standards in Section 5.3.H, Features Allowed Within Required Landscaping Areas.

e. Maximum Height

i. Maximum fence and wall height shall be in accordance with Table 4.5.F.11.e, Maximum Fence and Wall Height, and Figure 4.5.F.11.e.ii, Maximum Fence and Wall Height:

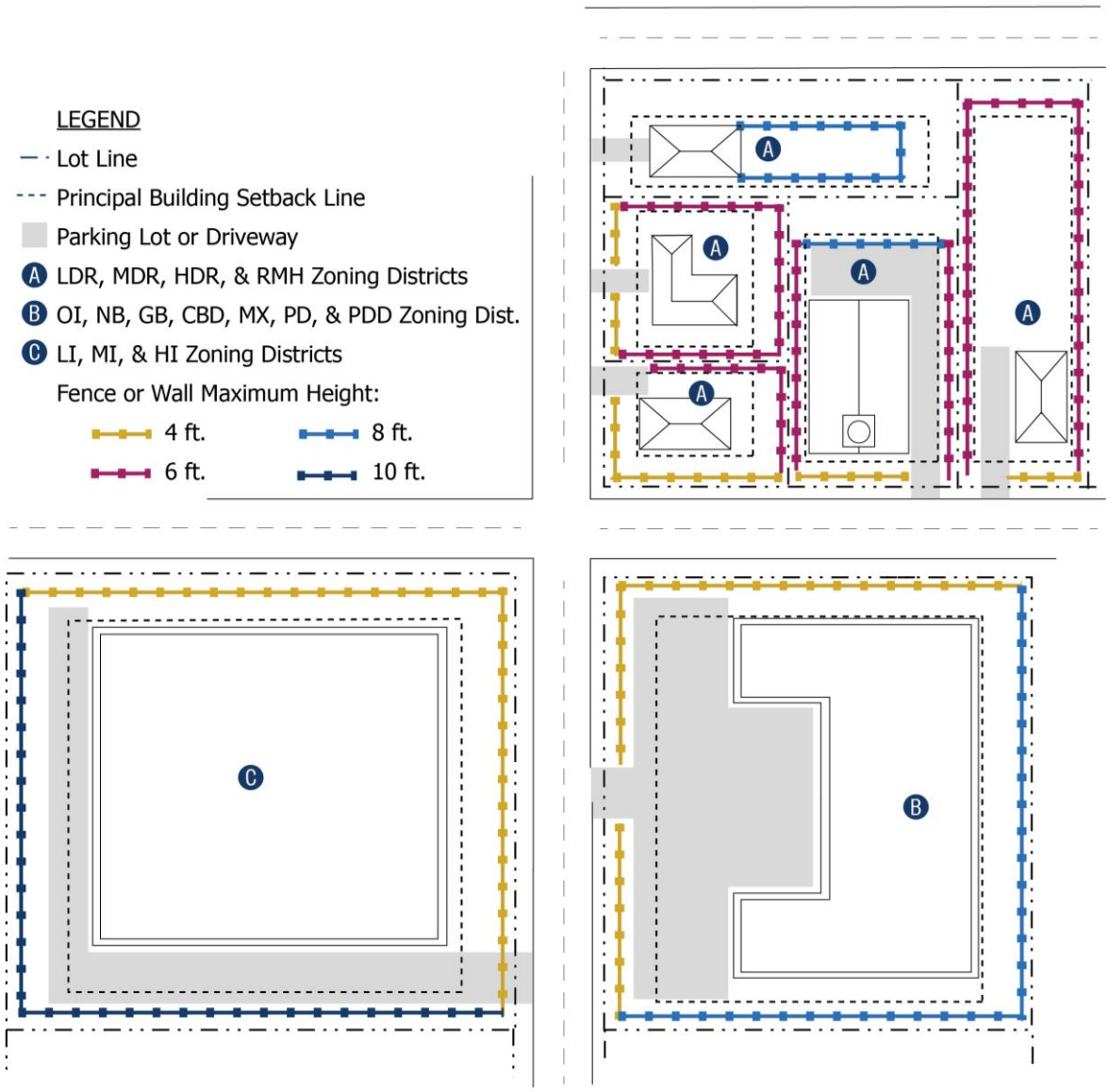
TABLE 4.5.F.11.e: MAXIMUM FENCE AND WALL HEIGHT

Type of Zoning District	Location on Site	Maximum Height (Feet) [1]
LDR, MDR, HDR, RMH, & CR [2] (AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)	Between the corresponding building setback line and a lot line abutting a street ROW	4 [3]
	All other locations	6 [4]
OI, NB, GB, CBD, MX, PD, PDD, COI, & CB [2] (AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)	Between the corresponding building setback line and a lot line abutting a street ROW	4
	All other locations	8
LI, MI, HI, & CI [2] (AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)	Opaque fences and walls between the corresponding building setback line and a lot line abutting a street ROW	4
	Semi-opaque fences and walls between the corresponding building setback line and a lot line abutting a street ROW	10
	All other locations	Within a required yard or setback: 10
		Outside a required yard or setback: 10

NOTES:
(AMENDED 10.20.20 UDOTA-03-20)
[1] Fence height limits shall not apply to chain link fences surrounding tennis courts or ball field backstops.
[2] Includes corresponding parallel conditional zoning districts.
[3] On through lots bounding a street at the front and the rear, a fence or wall in the rear of the lot may have a maximum height of six feet between the building setback line and the lot line abutting the street ROW.
[4] May be up to eight feet provided the fence or wall is outside the principal structure setbacks for the district where located and engineering drawings are provided.

ii. Fence and wall height shall be measured in accordance with the standards in Section 8.3.P, Fence and Wall Height.

FIGURE 4.5.F.11.E.II: MAXIMUM FENCE AND WALL HEIGHT
(AMENDED 10.20.20 UDOTA-03-20)



f. Wind Loading

All fencing and walls subject to the standards of this section shall be constructed in accordance with the North Carolina Building Code, and shall be designed and constructed in order to meet the minimum applicable wind loading standards in the City of Burlington.

g. Material Lifespan

(AMENDED 10.20.20 UDOTA-03-20)

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

h. Permitted Materials

The following fencing materials are permitted for fences and walls:

i. Masonry or stone;
ii. Ornamental iron, steel, or aluminum;
iii. Wood;
iv. Vinyl, plastic, or composite; or
v. Chain-link, except where prohibited by this Ordinance.

i. Restricted Fence Materials

i. Barbed Wire as Fencing
Barbed wire as a fence is prohibited in all zoning districts except that it may be allowed as part of a bona fide farm use.

ii. Barbed Wire Atop another Material

a) No barbed or razor wire shall be permitted on a fence or wall in a residential or OI district.
b) Barbed or razor wire may be used atop another fencing material (e.g., chain link) outside of residential or OI districts only in cases where the barbed or razor wire is at least six feet above the ground measured at the base of the fence.

j. Prohibited Fence Materials

i. Fences made of wooden pallets, tires, debris, junk, rolled plastic, sheet metal, untreated or unpainted plywood, readily flammable material, or waste materials shall be prohibited, unless the materials have been recycled and reprocessed, for marketing to the general public as building materials designed to resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).
ii. In no instance shall tarps or silt fencing remain on a lot or site after completion of construction.

k. Materials for Temporary Fences
Temporary fences in place for up to 90 days may be comprised of any material approved by the Planning Director.

l. Wall Material Standards

i. Walls shall be constructed of one or more of the following materials:
a) Stucco over concrete block;
b) Exposed aggregate concrete; or
c) Brick, stone, or architectural block assembled in a structurally safe and attractive condition.
ii. No walls of exposed smooth-face concrete block shall be permitted.
iii. Stacked stone or other masonry configurations where no mortar or other bonding agent is used between stones or individual masonry units shall not exceed 36 inches in height above grade.
iv. Alternative wall materials may be permitted by the Planning Director provided they provide a similar level of opacity to that of the listed materials and are in keeping with the architecture of the development.

m. Electric Fences
Fences that carry an electrical current are allowed solely for the purposes of enclosing livestock as part of a bona fide farm use. Nothing shall prohibit below-ground electrical fences intended for the keeping of pets.

n. Finished Side
All fences or walls shall be configured so that the finished side faces outwards. For the purposes of this section, the finished side does not include any supporting members or bracing (see Figure 4.5.F.11.m: Finished Side).

FIGURE 4.5.F.11.N: FINISHED SIDE

LEGEND

A Finished Side of Fence - Facing Outward

B Unfinished Side of Fence - Facing Inward

o. Maintenance

(AMENDED 1.4.22 UDOTA-1-22)

- **i.** Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, constitutes a hazard or endangers any person, animal, or property is in violation of this Ordinance.
- **ii.** When a fence or wall is in violation of this Ordinance, the Planning Director shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace, or demolish the fence or wall in accordance with all applicable standards in this Ordinance.
- **iii.** A fence permit (see Section 2.4.J, Fence Permit) shall be required for replacement or upgrade of eight linear feet or more of an existing fence or wall.

12. Flagpole

(AMENDED 10.20.20 UDOTA-03-20)

- **a.** No more than two flagpoles shall be allowed on a residential lot in a residential zoning district.
- **b.** Flagpoles on all other lots shall comply with the following standards:
  - **i.** No more than three flagpoles shall be allowed;
  - **ii.** Flagpoles shall be located on the same lot as the principal building;
  - **iii.** Flagpoles may be located on the wall of the principal building on the lot or within 75 feet of the building's main entrance;
  - **iv.** Flagpoles shall not be located within a public right-of-way; and
  - **v.** Flagpoles shall not exceed a height of 25 feet.
- **c.** Flags shall comply with the appropriate standards in Section 5.6.J, Sign Standards by Sign Type.

13. Guard House, Shelter, or Gatehouse

(AMENDED 10.20.20 UDOTA-03-20)

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

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

14. Helistop

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

15. Home Occupation

(AMENDED 10.20.20 UDOTA-03-20)

Customary home occupations such as home offices, beauty parlors, dressmaking, laundering, music teaching, tutoring, etc., shall comply with the following standards:

a. Home occupation accessory uses shall be clearly incidental and subordinate to a dwelling's use for residential purposes by its occupants;
b. Except for home offices, home occupations shall be engaged in only by a resident on the premises, and not more than one employee may be a nonresident;
c. Home offices shall be limited to no more than two employees not residing on the premises;
d. No more than 25 percent of the first-floor area of a dwelling shall be used for home occupations;
e. No more than 50 percent of the first-floor floorplate of a detached accessory structure shall be used for home occupations;
f. No display of goods or signage shall be visible;
g. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors or electrical interferences detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises;
h. Only one commercial vehicle with up to one attached trailer associated with the home occupation may be parked or stored on the lot;
i. Home occupation uses are subject to Section 4.5.F.19, Parking of Heavy Trucks or Trailers; and
j. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

16. Outdoor Dining and Seating

(AMENDED 3.17.20 UDOTA-02-20) (AMENDED 12.3.19 UDOTA-01-20)

Outdoor dining shall be in accordance with Section 34.176 of the City Code of Ordinances.

17. Outdoor Display/Sales

The outdoor display and sale of goods shall be limited to a commercial or mixed-use development and shall comply with the following standards:

a. Except in the CBD district, an outdoor display/sales area shall not be located within a required front yard or street setback;
b. In the CBD district, outdoor display/sales areas may be located on or adjacent to the sidewalk provided the display is attached to or located immediately adjacent to a building's front façade wall;
c. Outdoor display/sales areas shall not be located any closer than five feet from any lot line;
d. Outdoor display/sales areas shall not be located within any local or State site easement; and
e. Outdoor display areas shall maintain at least five feet of space along the side of the display free of obstruction to allow for pedestrian and handicap movement, such that pedestrians do not have to step off the sidewalk or enter the drive aisle to see the merchandise.

18. Outdoor Storage

(AMENDED 1.4.22 UDOTA-1-22)

The following standards shall apply to all outdoor storage areas other than uses where outdoor storage is the principal use of land (see Table 4.2.C, Principal Use Table):

a. The extent of the outdoor storage area shall be clearly delineated on a site plan;
b. Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
c. Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial or collector street;
d. Outdoor storage areas shall be fully screened in accordance with the applicable standards in Section 5.4, Screening;
e. No outdoor storage area shall be located within a required landscaping area;
f. Stored goods, materials, and equipment shall be limited to those goods, materials, and equipment associated with the principal use or uses of the lot;
g. No materials shall be stored in areas intended for vehicular or pedestrian circulation;
h. No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement;

i. Outdoor storage areas may be surfaced with gravel; and
j. No apparatus designed to be used as a motor vehicle or designed to be towed by a motor vehicle shall be used for the purposes of storage.

19. Parking of Heavy Trucks or Trailers

(AMENDED 1.4.22 UDOTA-1-22)

a. The parking or storage of motorized vehicles in excess of 10,000 pounds of gross vehicle weight, or with more than two axles, shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
b. The parking or storage of non-motorized vehicles with more than two axles shall be prohibited in all residential districts except for loading and unloading purposes; for emergency home service; for use in the conduct of a legal non-conforming use; for temporary construction purposes; or for bona fide agricultural purposes.
c. In no instance shall a non-motorized vehicle have an overall length exceeding 22 feet not including the tongue or towing assembly.
d. No apparatus designed to be used as a motor vehicle or designed to be towed by a separate motorized unit or vehicle shall be used for the purposes of storage in any residential district.

20. Parking of Recreational Vehicles

(AMENDED 3.17.20 UDOTA-02-20) (AMENDED 12.3.19 UDOTA-01-20)

Nothing herein shall be construed so as to prohibit the parking of personal recreational vehicles.

21. Play Equipment

Play equipment shall comply with the setback requirements for the zoning district where located, though it may encroach into setbacks in accordance with Table 8.3.E, Allowable Encroachment into Setbacks.

22. Produce Stand

(AMENDED 10.20.20 UDOTA-03-20)

The sale of fresh vegetables and produce from curbside stands or in a similar fashion shall:

a. Be located on the same lot as a principal use;
b. Be limited to retail sale of agricultural or horticultural products grown on-site or in agricultural facilities under the same ownership as the produce stand;
c. Be located outside sight distance triangles or other areas that may result in visual obstructions to drivers;
d. Not exceed 1,000 square feet in area; and
e. Provide adequate ingress/egress and off-street parking.

23. Solar Energy System

A solar energy system (SES) shall comply with the following requirements:

a. A SES may be roof-mounted, attached to a principle or accessory structure, be ground-mounted, or placed over a parking or other hard-surface area;
b. The footprint of a ground-mounted SES shall not exceed 50 percent of the floorplate of the principal structure, or one acre, whichever is less;
c. An SES shall comply with the dimensional requirements for the district where located, as modified by Section 4.5.D, General Standards for Accessory Uses and Structures;
d. An SES shall not obscure required sight distance triangles;
e. A SES may be placed within a required landscaping area provided it does not compromise the screening objective of the landscaping;
f. Ground-mounted SES facilities are exempted from the screening requirements in Section 5.4, Screening; and
g. Ground-mounted SES facilities shall not exceed 20 feet in height above adjacent pre-construction grade.

24. Stable (horses)

Stables shall comply with the following standards:

a. Stables are not permitted on land within the corporate limits;
b. The land on which the facility is located shall be at least two acres in size;
c. No stalls or stables shall be within 200 feet of any existing adjoining residential dwelling and 100 feet from any adjoining well being used for human consumption; and

d. Stables must be operated and maintained in a healthy and safe manner. Healthy and safe is defined as, but not limited to: fences kept in good repair; potable water available on demand; protection from wind or rain; a sign posted indicating the name and phone number of the person to be contacted in case of emergency.

25. Storage of Unlicensed or Inoperable Vehicles or Trailers

(AMENDED 12.3.19 UDOTA-01-20)

a. In the residential and OI districts where permitted as an accessory use, a maximum of two unlicensed (lacking a valid license plate) or inoperable vehicles or trailers may be permitted per lot.

b. Unlicensed or inoperable vehicles or trailers shall be located within an enclosed building or behind the principal structure.

26. Swimming Pool/Hot Tub

(AMENDED 10.20.20 UDOTA-03-20)

a. Swimming pools built as accessory uses shall be completely isolated from adjacent lands and streets by a fence or other structure having a minimum height of four feet and configured to prevent small children from gaining unsupervised access to the pool or hot tub.

b. Gates or doors opening into the area around the swimming pool from outside the dwelling shall have self-closing and self-latching devises for keeping the gate or door closed at all times when not in use.

c. These standards shall apply to any built structure placed or constructed for the purpose of bathing or swimming with a depth of two feet or more.

d. Access to a pool or hot tub serving a non-residential use shall limit access to the pool or hot tub by members of the general public.

e. Swimming pools and hot tubs included as an accessory use to a single-family subdivision shall include one off-street parking space for every four persons of design capacity.

27. Tire Storage, Outdoor

(AMENDED 12.3.19 UDOTA-01-20)

a. In order to minimize their visual impact and reduce their potential as a public nuisance and fire hazard, the outdoor storage of tires shall comply with the following standards:

i. Tires must be stored in a completely fenced in area concealed from view from a public street and from all adjacent lots;

ii. Acceptable screening shall include any of the following methods: solid brick, masonry block (excluding cinder block), wooden fencing, chain link fencing, or a continuous opaque vegetative barrier of non-deciduous evergreen trees or shrubs;

iii. When chain link fencing is used, the fencing shall be supplemented with slats or mesh fabric specifically designed for use with chain link fencing. Slats or mesh shall meet or exceed an 80 percent obscurity standard;

iv. Plastic tarps or the placement of other materials on chain link fencing is prohibited;

v. All screening shall be a minimum of six feet in height, including vegetative barriers at time of planting;

vi. For lots greater than one acre, the outdoor tire storage area shall not exceed ten percent of the entire area used for the business;

vii. Tires shall not be stored within any required yard adjacent to a street; and

viii. The placement of tires stored outside shall be maintained in accordance with the more restrictive provisions of this Ordinance or the North Carolina Fire Code, Chapter 3, Sec. 315.

b. Outdoor display of tires shall be permitted, provided they are located within ten feet of the principal structure building walls (not canopies) and not within required setbacks, yards, or buffers.

c. A maximum of 24 tires may be displayed in racks and located in an upright position.

28. Underground Storage Tank

Underground storage tanks shall comply with the following requirements:

a. Underground storage tanks shall not be located within required setbacks, easements, or beneath public rights-of-way;

b. Underground storage tanks shall be installed and operated only in accordance with the North Carolina Building Code and all applicable Fire Code requirements; and

c. Underground storage tanks shall be depicted on site plans and as-builts.

4.6. TEMPORARY USES

A. PURPOSE

This section allows for the establishment of specific temporary uses of limited duration, provided that such uses do not negatively affect adjacent land, and provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

B. APPLICABILITY

The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the jurisdiction. The activities listed in this section require the issuance of a temporary use permit, except as exempted, in accordance with the standards in Section 2.4.V, Temporary Use Permit, and compliance with the standards in Section 4.6.C, General Standards for Temporary Uses and Structures, and Section 4.6.D, Standards for Specific Temporary Uses, as applicable.

C. GENERAL STANDARDS FOR TEMPORARY USES AND STRUCTURES

All temporary uses and structures shall comply with the following general standards, unless otherwise specified in this Ordinance:

1. General Standards

(AMENDED 12.3.19 UDOTA-01-20)

An applicant proposing a temporary use or structure shall:

a. Secure written permission from the landowner;
b. Obtain the appropriate permits and licenses from the City and other agencies;
c. Comply with the requirements for supplemental signs in Section 5.6, Signage, if signage is proposed;
d. Meet public utility and City requirements for proper connection to water, sewer, electrical and other utility service connections, as applicable;
e. Not violate the applicable conditions of approval that apply to a site or use on the site;
f. Not result in a situation where the principal use, if present, fails to comply with the standards of this Ordinance;
g. Ensure the site of a temporary use or structure contains sufficient land area for the temporary use and for the parking and traffic movement associated with the temporary use, without impacting environmentally sensitive lands;
h. Ensure temporary uses remain in place no longer than 90 days if located within a special flood hazard area;
i. Provide adequate on-site restroom facilities (as appropriate); and
j. Cease all outdoor activities within 500 feet of a residential use by 10:00 pm.

2. General Conditions

In approving a temporary use permit, the Planning Director is authorized to impose any of the following general conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed temporary use. The Planning Director is authorized, where appropriate, to require:

a. Provision of temporary parking facilities, including vehicular access and egress;
b. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
c. Prohibition of the storage or use of hazardous materials;
d. Regulation of placement, height, size, and location of equipment;
e. Provision of sanitary and medical facilities;
f. Provision of solid waste collection and disposal;
g. Provision of security and safety measures;
h. Use of an alternate location or date;
i. Modification or elimination of certain proposed activities;
j. Regulation of operating hours and days, including limitation of the duration to a shorter time period than requested or specified in this subsection; and
k. Submission of a performance guarantee to ensure that any temporary use will be removed from the lot or site within a reasonable time and the lot or site will be restored to its former condition.

D. STANDARDS FOR SPECIFIC TEMPORARY USES

1. Food Truck and Pushcart Vendors

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

Food truck operations and pushcart vendors shall comply with the standards in Chapter 24, Article 3, of the City Code of Ordinances, and the following:

a. Location

i. Allowable Zoning Districts

Food trucks and push carts may only be operated in the following zoning districts:

a) The Central Business (CBD) district, subject to the additional standards in subsection (iii) below;
b) The General Business (GB) district;
c) The Light Industrial (LI) district;
d) The Heavy Industrial (HI) district; and
e) Within a PD or PDD district provided the temporary use is listed in the associated master plan or terms and conditions statement.

ii. Placement During and After Food Sales

a) Food trucks and push carts shall be parked on private property with the property owners' permission and shall not be parked within any public street, right-of-way, or sidewalk unless in the CBD district, or the street has been closed for a special event.
b) A food truck or push cart shall be removed after operating hours or a special event and be stored in a legally permissible location.

iii. Additional Standards for Food Trucks and Push Carts within the Central Business District

a) Food trucks located in the Central Business (CBD) district may park on the street, however only one truck per city block shall be permitted. For the purpose of this section, a "city block" includes both sides of the street.
b) Food trucks operating between the hours of 8 am and 5 pm shall not be parked on the street for more than two consecutive hours unless the street has been closed for a special event.
c) The customer access for food sales shall be from the side of the food truck facing the sidewalk not the street.
d) Food sales shall not impede pedestrian traffic along the sidewalk.
e) Push carts operating in the Central Business (CBD) district shall not operate or sell food upon any sidewalk.

iv. Minimum Distance from Certain Use Types

a) No food truck or pushcart vendors shall operate within 100 feet of any school, religious institution, or cemetery.
b) No food truck shall operate within 75 feet from the main entrance of any restaurant during business hours, unless authorized by a restaurant.

b. Operation

i. The food truck or pushcart owner or his/her designee shall be present at all times except in case of an emergency.
ii. The hours of operation shall be between the hours of 7:00 a.m. and 2:00 a.m. except for special events.
iii. A food truck shall either sell food or beverage that is exempt from health department regulation, or obtain approval from the county health department where food sales take place.
iv. Food truck operators and push cart vendors are responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles are not to be used for this purpose. Operators and vendors shall remove all waste and trash from their location at the end of each day or as needed to maintain the health and safety of the public.
v. The vendor shall keep all areas within ten feet of the truck or cart clean of grease, trash, paper, cups, or cans associated with the operation. No liquid waste or grease is to be disposed into tree pits, storm drains, or onto the sidewalks, streets, or other public locations. Under no circumstances shall grease be released into or disposed of in the City's sanitary sewer system.

c. Associated Features

i. There shall be no audio amplifier or similar device to attract the attention of the public.
ii. No tables, chairs, or other structures shall be allowed outside of the food truck or around a push cart.
iii. Advertising consisting of business name, logo, and items available for sale may be displayed on the food truck or push cart. No other form of advertising shall be permitted.

2. Itinerant Merchant Sales

(AMENDED 12.3.19 UDOTA-01-20)

Itinerant merchant sales, not including food truck vendors, are permitted on lots in business, special, and conditional zoning districts, subject to the following standards:

a. The sale of merchandise, products, or material must be a permitted principal use in the zoning district where the sales are temporarily located;
b. Itinerant merchants shall file an indemnification form with the City when engaged in open air sales;
c. Itinerant merchant sales shall be located outside of street rights-of way, required sight distance triangles, required landscape areas, vehicular circulation areas, and areas where pedestrian access is needed to ensure safe movement through or across a site;
d. Signage shall comply with the standards for supplemental signage in Section 5.6, Signage;
e. All merchandise and related materials shall be removed from the site following the sale;
f. The maximum period of operation of itinerant merchant sales shall be from 8:00 AM to 11:00 PM; and
g. Permitted itinerant merchant sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.

3. Outdoor Seasonal Sales

Outdoor seasonal sales are permitted on a lot in all zoning districts, subject to the following standards:

a. Seasonal sales shall be limited to seasonal agricultural products such as Christmas trees, pumpkins, and living plants;
b. The maximum hours of operation of an outdoor seasonal sales use shall be from 8:00 AM to 11:00 PM, except when located in a residential district, then the seasonal sales use shall cease by 9:00 PM;
c. Exterior lighting shall comply with the requirements in Section 5.7, Exterior Lighting;
d. One recreational vehicle is allowed as a temporary dwelling for security purposes in association with the seasonal sales use, provided it meets the general standards of Section 4.6.D.6, Temporary Dwelling, and is removed at the end of the sales;
e. The on-site accessory sale of seasonal products by an agricultural use or retail sales use is not considered outdoor seasonal sales and is not subject to these standards; and
f. Outdoor seasonal sales shall be limited in duration to a maximum of 45 continuous days from the date the temporary use permit is issued.

4. Portable Storage Container

(AMENDED 10.20.20 UDOTA-03-20)

Portable storage containers may be permitted as a temporary use to a single-family detached, single-family attached, duplex, triplex, or quadriplex dwelling unit, subject to the following standards.

a. Types Distinguished

Portable storage containers shall take one of the following three forms:

i. A container used for the purposes of storage of personal property such as household items being temporarily stored or relocated;
ii. A roll-off box, bin, or construction dumpster used for the collection and hauling of waste or debris; or
iii. A fully-enclosed, non-motorized, trailer (commonly known as a semi-trailer) with wheels intended to be towed to a site for the purpose of storage or transport of goods, materials, or equipment.

b. Permit Required

A building permit shall not be required for a portable storage container, but a temporary use permit issued in accordance with Section 2.4.V, Temporary Use Permit, is required.

c. Exemptions

The standards in this section shall not apply to portable storage containers used as temporary construction trailers, construction dumpsters, or construction materials recycling facilities, provided construction on the site is on-going.

d. Maximum Size

Containers shall be no larger in dimension than eight feet in height, eight feet in width, or 20 feet in length.

e. Maximum Number

i. No more than two portable storage containers shall be located on a single lot or parcel of land.

ii. No other type of container or shipping container shall be located on the same lot or parcel of land when one or two portable shipping containers are in place.

f. Hazardous Substances

Portable storage containers shall not be used to store or transport non-residential materials and substances, including but not limited to the following: solid waste, hazardous materials, explosives, or unlawful substances and materials.

g. Location

i. A portable storage container may be located in a driveway, a designated parking area, or behind a dwelling.

ii. If site conditions make placement of the portable storage container behind a dwelling, on a driveway, or in a designated parking area impossible, then the portable storage container may be located immediately adjacent to the driveway or designated parking area.

iii. A portable storage container shall not be located between the front of a dwelling and the street it faces unless any other placement is impossible due to site conditions.

iv. In no instance shall a portable storage container be located within a City street, public street right-of-way, or in a location that poses a threat to public health or safety.

h. Duration

i. Portable storage containers may be located on a site for a maximum of up to 90 days per calendar year.

ii. In no instance shall these standards be construed to allow placement of one or more portable storage containers on a single site for more than 90 days in any single calendar year.

5. Special Events

a. Exempt Events

A special event is not subject to the requirements in Section 4.6, Temporary Uses, if:

i. The event lasts two or fewer days within a 180-day period on a lot with an established principal use; or

ii. The event is sponsored by the City, a county, or the State.

b. Subject to this Ordinance

A special event not otherwise exempted from the standards in this section is permitted on a lot in a business or special zoning district, as well as the PC district, subject to the following standards:

i. A special event includes, but is not be limited to arts and crafts shows, cultural events, musical events, concerts and stage shows, celebrations, festivals, fairs, carnivals, circuses, or outdoor religious events;

ii. Circuses, carnivals and similar amusements may be subject to the applicable provisions of the City Code of Ordinances; and

iii. Temporary dwelling(s) are allowed in association with the special event provided they meet the general standards of Section 4.6.D.6, Temporary Dwelling, and are removed at the end of the event.

6. Temporary Dwelling

A temporary dwelling is permitted on a lot in a residential, business, special, or conditional zoning district, subject to the following standards:

a. General Standards

i. A temporary dwelling may be either a dwelling that meets all applicable North Carolina Building Code requirements for a dwelling or a recreational vehicle.

ii. The temporary dwelling shall be located on a lot and meet the dimensional standards of the zoning district, to the maximum extent practicable.
iii. Temporary emergency dwellings operated by a religious institution, governmental agency, or nonprofit organization may be located to provide emergency shelter where fire, flood, or other natural disaster has displaced persons.

b. Temporary Construction Dwelling

i. One temporary dwelling may be used to house occupants of the principal dwelling under construction or subject to repair or casualty damage.
ii. Temporary dwellings may be used on a construction site and occupied by persons having construction or security responsibilities over such construction site.
iii. Temporary dwellings shall be located on the same lot as the structure under construction.
iv. The temporary use permit shall not be issued until a site plan approved or a building permit is issued for a principal structure.
v. A temporary dwelling shall be removed within 30 days of issuance of a certificate of occupancy for the structure, or removed immediately if the building permit expires or is revoked.

c. Duration

A temporary dwelling shall be limited in duration to a maximum of six months, except that the temporary use permit may be renewed for good cause shown.

7. Temporary Real Estate Office

A temporary real estate office is permitted on a lot in a residential, business, special, or conditional zoning district, subject to the following standards:

a. The office is located on a lot that is part of the real estate development being sold or leased;
b. Signage complies with the standards of Section 5.6, Signage;
c. The office complies with the dimensional standards of the zoning district in which it is located;
d. The temporary office is converted into a dwelling or removed within 30 days after all units are sold or leased; and
e. In the event a temporary real estate office is a trailer, it shall be removed within 30 days after all units are sold or leased.

8. Temporary Wireless Telecommunications Facility

A temporary wireless telecommunications facility shall comply with the following standards:

a. A temporary wireless telecommunications facility may be allowed on a lot after a disaster or other emergency for a period not to exceed 30 days, except that the temporary use permit may be renewed for good cause shown;
b. A temporary wireless telecommunications facility may be allowed on a lot to evaluate the technical feasibility of a site for a period not to exceed 14 days, except that the temporary use permit may be renewed for good cause shown;
c. A temporary wireless telecommunications facility may be allowed on a lot in association with an event where the anticipated demand cannot be handled by existing facilities for a period not to exceed 14 days;
d. A temporary wireless telecommunications facility may be allowed on a lot with an existing permanent wireless telecommunications facility where the permanent structure is undergoing reconstruction or maintenance and the temporary facility is needed to maintain sufficient levels of service. The temporary facility shall be removed after reconstruction or maintenance is complete and service restored on the permanent structure; and
e. All temporary wireless telecommunications facilities, including all supporting cables and anchors, shall be contained on the lot.

9. Yard Sales

Yard sales are permitted on lot in a residential zoning district subject to the following standards:

a. Yard sales shall be limited to three per year per lot; and
b. Each sale shall be limited to daylight hours, and shall not exceed two consecutive days.

CHAPTER 5. DEVELOPMENT STANDARDS

5.1. Off-Street Parking and Loading **5-3**
A. Purpose and Intent 5-3
B. Applicability 5-3
C. Exemptions 5-3
D. Off-Street Parking Requirements 5-3
E. Parking Lot Configuration 5-11
F. Accessible Parking Spaces 5-13
G. Compact Parking Spaces 5-13
H. Stacking Spaces 5-13
I. Bicycle Parking 5-15
J. Parking Alternatives 5-16
K. Off-Street Loading 5-17

5.2. Access and Circulation **5-19**
A. Purpose and Intent 5-19
B. Applicability 5-19
C. Exemptions 5-19
D. Access to Lots 5-19
E. Compliance with Requirements for Streets 5-21
F. Driveways 5-21
G. Sight Distance Triangles 5-24
H. Parking Lot Connections 5-26
I. On-Site Pedestrian Walkways 5-27
J. Compliance with Requirements for Sidewalks 5-28
K. Compliance with Requirements for Greenways 5-28

5.3. Landscaping **5-29**
A. Section Organization 5-29
B. Purpose And Intent 5-29
C. Applicability 5-29
D. Exemptions 5-30
E. Landscape Plan Required 5-30
F. Plant Material Specifications 5-30
G. Landscaping Placement 5-32
H. Features Allowed Within Required Landscaping Areas 5-34
I. Parking Lot Landscaping 5-35
J. Perimeter Buffers 5-38
K. Streetscape Buffers 5-44
L. Street Trees 5-45
M. Planting Flexibility 5-47
N. Time of Installation 5-48
O. Required Maintenance 5-48
P. Site Inspection 5-49
Q. Replacement of Required Vegetation 5-49

5.4. Screening **5-51**
A. Purpose and Intent 5-51
B. Using These Standards 5-51
C. Applicability 5-51
D. Exemptions 5-51
E. General Requirements 5-52
F. Views to be Screened 5-55

5.5. Design Standards and Guidelines **5-56**

A. Section Contents 5-56
B. Commercial Design Standards 5-56
C. Mixed-Use Design Standards 5-69
D. Multi-Family Residential Design Standards 5-76
E. Single-Family Residential Design Guidelines 5-83

5.6. Signage 5-88
A. Section Organization 5-88
B. Purpose and Intent 5-88
C. Applicability 5-88
D. Exclusions 5-89
E. Prohibited Sign Types 5-89
F. General Standards Applicable to All Signs 5-90
G. Removal of Dilapidated or Obsolete Signs 5-92
H. Shared Ground Sign 5-93
I. Nonconforming Signage 5-93
J. Sign Standards by Sign Type 5-93

5.7. Exterior Lighting 5-110
A. Purpose and Intent 5-110
B. Applicability 5-110
C. Exemptions 5-110
D. Timing of Review 5-110
E. Prohibited Lighting 5-110
F. Lighting Plan 5-111
G. Exterior Lighting Standards 5-111
H. Maximum Illumination Levels 5-112
I. Nonconforming Lighting 5-113

5.1. OFF-STREET PARKING AND LOADING

A. PURPOSE AND INTENT

The purpose of this section is to ensure provision of off-street parking and loading facilities in proportion to the generalized parking, loading, and transportation demand of the different uses allowed by this Ordinance. The standards are further intended to:

1. Provide for adequate off-street parking, off-street loading, and safe movement of vehicles into, out of, and through parking areas;
2. Allow for flexibility to accommodate alternative solutions to off-street parking and loading needs, where such flexibility is consistent with the City's adopted policy guidance;
3. Reduce the aesthetic impact of surface parking lots in gateway corridors, downtown, and mixed-use areas through standards addressing on-site parking lot locations;
4. Avoid excessive paved surface areas and the resulting problems associated with stormwater runoff and urban heat islands; and
5. Protecting compatibility between adjacent uses of land and historic resources.

B. APPLICABILITY

The standards in this section shall apply to all development in the City's jurisdiction, unless exempted in accordance with Section 5.1.C, Exemptions.

1. Generally

Whenever a building is constructed, an open-air use of land is conducted, or a principal or accessory use is established, the development shall meet the requirements of this section.

2. Additions and Expansions

(AMENDED 10.20.20 UDOTA-03-20)

Whenever an existing building, open air use of land, or principal or accessory use is enlarged or increased in capacity after November 1, 2019, the development shall comply with the requirements in Section 9.6, Nonconforming Site Features.

3. Changes in Use

a. If the principal use changes, then the new principal use shall meet the requirements of this section, except that if the use change results in an increase of less than five percent in the required number of parking spaces, or less than two additional parking spaces, no additional parking spaces are required.
b. In cases where an existing parking lot does not comply with the parking lot configuration requirements of this section, changes in use shall require the parking lot's configuration to be brought into compliance with these standards, to the maximum extent practicable.

4. Pre-Existing Development

Lawfully-established off-street parking and loading areas established prior to November 1, 2019, that do not comply with these standards shall be subject to the applicable standards in CHAPTER 9. NONCONFORMITIES.

C. EXEMPTIONS

1. The following forms of development are exempt from the requirements of this section:
   a. Lawfully-established lots of record existing prior to November 1, 2019, that are 33 feet wide or less, contain a single-family detached residential structure, and are not served by an alley;
   b. Re-striping an existing parking lot which does not create a deficient number of parking spaces or a nonconforming situation; and
   c. Rehabilitation or re-use of an historic structure in an LHO district.
2. Development located in the CBD district is exempted from the minimum off-street parking requirements in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, but any off-street parking spaces shall comply with the standards in Section 5.1.E, Parking Lot Configuration.

D. OFF-STREET PARKING REQUIREMENTS

1. Parking Plan Required

Every application for a site plan or building permit shall include a parking plan or plot plan drawn to scale and fully-dimensioned as necessary in order to demonstrate compliance with the standards in this Ordinance.

2. Minimum Off-Street Parking Spaces Required

a. The minimum number of off-street parking spaces required for development shall be in accordance with Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements.

b. Off-street parking shall be provided to meet the parking demand without the use of streets, except as specifically allowed by this section.

3. Off-Street Parking Space Maximum

a. Retail use types subject to the standards in Section 5.5.B.7, Standards for Large Format Retail Uses, shall limit the total number of off-street parking spaces provided to not more than 125 percent of the minimum parking spaces required in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements.

b. Deviations from this standard may be requested in accordance with Section 5.1.J, Parking Alternatives.

4. Use Type Not Listed

a. For use types that do not correspond to the use types listed in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, any one of the following actions may be taken as part of determining the applicable off-street parking requirements:

i. The applicant may provide a parking study for the use(s) prepared by a professional engineer licensed by the State of North Carolina;

ii. The applicant may propose a text amendment to this UDO in accordance with Section 2.4.W, Text Amendment;

iii. The applicant may request a formal determination of these off-street parking standards in accordance with Section 2.4.F, Determination, or

iv. The Planning Director may determine the minimum parking space requirement based on a similar use in accordance with the standards of this Ordinance.

b. In cases where the applicant desires the Planning Director to make a determination, the application shall provide adequate information for review, which includes, but is not limited to: the type of use(s), number of employees, the availability of transit, the occupancy of the building, square feet of sales, service and office area, parking spaces proposed, and hours of operation.

5. Developments with Multiple Use Types or Lots

a. Development containing more than one principal use shall provide the minimum number of off-street parking spaces in an amount equal to the total required for all individual principal uses in the development, except as allowed by Section 5.1.J, Parking Alternatives.

b. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured to locate a portion of the required parking for one lot on another in the same development as allowed by Section 5.1.J, Parking Alternatives.

6. Use of Required Off-Street Parking Spaces

a. Off-street parking areas used for any of the following vehicles are not credited towards the minimum number of required off-street parking spaces in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, and such vehicles shall be located outside required off-street parking spaces and any street right-of-way:

i. Vehicles for sale or lease;

ii. Vehicles being stored, serviced, or repaired; or

iii. Vehicles belonging to the use, such as company vehicles.

b. Required off-street parking spaces shall not be used for any purpose other than the temporary parking of operable vehicles.

c. In no instance shall motor vehicle servicing or repair of a vehicle take place within a required off-street parking space except for washing and emergency service necessary to start the vehicle.

7. Driveways Used to Meet Parking Requirements

a. Driveways may be used to accommodate required off-street parking spaces only for the following uses:

i. Boarding/rooming houses;

ii. Duplex dwellings;

iii. Cemeteries;

iv. Family care homes;

v. Group homes;
vi. Live/work dwellings;
vii. Manufactured dwellings;
viii. Mobile homes;
ix. Single-family attached dwellings when located in developments of six or fewer dwellings;
x. Single-family detached dwellings, including those in bungalow courts and pocket neighborhoods; and
xi. Triplex/quadriplex dwellings.

b. Driveways shall be of sufficient size to accommodate all the off-street parking spaces required by Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements. In no instance shall accommodation of vehicle parking in accordance with this subsection result in parked vehicles protruding into or over street rights-of-way, sidewalks, greenways, required sight distance triangles, areas used for refuse collection, or required landscaping areas.

8. Parking Areas on Residential Lots

a. Off-street parking areas on residential lots, including driveways if used for off-street parking, shall be improved and surfaced with an all-weather surface that will prevent dust, erosion, and sedimentation.

b. Allowable forms of surfacing shall include the following:

i. Asphalt;
ii. Concrete;
iii. Pavers;
iv. Bricks;
v. Crushed stone with a minimum depth of four inches;
vi. Cellular reinforced paving systems; or
vii. A comparable material approved by the Planning Director.

c. The off-street parking area shall be of the minimum size necessary to accommodate the minimum number of off-street parking spaces required by Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements.

d. Driveways and parking areas subject to these standards may be configured as two parallel strips (or "ribbons") of paved surface with an open, unpaved space in between. Each individual paved strip or ribbon shall be at least 12 inches wide.

e. When crushed stone or other loose material is used as a surfacing material, the parking area shall be enclosed by a border or edging designed to keep the material in place.

f. In no instance shall areas used for the off-street parking of vehicles on residential lots be dirt, soil, or grass.

g. Within three years from November 1, 2019, all off-street parking areas on residential lots shall comply with these standards.

9. Minimum Off-Street Parking Requirements Table

TABLE 5.1.D.9: MINIMUM OFF-STREET PARKING SPACES REQUIRED	
USE TYPE	**MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES [1] [2]**
RESIDENTIAL USE CLASSIFICATION	
Assisted Living Facility	1 per employee on the largest shift + 0.25 per bed
Boarding/Rooming House	2 + 1 per each rental room
Bungalow Court	1 + 0.25 guest spaces per dwelling unit
Continuing Care Retirement Community	1.5 per every individual dwelling unit + 1 per every employee on the largest shift + per every 200 sf used by the public
Duplex Dwelling	2 per every dwelling unit
Family Care Home	2 + 1 per bedroom
Group Home	2 + 1 per bedroom
Halfway House	2 per bedroom
Live/Work Dwelling	2 + 1 per every 500 sf of non-residential floor area
Manufactured Dwelling	2 per dwelling unit
Manufactured Dwelling Park	2 per every home site
Mobile Home	2 per dwelling unit
Mobile Home Park	2 per every mobile home site
Multi-Family Dwelling	1.5 per every dwelling unit + 0.25 guest spaces per unit
Pocket Neighborhood	1 + 0.25 guest spaces per dwelling unit
Nursing Home	1 per employee on largest shift + 0.25 per bed
Single-Family Attached Dwelling	2 per every dwelling unit + 0.25 guest spaces per unit
Single-Family Detached Dwelling	2 per dwelling unit
Triplex/Quadriplex	2 per every dwelling unit
Upper-Story Residential	1 per dwelling unit
INSTITUTIONAL USE CLASSIFICATION	
Adult Day Care Center	1 + 1 per every employee on largest shift
Airport and Related Facilities	1 per every 200 sf used by public + 1 per every 600 sf not used by the public [3]
Antenna Collocation, Major	None
Antenna Collocation, Minor	None
Arboretum or Formal Garden	1 per employee on largest shift + 1 per 5,000 sf of garden area
Auditorium	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Blood/Tissue Collection	1 per every 200 sf
Broadcasting Studio	1 per every 2 employees
Cemetery, Columbarium, or Mausoleum	1 per employee on the largest shift
Child Day Care Center	1 per every employee + 1 per every 10 children
College or University	5 per every classroom and office
Community/Youth/Senior Center	1 per every 300 sf
Community Garden	None
Coliseum, Convention/Conference Center	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Correctional Facility	1 per employee on the largest shift + 10

TABLE 5.1.D.9: MINIMUM OFF-STREET PARKING SPACES REQUIRED

USE TYPE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES [1] [2]
Cultural Facility, Library, or Museum	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Drug/Alcohol Treatment	Greater of: 1 per every 400 sf or 1 per bed
Fire/EMS/Police Station	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Fraternal Club or Lodge	1 per every 300 sf
Government Administration/Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Government Maintenance, Storage, Distribution	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Helicopter Landing Pad	2 per landing pad
Hospital	1 per every 2 beds + 1 per every doctor and nurse + 1 per every 4 other employees
Laboratory	2 per every 3 employees on major shift
Outpatient Treatment Facility	1 per every 200 sf
Park (public or private)	1 per employee on largest shift + 1 per acre
Passenger Terminal (rail or bus)	1 per every 200 sf [3]
Police/Fire Training Facility	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Post Office	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Psychiatric Treatment Facility	1 per every 3 patient beds
Religious Institution	Greater of: 1 per every 6 seats or 1 per every 50 sf of floor area in main assembly room
School, Elementary	1 per employee
School, High/Middle	5 per every classroom and office
School, Vocational	5 per every classroom and office
Small Wireless Facility	None
Telecommunications Tower, Major	None
Telecommunications Tower, Minor or Concealed	None
Urgent Care	1 per employee on the largest shift + 1 per every 300 sf
COMMERCIAL USE CLASSIFICATION	
Adult Bookstore, Video Store	1 per every 200 sf
Adult Cabaret	1 per every 150 sf
Adult Motel	1 per every rental unit
Adult Use, Other	1 per every 200 sf
Aircraft Parts, Sales, and Maintenance	1 per every 600 sf
Animal Day Care	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Animal Grooming	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Animal Shelter	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Automobile Repair and Servicing (without painting/bodywork)	2 + 1 per every service bay
Automobile Sales or Rentals	1 per every 200 sf

TABLE 5.1.D.9: MINIMUM OFF-STREET PARKING SPACES REQUIRED

USE TYPE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES [1] [2]
Automotive Painting/Body Shop	2 + 1 per every service bay
Automotive Parts and Accessory Sales	1 per every 200 sf
Automotive Towing and Storage Lot (AMENDED 3.17.20 UDOTA-02-20)	1 per employee on the largest shift
Bar, Cocktail Lounge, or Private Club	1 per every 150 sf
Bed and Breakfast	2 + 1 per every rental unit
Boat and Marine Rental, Sales, and Service	1 per every 600 sf
Bottle Shop (with on premise consumption)	1 per every 4 seats
Bulky Items Sales	1 per every 600 sf
Business Incubator	1 per every 450 sf
Campground	1 + 1 per every camping space
Car Wash or Automobile Detailing (AMENDED 1.4.22 UDOTA-1-22)	1 + 1 per employee on largest shift
Catering Establishment	1 per every 300 sf
Check Cashing/Payday Lending	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Coffee Shop [5] (AMENDED 1.4.22 UDOTA-1-22)	1 per every 150 sf
Computer-related Service	1 per every 600 sf
Convenience Store (no gasoline sales)	1 per every 200 sf
Convenience Store (with gasoline sales)	1 per every 200 sf
Co-Working Space	1 per every 250 sf
Electronic Gaming Operation (AMENDED 12.3.19 UDOTA-01-20)	1 per every 200 sf
Equipment and Tool Rental	1 per every 600 sf
Event Venue	1 per every 150 sf
Fairgrounds	1 per every 600 sf of use area
Financial Service	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Flea Market	1 per every 200 sf
Funeral-related Service	Greater of: 1 per every 200 sf used by public, or 1 per every 4 seats in chapel
Games of Skill	1 per every 200 sf
Golf Course	1 per every 4 persons of design capacity
Golf Driving Range	2 + 1 per every tee
Gymnasium/Fitness Center	1 per every 200 sf
Hair, Nails, and Skin-related Service	1 per every 200 sf
Heavy Equipment Sales, Rental, and Repair	1 per every 600 sf
Hotel or Motel	5 + 1 per every rental unit
Indoor Commercial Recreation	1 per every 200 sf
Kennel, Indoor/Outdoor	1 per every 200 sf
Large Format Retail	1 per every 200 sf
Laundry and Cleaning Service	1 per every 200 sf used by the public
Microbrewery or Microdistillery	1 per every 150 sf

TABLE 5.1.D.9: MINIMUM OFF-STREET PARKING SPACES REQUIRED

USE TYPE	MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES [1] [2]
Nightclub or Dance Hall	1 per every 150 sf
Office, Medical	4 per every doctor/practitioner
Office, Professional	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Office, Sales and Service	1 per every 200 sf used by public + 1 per every 600 sf not used by the public
Outdoor Commercial Recreation	1 per every 1,000 sf of activity area (including building sf)
Outdoor Storage	1 + 1 per employee on largest shift
Packaging and Printing Service	1 per every 200 sf
Park and Ride Facility	1 per employee on the largest shift
Parking Lot	1 per employee on largest shift
Parking Structure	1 per employee on largest shift
Pharmacy	1 per every 200 sf
Pool Hall	1 per every 150 sf
Racetrack	1 per every 4 persons of design capacity
Recreational Vehicle Park	1 per employee on largest shift + 0.25 per every recreational vehicle space
Repair Shop	1 per every 600 sf
Restaurant, Indoor/Outdoor Seating [5] **(AMENDED 1.4.22 UDOTA-1-22)**	1 per every 4 seats
Restaurant with Drive-Through/Drive-up Service [5] **(AMENDED 1.4.22 UDOTA-1-22)**	1 per every 4 seats
Restaurant, Walk-up Only	1 per employee on largest shift + 1 per every two outdoor seating locations
Retail Use, Other	1 per every 200 sf
Self Service Storage, External Access	1 + 1 per employee on largest shift
Self Service Storage, Internal Access	1 per every 5,000 sf
Specialty Eating Establishment	1 per every 4 seats
Tattoo and Piercing Establishment	1 per every 600 sf
Theatre	Greater of: 1 per every 4 seats or 1 per every 40 sf of seating area with moveable seating
Truck Stop	1 per every 200 sf + separate truck/trailer parking
Veterinary Clinic	4 per every doctor
INDUSTRIAL USE CLASSIFICATION	
Asphalt or Concrete Plant	2 per every 3 employees on major shift
Contractor Services/Yard	Greater of: 1 per every 300 sf or 1 per every 1,000 sf of outdoor area
Electrical or Plumbing Fabrication	2 per every 3 employees on major shift
Extractive Industry	1 + 1 per employee on largest shift
Flex Space	1 per every 200 sf
Fuel Oil/Bottled Gas Distributor	1 per every 200 sf used by public + 1 per employee on largest shift
Gas Energy Conversion	1 + 1 per employee on largest shift
General Industrial Services	2 per every 3 employees on major shift
Landfill	2+ 1 per employee on largest shift

TABLE 5.1.D.9: MINIMUM OFF-STREET PARKING SPACES REQUIRED	
USE TYPE	**MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES [1] [2]**
Makerspace	1 per every 400 sf
Manufacturing, Heavy	2 per every 3 employees on largest shift
Manufacturing, Light	2 per every 3 employees on largest shift
Metal Fabrication	2 per every 3 employees on major shift
Public Convenience Center/Transfer Station	10 + 1 per employee on the largest shift
Recycling Center	1 per every 1,000 sf (min. of 2 spaces)
Research and Development	1 per every 300 sf of office area + 1 per every 500 sf of other floor area
Salvage or Junkyard	3+ 1 per employee on the largest shift
Solar Farm	None
Truck or Freight Terminal	2 per every 3 employees on largest shift
Utility, Major	1 per every 1,500 sf
Utility, Minor	None
Warehouse, Distribution	2 per every 3 employees on largest shift
Warehouse, Storage	2 per every 3 employees on largest shift
Waste Composting	1 per employee on the largest shift
Wholesale Sales	1 per every 900 sf
Wind Energy Conversion	None
AGRICULTURAL USE CLASSIFICATION [4]	
Agriculture and Horticulture	1 per every 1,500 sf of principal building floor area
Agriculture Support Services	1 per every 800 sf of principal building floor area
Animal Husbandry	1 per every 2,000 sf of principal building floor area
Farmer's Market	1 per every 300 sf

NOTES:
[1] See Section 8.3.K, Parking Space Computation, for details on how required parking spaces are computed.
[2] "sf" means square feet.
[3] Does not include long-term parking for travelers.
[4] Excludes bona fide farm uses.
[5] In the event seating associated with on-site consumption is permanently removed from the premises, the off-street parking standard shall convert to 2 + 1 per employee on the largest shift.

E. PARKING LOT CONFIGURATION

Except for driveways credited towards these parking standards in Section 5.1.D.7, Driveways Used to Meet Parking Requirements, or parking areas subject to an approved alternative parking plan (see Section 5.1.J, Parking Alternatives), all parking lots shall comply with the following standards:

1. General

a. All required off-street parking spaces shall be located on the same lot as the principal use they serve, except as allowed in Section 5.1.J, Parking Alternatives.

b. Required off-street parking shall be maintained for the duration of the principal use and shall not be reduced unless the principal use ceases or changes.

c. Except where allowed by this Ordinance, off-street parking spaces shall be not be located in any required landscaping or stormwater management area.

d. Off-street parking spaces shall not protrude into any street, fire lane, drive aisle, sidewalk, greenway, or pedestrian connection.

2. Dimensional Standards for Parking Spaces and Aisles

Off-street parking spaces and drive aisles serving them shall comply with the minimum dimensional standards established in Table 5.1.E.2, Dimensional Standards for Off-Street Parking Spaces, and Figure 8.3.K.6, Parking Space and Access Aisle Dimensions.

TABLE 5.1.E.2: DIMENSIONAL STANDARDS FOR OFF-STREET PARKING SPACES

Type of Parking Space [1]	Minimum Width (feet)	Minimum Depth (feet)	Minimum Aisle Width (feet) [2]	
			One Way	Two Way [3]
Parallel (0º)	9	22	12	24
Angled (45º)	10	20	12	24
Angled (60º)	10	20	18	24
Perpendicular (90º)	10	20	20	24

NOTES:
[1] All off-street parking spaces shall remain unobstructed from grade level to a height of at least 6½ feet above the parking space's grade level.
[2] Minimum aisle width shall be measured from edge-of-pavement to edge-of-pavement, and shall not include gutters or curbing.
[3] The City may require one direction of travel to maintain a wider width than the other direction.

3. Minimum Parking Lot Stem Length

All vehicular accessways serving off-street parking lots shall comply with the standards in Section 5.2.F.6, Minimum Parking Lot Stem Length.

4. Parking Space Access

a. All off-street parking spaces shall be accessed directly from drive aisles or private driveways and not directly from arterial or collector streets.

b. All off-street parking areas shall be designed with an appropriate means of vehicular access to a street or alley in a manner that allows for safe vehicular movements.

5. Vehicle Backing

Vehicular use areas shall be designed so that a vehicle is not required to back onto a street to enter or exit the parking lot, a parking space, or a stacking space.

6. Surface Materials

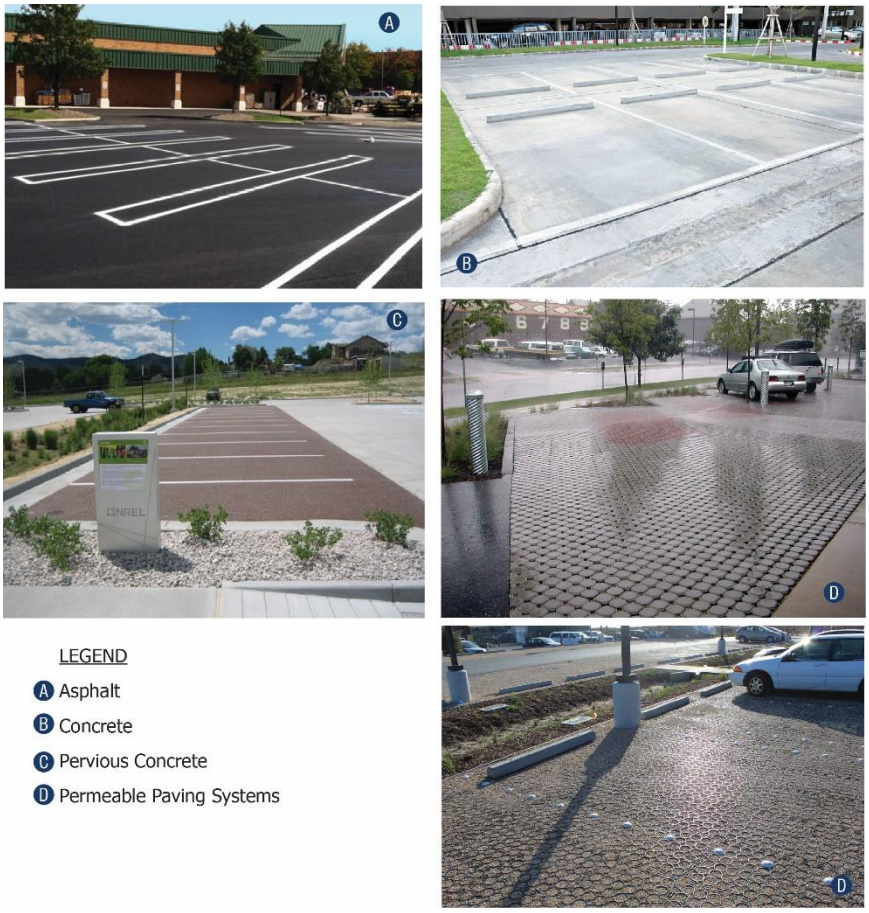
(AMENDED 10.20.20 UDOTA-03-20)

a. Except for off-street parking areas meeting the standards of Section 5.1.D.8, Parking Areas on Residential Lots, all off-street parking spaces, accessible parking spaces, drive aisles, and vehicular use areas shall be paved and maintained with concrete, asphalt, or similar material of sufficient thickness and consistency to support anticipated traffic volumes and weights (see Figure 5.1.E.6, Parking Lot Surface Materials).

b. The use of pervious or semi-pervious materials may be approved as part of an alternative parking plan (see Section 5.1.J, Parking Alternatives), provided it is demonstrated that the materials will function in a similar fashion as required materials.

c. Configuration of parking lots in accordance with low impact development practices (see Section 7.6.F, Menu of Sustainable Development Practices) is encouraged.

FIGURE 5.1.E.6.: PARKING LOT SURFACE MATERIALS



7. Grading and Drainage

a. The parking lot shall be graded, properly drained, stabilized, and maintained to minimize dust and erosion.

b. Parking lots shall not impound stormwater unless surface impoundment is required as an approved stormwater control measure. However, in no instance shall surface impoundment result in a fewer number of parking spaces than required by Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements.

c. Parking lots shall not drain onto or across public sidewalks, or into adjacent property except into a natural watercourse or a drainage easement unless alternative provisions for drainage are proposed and accepted by the Stormwater Administrator.

8. Pedestrian Walkways

Pedestrian walkways between the principal buildings on a development site and a sidewalk or other pedestrian way (like a greenway trail) shall be provided in accordance with Section 5.2, Access and Circulation.

9. Markings

All parking spaces and lanes in parking lots shall be clearly delineated with paint lines, curbs, or other treatment.

10. Curbs and Wheel Stops

All off-street parking spaces provided in accordance with Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, shall have curbs or wheel stops located so that no part of the parked vehicle extends onto or over a sidewalk, walkway of six feet in width or less, adjacent property, or landscape area, whether the vehicular use area is paved or unpaved.

11. Separation from Fire Protection Facilities

a. No required off-street parking space shall be located within 15 feet of a fire hydrant or other fire protection facility.

b. Parking shall not take place within designated fire lanes or other areas demarcated for fire protection.

12. Exterior Lighting

a. Exterior lighting in parking lots shall be designed to provide illumination of parking lot areas for the purposes of safe vehicle and pedestrian circulation.

b. Exterior lighting within a parking lot shall be configured to prevent glare or illumination exceeding maximum allowable levels on adjacent land and shall comply with the standards of Section 5.7, Exterior Lighting, as appropriate.

13. Landscaping

Parking lot landscaping shall be provided in accordance with Section 5.3, Landscaping.

14. City Maintenance

(AMENDED 1.4.22 UDOTA-1-22)

The City shall not be responsible for maintenance of drive aisles or other vehicular use area located outside a public right-of-way or on land not owned and operated by the City of Burlington.

F. ACCESSIBLE PARKING SPACES

Accessible parking spaces for the disabled are required for all forms of development except single-family detached dwellings, and shall meet the following criteria:

1. Configuration

Handicapped parking spaces shall be in accordance with the regulations set forth by the Americans with Disabilities Act and the North Carolina Building Code.

2. Number Provided

The number of accessible (handicapped) parking spaces provided shall be in accordance with the North Carolina Building Code requirements.

G. COMPACT PARKING SPACES

1. Compact car off-street parking spaces with a minimum width of 8.5 feet and a minimum depth of 18 feet may be provided for up to 30 percent of the minimum parking requirements in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements.

2. In no instance shall the minimum size of a compact parking space be further reduced through an alternative parking plan, administrative adjustment, conditional rezoning application, or other flexibility mechanism in this Ordinance.

H. STACKING SPACES

1. General

Uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service shall provide adequate stacking spaces on-site for the uses or buildings in accordance with Table 5.1.H: Stacking Spaces Required.

TABLE 5.1.H: STACKING SPACES REQUIRED

Use or Activity	Minimum Number of Stacking Spaces Required	Origin Point of Measurement for Stacking Spaces
Assisted living facility and nursing home	3	Building entrance adjacent to stacking spaces
Automated teller machine (drive through)	2	Teller machine

TABLE 5.1.H: STACKING SPACES REQUIRED

Use or Activity	Minimum Number of Stacking Spaces Required	Origin Point of Measurement for Stacking Spaces
Automobile repair and servicing/Automotive painting or body shop	1 per bay	Bay entrance
Car wash or automobile detailing	1 per bay for manual car washes, otherwise 3	Bay/wash process entrance
Child day care center	2	Building entrance adjacent to stacking spaces
Convenience store with gasoline sales	1	Each end of the outermost gas pump
Coffee shop with a drive through	[1]	[1]
Equipment and tool rental	2	Security gate
Financial services with a drive through	3 per lane	Agent window
Funeral-related service	2	Building entrance adjacent to stacking spaces
Gasoline sales, whether as a principal or accessory use	1	Each end of the outermost gas pump
Heavy equipment sales, rental, and repair	2 [2]	Security gate
Hospital	4	Building entrance adjacent to stacking spaces
Hotel or motel	2	Building entrance adjacent to stacking spaces
Laundry and cleaning service with a drive through	3	Agent window or door intended for service to vehicles
Outpatient treatment facility	4	Building entrance adjacent to stacking spaces
Pharmacy with a drive through	3 per lane	Agent window
Post office	2	Each mailbox intended for access via automobile
Public convenience center/transfer station	5	Front edge of scale
Restaurant with a drive through	[1]	[1]
School (elementary, middle, or high school)	3	Building entrance adjacent to stacking spaces
Truck of freight terminal	1 [3]	Security gate
Truck stop	[4]	[4]

NOTES:
(AMENDED 3.17.20 UDOTA-02-20)
[1] Stacking spaces shall be provided in accordance with a stacking space needs study prepared for the specific use type proposed and in accordance with the business model and local experience of similar establishments and authored by professional engineer licensed by the State of North Carolina.
[2] Each stacking space shall be at least 50 feet long.
[3] The stacking space shall be of sufficient length to accommodate a trailer attached to a cab.
[4] Subject to the standards for gasoline sales if provided to individual passenger automobiles.

2. Design

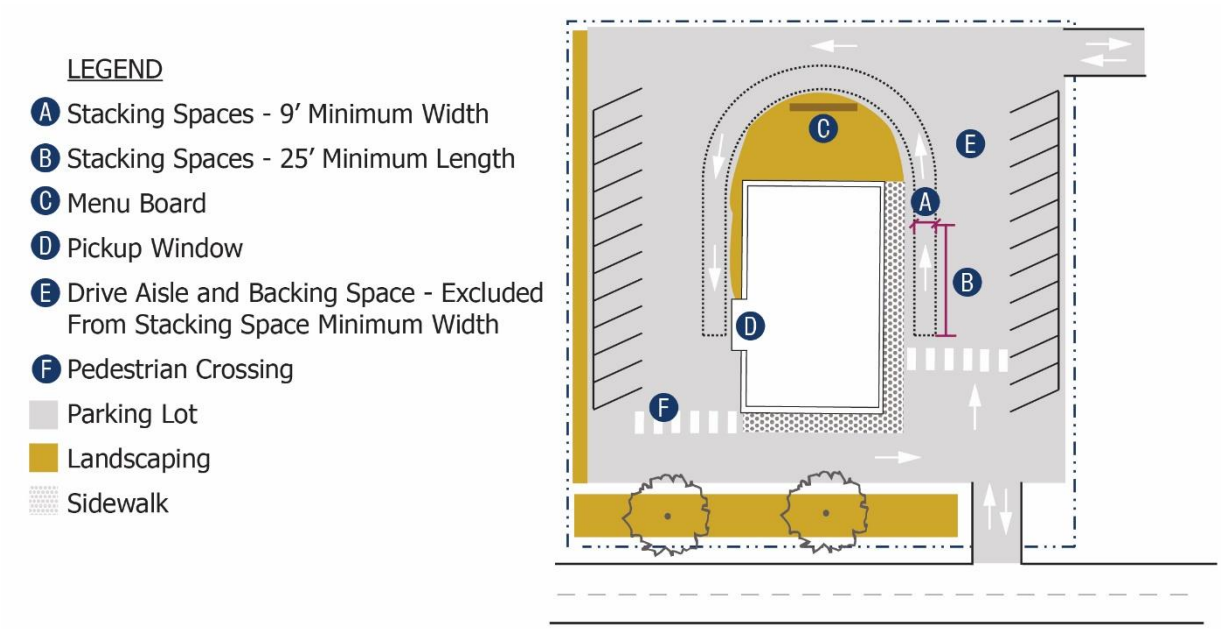
Stacking spaces are subject to the following design and layout standards (see Figure 5.1.H.2,Stacking Spaces):

a. Size
Stacking spaces shall be a minimum of nine feet wide and 25 feet long.

b. Traffic Movements
Required stacking spaces shall not impede vehicular traffic movements or movements into or out of parking spaces, whether on-site or off-site.

c. Bicycle and Pedestrian Movement
Required stacking spaces shall not impede on-site or off-site bicycle or pedestrian traffic movements, whether on-site or off-site.

FIGURE 5.1.H.2: STACKING SPACES



I. BICYCLE PARKING

Bicycle parking shall be provided in accordance with the following standards:

1. Applicability

(AMENDED 1.4.22 UDOTA-1-22)

a. Bicycle parking facilities shall be provided on all new commercial, mixed-use, multi-family, single-family attached, and institutional use types served by 20 or more off-street parking spaces for vehicles.

b. Bicycle parking shall not be required for industrial use types.

2. Rate of Provision

Bicycle parking spaces shall be provided at a rate of one bicycle parking space for every 20 off-street parking spaces for automobiles. Nothing shall limit the provision of more bicycle parking spaces than are otherwise required.

3. Configuration

a. Bicycle parking should be accessible to the primary entrances of the development and located in a visible, well-lit area (see Figure 5.1.I, Bicycle Parking).

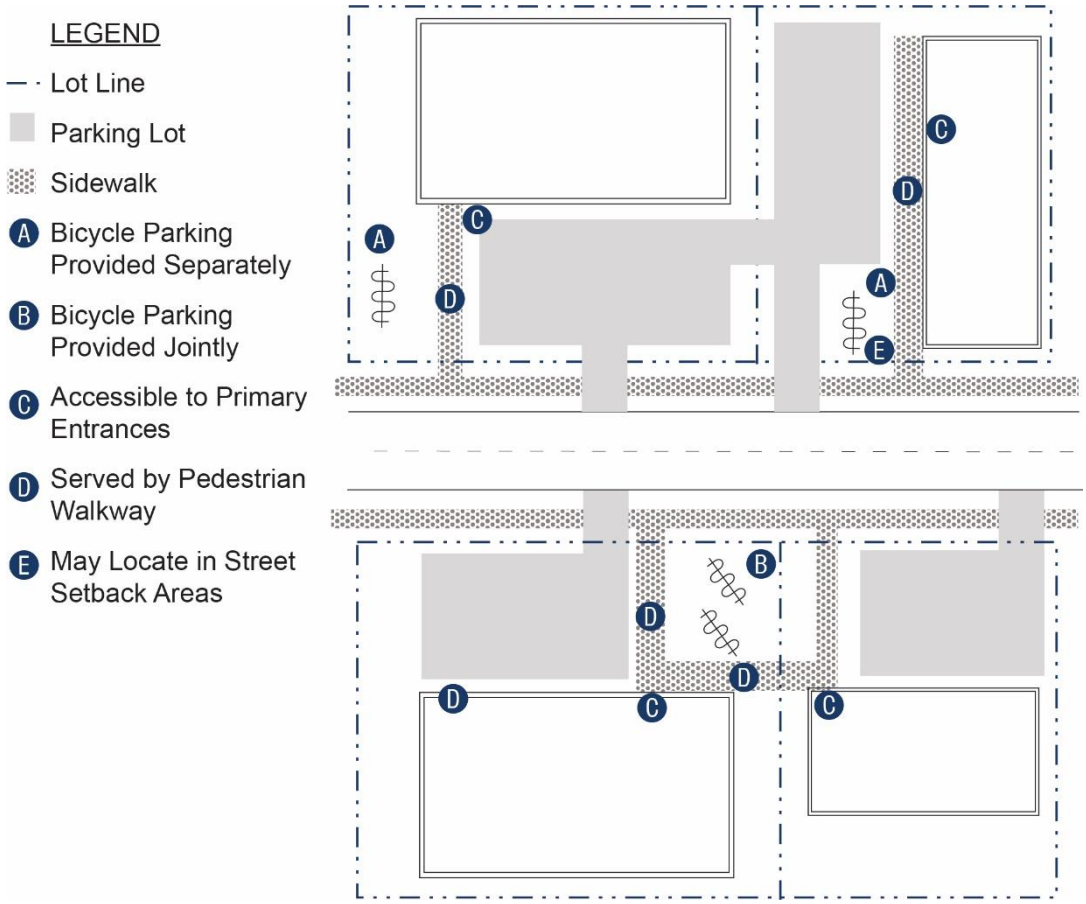
b. Bicycle parking shall be served by a pedestrian walkway connecting the bicycle parking to the closest primary building entrance.

c. Bicycle parking shall be located where it does not interfere with pedestrian traffic and is protected from conflicts with vehicular traffic.

d. Bicycle parking may be accommodated within street setback areas.

e. A bicycle rack or other device shall be provided to enable bicycles to be secured.

FIGURE 5.1.I: BICYCLE PARKING



4. Shared Parking Spaces

Nothing shall limit uses on the same block face from establishing shared or consolidated bicycle parking spaces in central or mid-block locations, provided there are sufficient bicycle parking spaces for all uses sharing the required bicycle parking.

J. PARKING ALTERNATIVES

Development may deviate from the off-street parking requirements in this section through the requirements and procedures in Section 2.4.B, Administrative Adjustment, Section 2.4.BB, Zoning/Subdivision Variance, or through approval of an alternative parking plan accepted by the Planning Director and configured in accordance with the following:

1. Deviation from Required Minimum

(AMENDED 12.3.19 UDOTA-01-20)

An applicant may propose a reduced rate of provision for off-street parking less than that specified in Table 5.1.D.9, Table of Minimum Off-Street Parking Requirements, in accordance with a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why fewer spaces than required will be adequate while still protecting the public's health, safety, and welfare.

2. Provision over the Maximum Allowed

An applicant proposing development subject to the standards in Section 5.1.D.3, Off-Street Parking Space Maximum, may propose a total number of off-street parking spaces that exceeds the maximum allowed only through the provision of a parking study prepared by a professional engineer licensed by the State of North Carolina. The parking study shall document why the provision of off-street parking spaces beyond the maximum authorized is necessary for the public's health, safety, or welfare.

3. Off-Site Parking

(AMENDED 10.20.20 UDOTA-03-20)

Up to 50 percent of off-street parking space requirements may be met by locating required parking in an off-site location, in accordance with the following standards:

a. The off-site parking is located within 1,000 feet from the use it serves, as measured from the entrance of the use to the nearest off-site parking space;

b. A sidewalk or paved pedestrian walkway is provided to the off-site parking area from the use;

c. In cases where the off-site parking is located on land under separate ownership from the use it serves, the off-site parking shall be subject to a written agreement executed by the owners involved and filed with the Planning Director prior to the use of off-site parking facilities. The agreement shall guarantee the long-term availability of the off-site parking in question; and

d. Should an off-site parking agreement cease, then the use shall be considered a nonconformity subject to the standards in CHAPTER 9. NONCONFORMITIES, unless the use is brought into compliance with the minimum off-street parking requirements of this section.

4. Shared Parking

The required off-street parking for a use may be met with shared use of the required off-street parking spaces of another use, only in accordance with the following standards:

a. The use of shared off-street parking spaces shall be subject to a shared parking agreement executed by the landowners of the uses involved, approved by the Planning Director, and recorded in the office of the Register of Deeds for the county where the development is located;

b. The shared parking agreement shall guarantee the long-term availability of the shared parking spaces in question. Nothing shall limit the percentage of required off-street parking spaces that may be provided through a shared parking agreement;

c. The shared parking is located within 1,000 feet, as measured from the entrance of the use to the nearest shared parking space;

d. A sidewalk or paved pedestrian walkway is provided to the shared parking area from the use;

e. The uses served by the shared parking must have different peak parking demands, differences in hours or days of operation, or otherwise operate such that the uses sharing parking have access to the required minimum number of off-street parking spaces when in operation; and

f. Should the shared parking agreement cease, then the use(s) formerly served by shared parking shall be considered a nonconformity subject to the standards in CHAPTER 9. NONCONFORMITIES, unless the use(s) is brought into compliance with the minimum off-street parking requirements of this section.

5. Alternative Surfacing

The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to, "grass-crete," "turfstone," cellular reinforced paving systems, porous concrete, crushed stone, or recycled materials such as glass, rubber, used asphalt, brick, block, and concrete—may be proposed for required off-street parking spaces, drive aisles, or vehicular surface areas on a site, provided such areas are properly maintained. Where possible, such materials should only be used in areas proximate to and in combination with on-site stormwater control measures or tree protection measures.

K. OFF-STREET LOADING

1. Loading Facilities Required

Every application for a non-residential use shall ensure that adequate off-street loading facilities are provided so that loading vehicles do not occupy required off-street parking spaces, block vehicular access, or prevent appropriate on-site maneuvering.

2. Minimum Off-Street Loading Space Requirements

a. A minimum number of off-street loading spaces is not established; however, if off-street loading spaces are provided, they shall be provided and maintained in sufficient numbers to adequately handle the needs of a non-residential use.

b. Failure to provide or maintain off-street loading spaces when they are necessary to serve the development is a violation of this Ordinance.

c. In no instance shall an off-street loading space occupy a required off-street parking space or interrupt the safe operation of vehicles or circulation of pedestrian or bicycles.

d. Each off-street loading space shall be designed with an appropriate means of vehicular access to a street or alley in a manner that will least interfere with traffic circulation.

3. Location

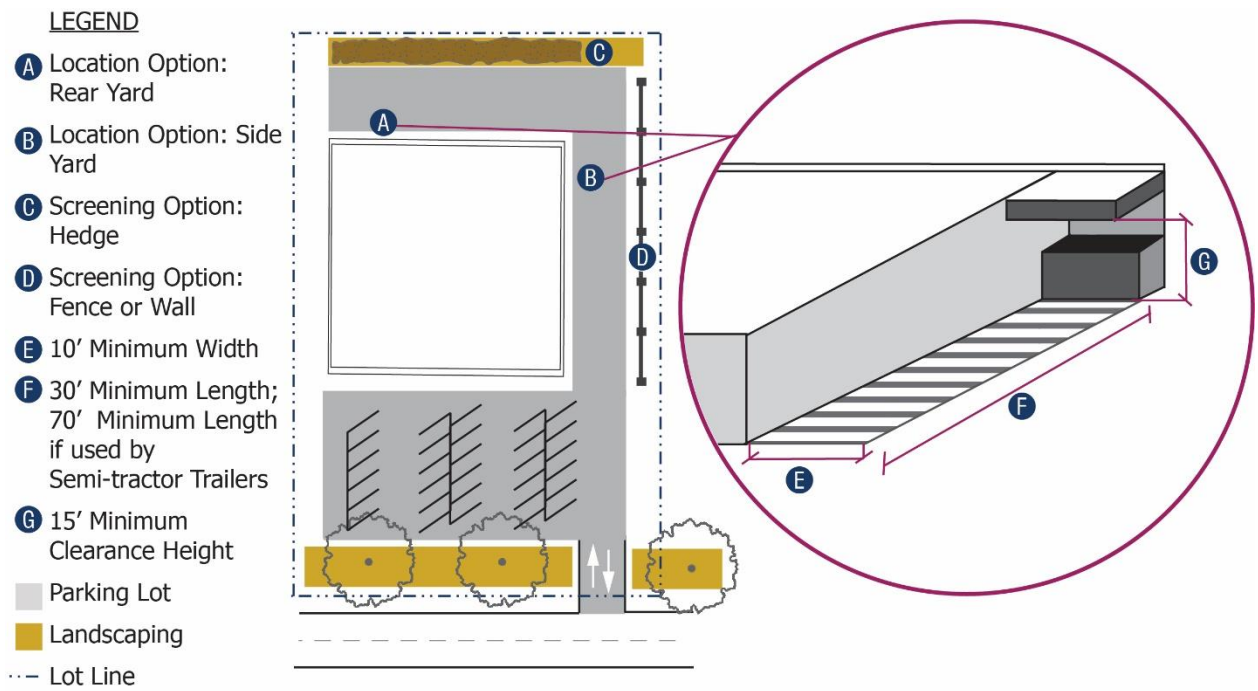
No off-street loading space shall be located within a required setback or within 30 feet of a street intersection.

4. Dimensional Standards for Loading Spaces

When off-street loading spaces are provided, they shall comply with the following minimum requirements (see Figure 5.1.K.4, Off-Street Loading Spaces):

a. Except for loading spaces used by semi-tractor trailers, off-street loading spaces shall be at least 10 feet wide and at least 30 feet long;
b. Off-street loading spaces used by semi-tractor trailers shall be at least 70 feet long;
c. Overhead clearance for an off-street loading space shall be at least 15 feet; and
d. Off-street loading spaces shall be designed so that no backing onto or from a public street is necessary.

FIGURE 5.1.K.4: OFF-STREET LOADING SPACES



5.2. ACCESS AND CIRCULATION

A. PURPOSE AND INTENT

The purpose of this section is to ensure the safe and efficient movement of vehicles, bicyclists, pedestrians, and deliveries on development sites in the City's jurisdiction. More specifically, these standards are intended to:

1. Protect the health and safety of City residents and visitors;
2. Ensure pedestrian accessibility is included in site planning;
3. Protect the safety of motorists, pedestrians, and bicyclists from traffic entering or exiting the street system; and
4. Encourage alternative forms of transportation.

B. APPLICABILITY

1. General

Unless exempted in accordance with Section 5.2.C, Exemptions, or except where otherwise expressly stated, the standards in this section apply to all new development in the City's jurisdiction.

2. Existing Development

Compliance with these standards shall also apply to redevelopment of an existing structure, building, or use when it is expanded, enlarged, or otherwise increased in intensity in an amount equivalent to or beyond 50 percent.

3. Conflict

In the event of conflict or overlap with the standards in this section and the standards in CHAPTER 6. SUBDIVISIONS, the standards in Chapter 6 shall control.

4. Site Plan Review Required

(AMENDED 1.4.22 UDOTA-1-22)

Revisions to the access or on-site circulation system of a developed lot shall require site plan approval in accordance with Section 2.4.S, Site Plan.

C. EXEMPTIONS

The following forms of development are exempted from the standards in this section:

1. Lots in the PC district;
2. Development consisting of one single-family detached home on its own lot of record (though these standards shall be applied to residential subdivisions proposing more than one lot); and
3. Development of a duplex.

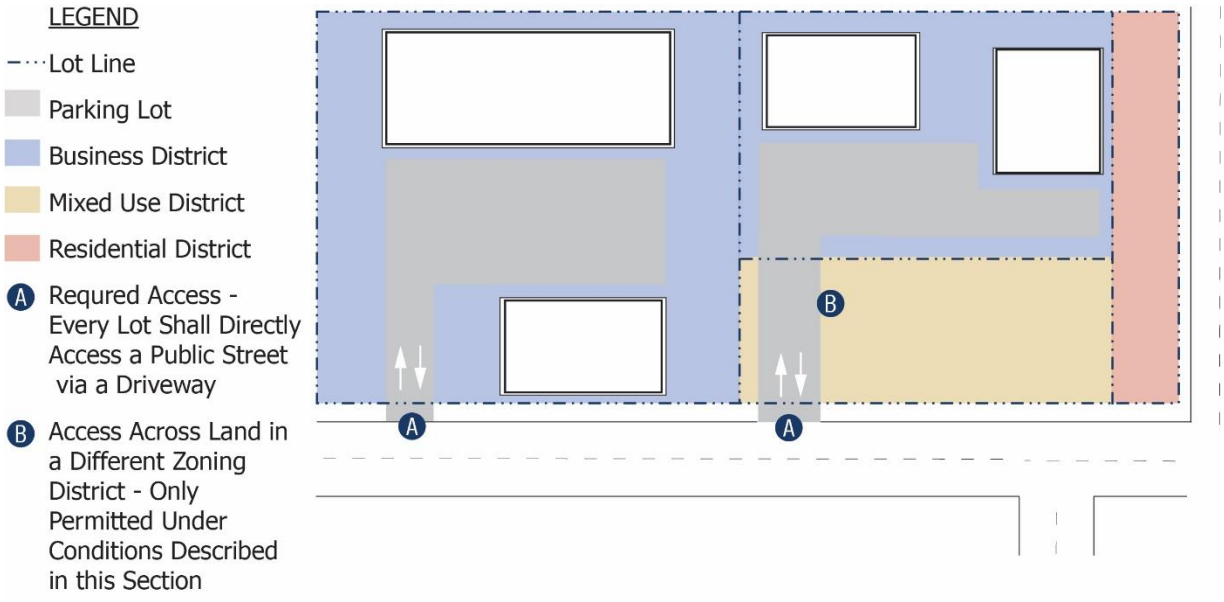
D. ACCESS TO LOTS

Except where authorized in accordance with Section 5.2.D.2, Alternative Access, all development shall comply with the following standards:

1. General Requirements

a. Every lot shall abut or have direct access, via a driveway, to a publicly maintained street.
b. No building or structure shall be constructed or placed on a lot that does not abut or have direct access to a publicly maintained street.
c. Direct access to a publicly-maintained street shall not extend through or across land in a different zoning district than the lot being served by the access (see Figure 5.2.D, Lot Access). This requirement is waived when the land in the different zoning district:
   i. Is classified as a business or mixed-use district; or
   ii. Allows the use being served by the direct access; or
   iii. Provides the sole means of access for the use.

FIGURE 5.2.D: LOT ACCESS



2. Alternative Access

As an alternative to compliance with the general standards in subsection (1) above, development may incorporate one of the following alternative street access standards (see Figure 5.2.D.2, Alternative Lot Access):

a. Multiple Lot Development

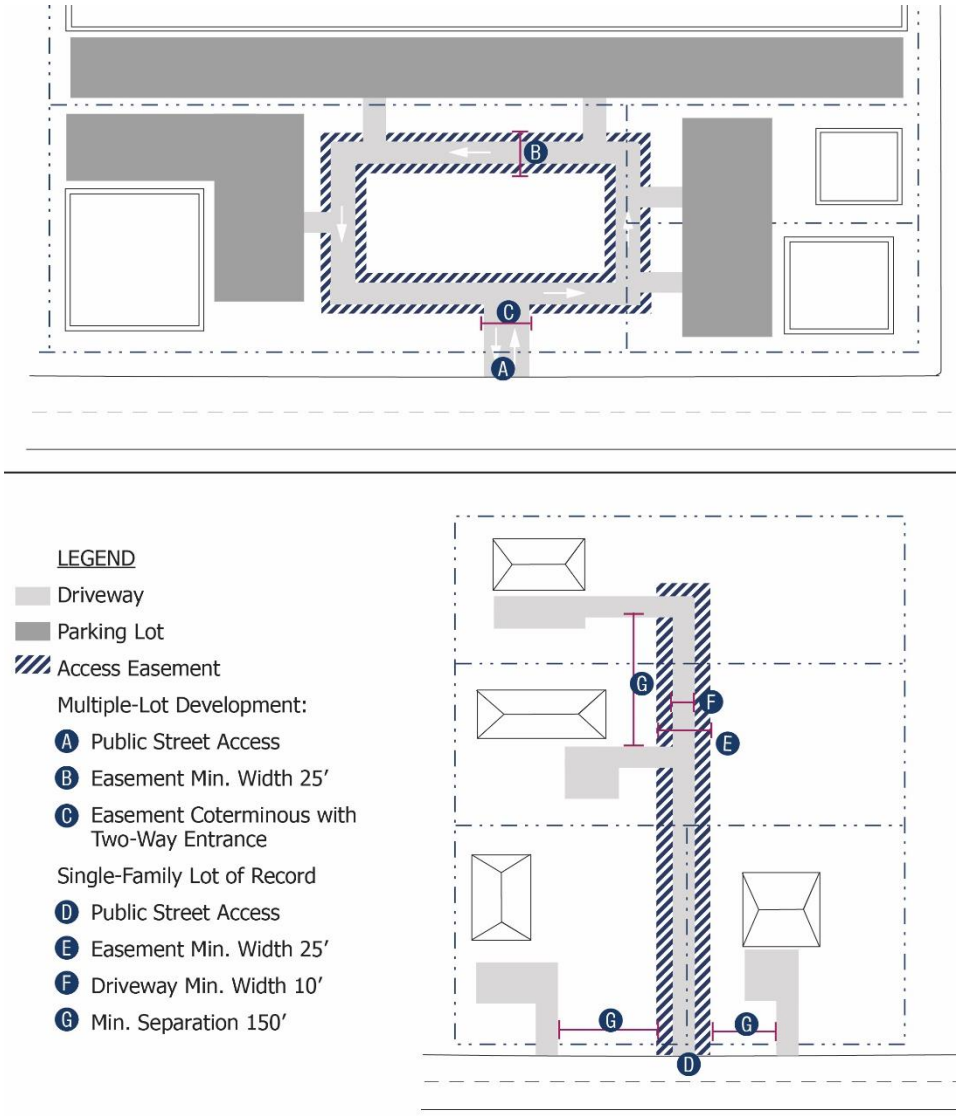
Up to a maximum of three individual lots in a multiple lot development may have shared rights of access along a single driveway that is at least 20 feet in width and leads to a publicly-maintained street.

b. Single-Family Lot of Record

Vacant lots of record established prior to November 1, 2017, that do not abut a publicly-maintained street may establish access through a recorded access easement, provided the lot is used for one single-family detached dwelling and its allowable accessory uses, and provided the easement complies with the following:

i. The minimum easement width is 20 feet;
ii. The minimum separation between the easement and any other platted access or right-of-way is at least 150 feet;
iii. The location of the easement is recorded on a plat; and
iv. The easement permits ingress, egress, regress, and necessary utilities to serve the lot.

FIGURE 5.2.D.2: ALTERNATIVE LOT ACCESS



E. COMPLIANCE WITH REQUIREMENTS FOR STREETS

Development subject to the standards in this section that includes construction activity affecting streets or street rights-of-way shall also comply with the standards in Section 6.3, Streets.

F. DRIVEWAYS

The standards in this section apply to all driveways in the City's jurisdiction, except where specifically exempted by the text of this Ordinance. Lawfully-established driveways existing prior to November 1, 2019, that do not conform to these standards shall be subject to the standards in CHAPTER 9. NONCONFORMITIES.

1. Purpose for these Standards

These driveway standards are intended to:

- **a.** Ensure safe vehicular movements in the City's jurisdiction;
- **b.** Configure lot access in accordance with the City's adopted policy guidance for roadway corridors;
- **c.** Minimize conflicts between pedestrians, bicyclists, and vehicles;
- **d.** Provide as much physical separation between street intersections and driveways serving individual land uses as is practicable;
- **e.** Minimize individual access points to collector and arterial streets to the minimum necessary; and
- **f.** Encourage shared access to individual lots.

2. Compliance with NCDOT Standards

a. Driveways providing ingress or egress to a State-maintained street shall be placed and constructed in accordance with the "Policy on Street and Driveway Access to North Carolina Highways" adopted by the North Carolina Department of Transportation (NCDOT), as amended.

b. All driveways connecting to State-maintained streets shall obtain driveway permit approval from NCDOT prior to the construction.

3. Compliance with City Standards

a. Driveways providing ingress or egress to a City-maintained street shall be placed and constructed in accordance with City of Burlington's Engineering Specifications and Standard Details document, which is on file in the office of the Engineering Department.

b. All driveways connecting to City-maintained streets shall obtain driveway permit approval from the City prior to construction.

4. Driveway Configuration

a. All driveways shall be constructed so that:

i. Vehicles can enter and exit from a lot without posing any substantial danger to themselves, pedestrians, bicycles, or vehicles traveling on abutting streets;

ii. Interference with the free and convenient flow of traffic on abutting or surrounding streets is minimized;

b. Driveway radii shall be designed in accordance with the City of Burlington's Engineering Specifications and Standard Details document, and shall not extend beyond side lot lines;

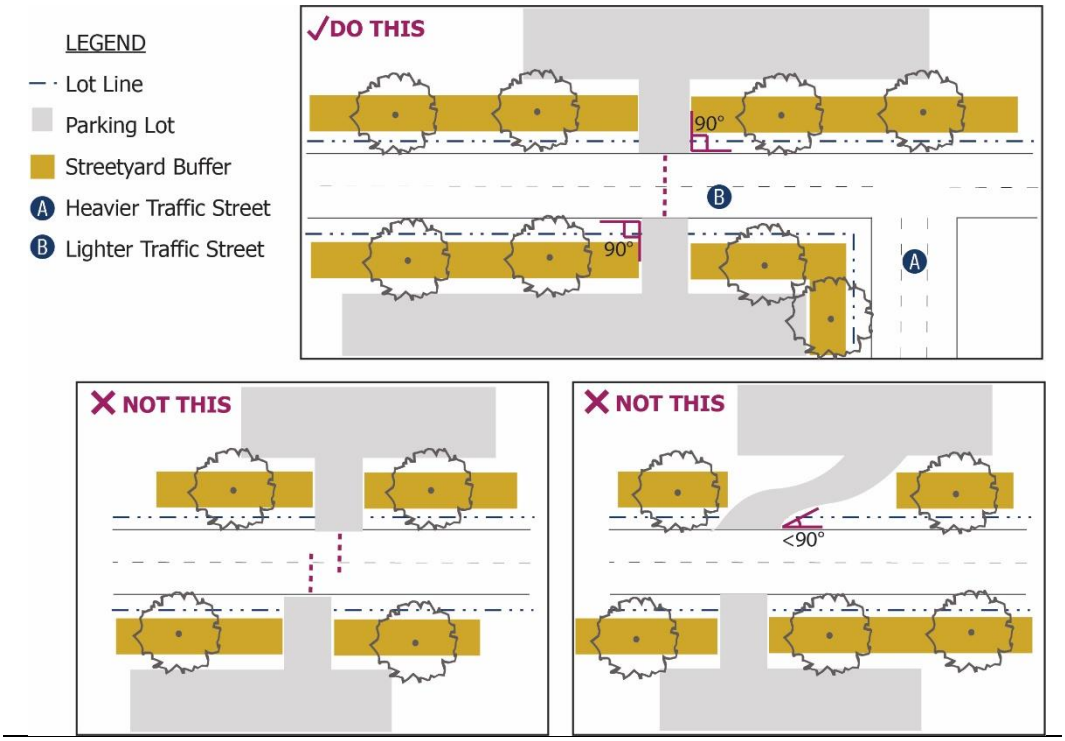
c. No driveway serving an off-street parking area or providing on-site circulation is permitted within any required landscaping area, but driveways may be installed across these areas;

d. Driveways shall be as nearly perpendicular to the street right-of-way as possible (see Figure 5.2.F.4, Driveway Configuration);

e. Driveways shall line up with other driveways across the street, where practicable; and

f. Driveways on corner lots shall provide access from the street with less traffic, to the maximum extent practicable.

FIGURE 5.2.F.4: DRIVEWAY CONFIGURATION



5. Minimum Driveway Width and Depth

a. Driveways shall be configured to extend into the lot they serve for a minimum distance in accordance with Table 5.2.F.5: Minimum Driveway Width and Depth.

TABLE 5.2.F.5: MINIMUM DRIVEWAY WIDTH AND DEPTH

Use Type	Minimum Driveway Width (feet) [1]	Minimum Driveway Depth (feet) [2]
Single-family detached and duplex development	10 [3]	25
Triplex and quadraplex development	12	Driveways serving individual units: 25 Driveways serving parking lots: [5]
Single-family attached and multi-family development	One-way: 12 Two-way: 18 [4]	
Mixed-use development	One-way: 12 Two-way: 24 [4]	[5]
Non-residential development		

NOTES:
[1] Drive aisles shall comply with the standards in Table 5.1.E.2, Dimensional Standards for Off-Street Parking Spaces.
[2] Measured from the edge of the right-of-way serving the driveway. In cases where the driveway is located within an access easement that crosses another lot, minimum driveway depth is measured from the edge of the lot line where the driveway is located.
[3] Minimum width only applied to the area where minimum driveway depth standards are applied.
[4] Travel lane widths on two-way driveways may differ when required by City staff.
[5] See Section 5.2.F.6, Minimum Parking Lot Stem Length.

b. The width of any driveway accessing a public street shall not exceed 36 feet at its intersection with the right-of-way, except as required by the NCDOT, the City of Burlington, or in an approved transportation impact analysis (see Section 2.4.X, Transportation Impact Analysis).

6. Minimum Parking Lot Stem Length

a. Driveways serving off-street parking lots shall comply with the standards for minimum stem length in Table 5.2.F.6: Parking Lot Stem Length.

b. In no instance shall a parking lot be configured to allow access to an individual off-street parking space, drive aisle, or other vehicular accessway at a point closer to the street right-of-way than the minimum parking stem length.

c. In cases where a development is subject to a transportation impact analysis, the parking lot stem length specified in the transportation impact analysis shall control.

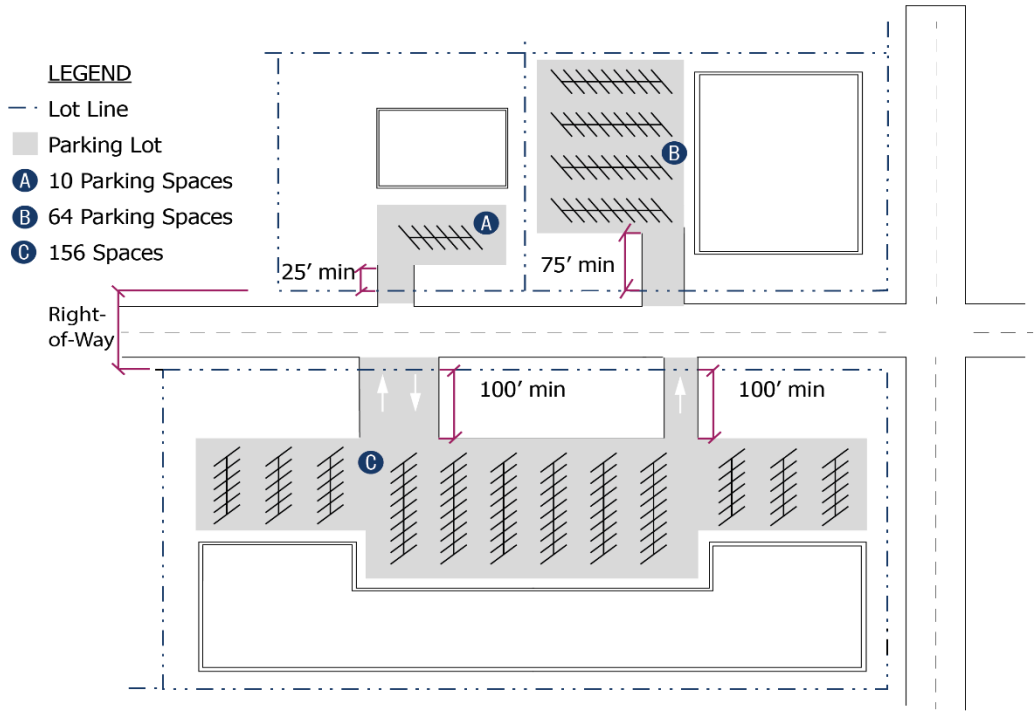
d. Nothing shall limit a parking lot stem from having a longer length than specified in this subsection.

TABLE 5.2.F.6: PARKING LOT STEM LENGTH

Number of Provided Off-Street Parking Spaces in Parking Lot	Minimum Parking Lot Stem Length (feet) [1] [2]
10 or less	25
11 to 51	50
51 to 100	75
101 to 200	100
201 to 250	150
251 or more	As determined by the Technical Review Committee

NOTES:
[1] Measured from the edge of the right-of-way serving the parking lot stem.
[2] The Technical Review Committee may allow a reduced parking lot stem length based on site conditions, provided public safety can be maintained.

FIGURE 5.2.F.6: PARKING LOT STEM LENGTH
(AMENDED 10.20.20 UDOTA-03-20)



7. Required Driveway Spacing

a. Spacing from Streets

i. No portion of any driveway leading from a street shall be closer than 100 feet to the corner of any adjacent street intersection measured from the edge of the right-of-way.

ii. On lots with less than 100 feet of lot width, the driveway shall be located as far as practicable from the adjacent street intersection.

b. Spacing from Other Driveways

i. Certain Residential Uses

(AMENDED 10.20.20 UDOTA-03-20)

a) Except when configured as paired or side-by-side driveways, driveways serving individual single-family detached dwellings, individual single-family attached dwellings, duplex, triplex, or quadriplex buildings shall be located at least 20 linear feet from any other driveway on the same or different lot.

b) For the purposes of this section, paired driveways are up to two driveways, whether on the same or different lots, where one side of a driveway is within five feet of the side of the other driveway.

ii. All Other Uses

No two driveway access points, whether on the same or different lots, shall be located within 50 feet of each other, to the maximum extent practicable.

8. Driveway Surfacing

New driveways established after November 1, 2019, that abut a paved street shall be surfaced with asphalt or six inches of concrete for a distance of at least five feet from the edge of the right-of-way.

9. City Maintenance

(AMENDED 1.4.22 UDOTA-1-22)

The City shall not be responsible for maintenance of drive aisles or other vehicular use area located outside a public right-of-way or on land not owned and operated by the City of Burlington.

G. SIGHT DISTANCE TRIANGLES

1. Sight Distance Triangles Established

Corner lots and lots with driveways, alleys, or other methods of ingress/egress to a street shall include sight distance triangles to ensure visibility for drivers and pedestrians moving through or in an intersection. Required sight distance triangles shall be configured in accordance with Table 5.2.G: Sight Distance Triangle Requirements. Land within a required sight distance triangle shall comply with the standards in Section 5.2.G.3, Limitations on Obstructions within Required Sight Distance Triangles.

TABLE 5.2.G: SIGHT DISTANCE TRIANGLE REQUIREMENTS

Type of Street, Intersection, or Driveway		Minimum Sight Distance Triangle Configuration Required [1] [2]
Intersections of streets [3]		10/70
Driveways serving parking lots		10/70
Driveways serving individual land uses without parking lots	Single-family detached, single-family attached, Duplex, Triplex, Quadriplex	None
	All other uses of land	10/70, wherever possible

NOTES:
[1] The NCDOT may require an alternative sight distance triangle configuration.
[2] AASHTO requirements shall be applied to curved or curvilinear streets.
[3] Includes all streets (State-maintained and City-maintained).

2. Measurement of Sight Distance Triangle

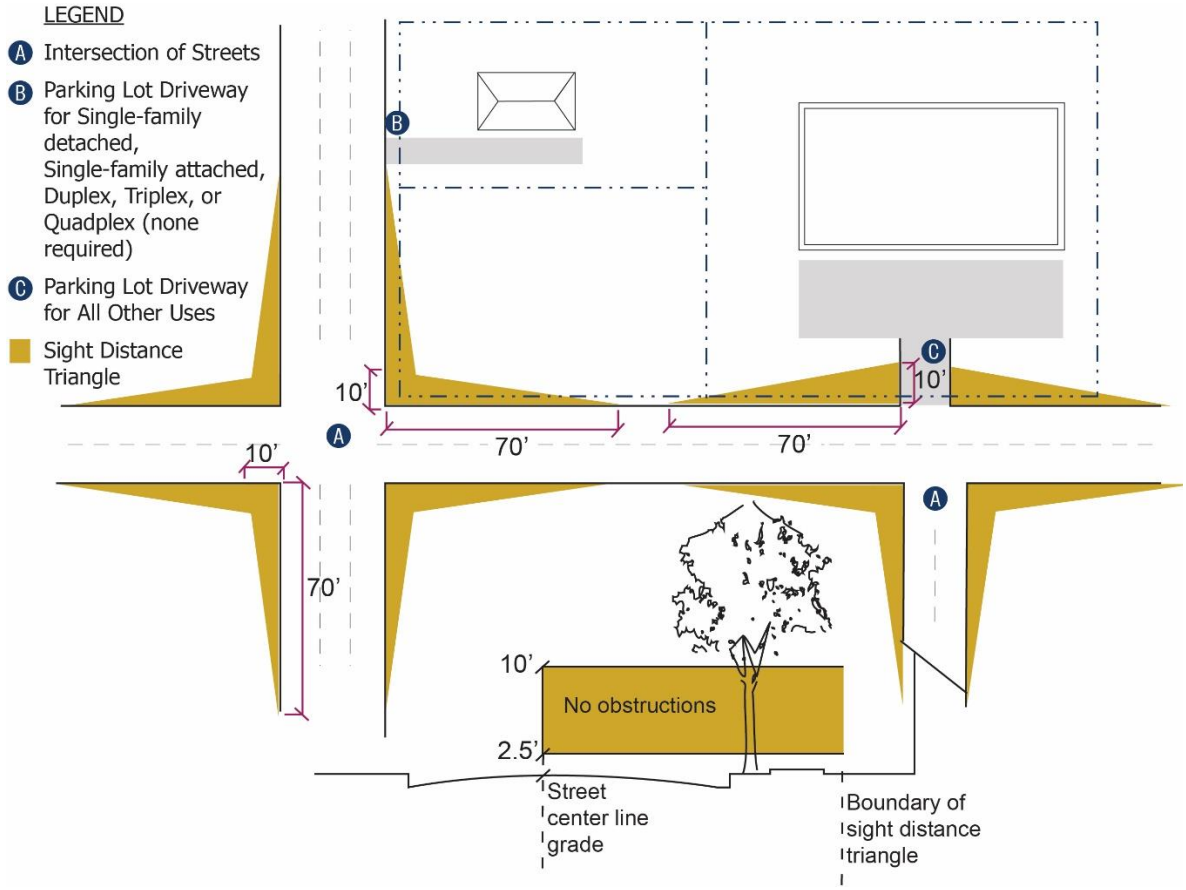
Sight distance triangles shall be an area between a point at the edge of a street right-of-way located 70 linear feet from the intersection and a second point at the edge of the opposing street right-of-way located ten feet from the intersection (see Figure 5.2.G.2, Sight Distance Triangles).

3. Limitations on Obstructions within Required Sight Distance Triangles

a. No planting, structure, fence, wall, slope, embankment, parked vehicle, or other obstruction to vision between the heights of two-and-one-half (2½) feet and ten feet above the centerline grades of intersecting streets or accessways may be located within a required sight distance triangle.

b. No structure or object, regardless of its size, which obstructs visibility within a required sight distance triangle to the detriment of vehicular or pedestrian traffic shall be permitted.

FIGURE 5.2.G.2: SIGHT DISTANCE TRIANGLES



H. PARKING LOT CONNECTIONS

1. Purpose and Intent

(AMENDED 1.4.22 UDOTA-1-22)

The intent of this section is to provide for parking lot connections between comparable commercial, mixed-use, single-family attached, and multi-family land uses that front arterial and collector streets so that vehicles leaving one lot may access the adjoining lot without having to re-enter the street system.

2. Applicability

(AMENDED 1.4.22 UDOTA-1-22)

The standards in this section shall apply to lots abutting arterial and collector streets that contain any of the following uses:

a. Uses in the commercial uses classification in Table 4.2.C, Principal Use Table;
b. Mixed-use development;
c. Single-family attached residential development; and
d. Multi-family development.

3. Exemptions

Parking lot connections are not required when any of the following conditions are present:

a. Adjacent lots do not have common frontage along an arterial or collector street;
b. Significant topographical differences in existing or proposed conditions are present;
c. Significant natural features exist in the only viable location for parking lot connections;
d. Vehicular safety factors exist or would be created including, but not limited to, unsafe turning movements or pedestrian conflicts;
e. Sufficient access already exists without need for additional parking lot connections;
f. Residential, institutional, or other incompatible land uses are present on adjacent lots;
g. Existing infrastructure obstructions; or

h. Other safety or security factors, in the opinion of the Planning Director or City Engineer.

4. Configuration

Parking lot connections shall join parking lots on two or more different lots (see Figure 5.2.H: Parking Lot Connections) subject to these standards:

a. A parking lot connection shall be included on at least two sides of a lot except when conditions prevent connections in accordance with Section 5.2.H.3, Exemptions;

b. Parking lot connections shall be paved with asphalt, concrete, or pavers and shall maintain a minimum width of 12 feet for one-way traffic and 18 feet for two-way traffic;

c. All parking lot connections shall be built to the lot line, to the maximum extent practicable; and

d. A minimum distance of 40 feet shall be required between a parking lot connection and an intersection or driveway entrance.

5. Impact on Required Site Features

a. Where a required parking lot connection eliminates a required landscape planting area, the landscaping requirements shall be reduced to accommodate the cross-accessway and replacement landscaping shall not be required.

b. When a required parking lot connection eliminates required off-street parking spaces, replacement parking spaces shall not be required.

6. Easement Required

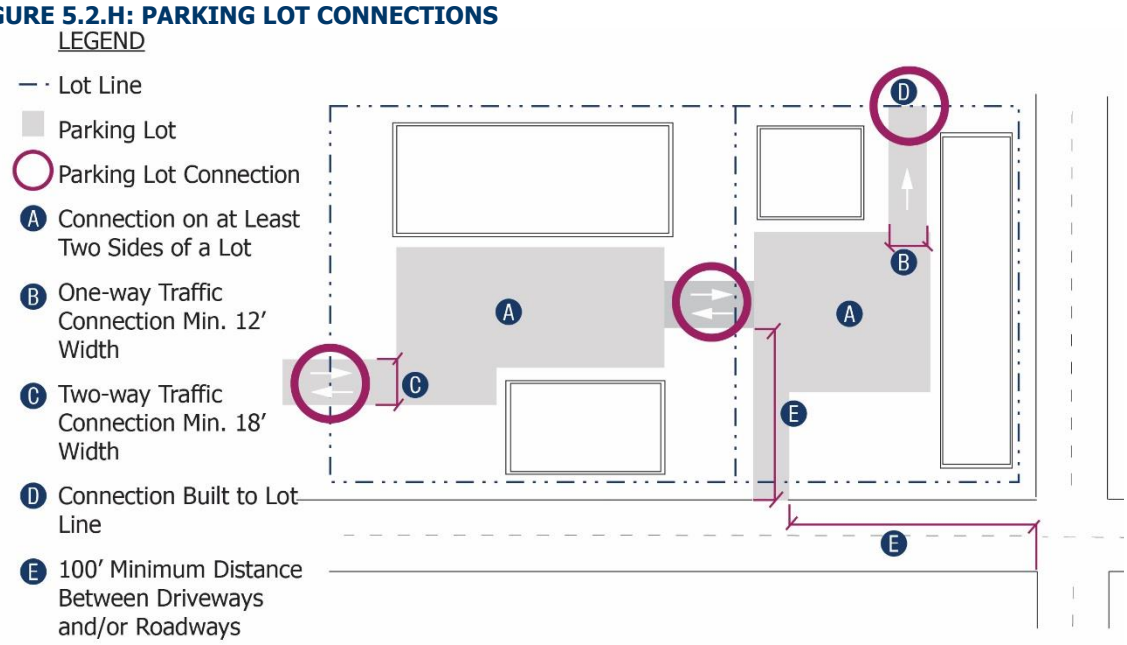
A parking lot connection easement shall be recorded on the final plat for property involving a subdivision, or recorded by separate instrument, when no plat is proposed.

7. Connection Required

(AMENDED 10.20.20 UDOTA-03-20)

Development subject to these standards shall install parking lot connections to the shared property line. However, if the abutting landowner that does not already have a parking lot connection stub, or the land is vacant and the abutting landowner is unwilling to allow the connection to be built to the shared property line due to the impact of the grading equipment or other construction activity on their property, then the Planning Director shall notify the abutting property owner that they will be responsible for completing the entire parking lot connection when their vacant property is developed.

FIGURE 5.2.H: PARKING LOT CONNECTIONS



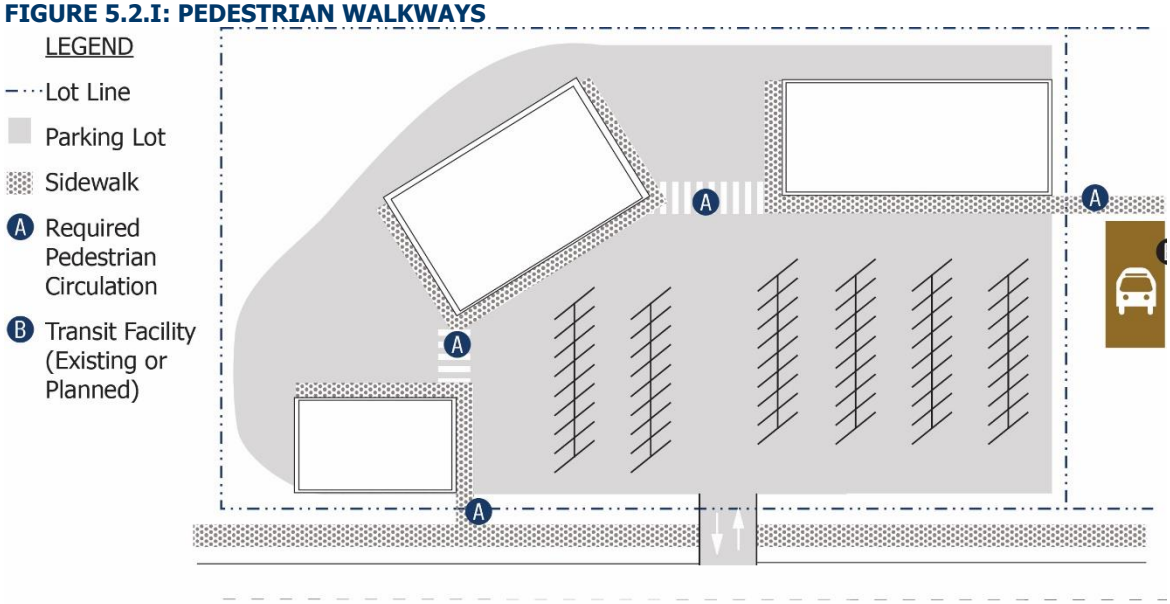
I. ON-SITE PEDESTRIAN WALKWAYS

(AMENDED 1.4.22 UDOTA-1-22)

On-site pedestrian walkways that minimize conflict between pedestrians and vehicles shall be provided on all non-residential, mixed-use, single-family attached, and multi-family development sites, and shall be configured in accordance with the following standards:

1. On-site pedestrian walkways shall connect building entrances to off-street parking areas and to other building entrances on the same site (see Figure 5.2.I, Pedestrian Walkways);
2. Development subject to these standards shall provide at least one connection to an existing or planned public sidewalk or existing greenway via an on-site pedestrian walkway, configured in accordance with these standards;
3. Connections shall be made to all existing or planned adjacent transit facilities, to the maximum extent practicable;
4. On-site pedestrian walkways shall be paved with asphalt, concrete, or other all-weather material, and shall be of contrasting color or materials when crossing drive aisles;
5. On-site pedestrian walkways shall be positively drained and configured to avoid areas of pooling water;
6. On-site pedestrian walkways shall be in compliance with applicable State and federal requirements, including ADA requirements; and
7. Development with 200 or more off-street parking spaces shall provide fully-separated, improved on-site pedestrian walkways within planted landscape islands located a minimum of every six parking rows. On-site pedestrian walkways shall be aligned perpendicular to the buildings served and terminate at building entrances, to the maximum extent practicable.

FIGURE 5.2.I: PEDESTRIAN WALKWAYS



J. COMPLIANCE WITH REQUIREMENTS FOR SIDEWALKS

Development subject to the standards in this section shall comply with all applicable standards in Section 6.4, Sidewalks.

K. COMPLIANCE WITH REQUIREMENTS FOR GREENWAYS

Development on lots identified in the City's adopted policy guidance as subject to the requirements for greenways shall comply with all applicable standards in Section 6.6, Greenways.

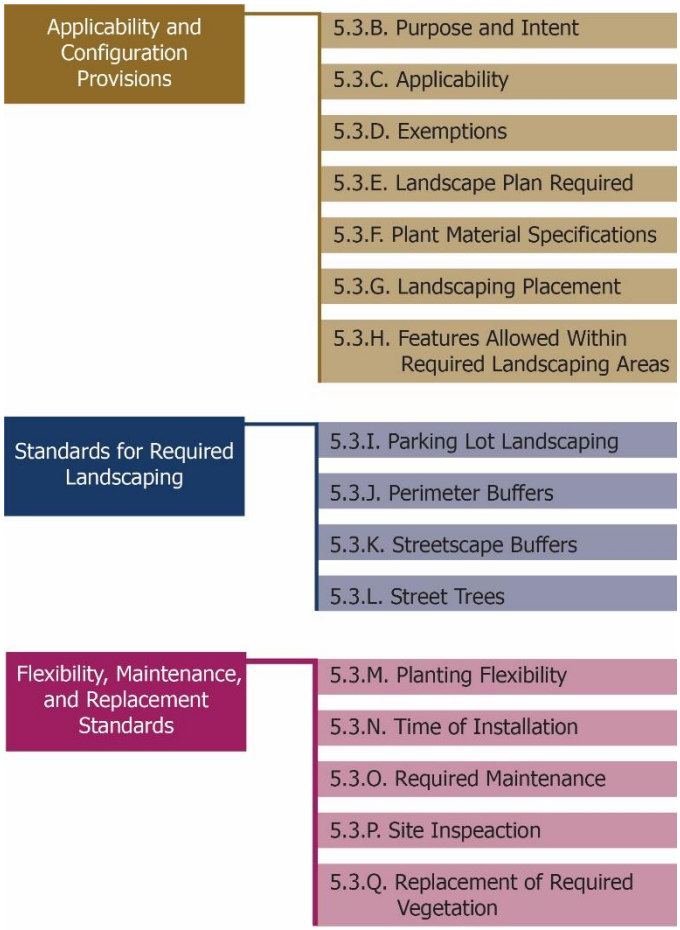
5.3. LANDSCAPING

A. SECTION ORGANIZATION

These landscaping provisions are organized into three main groups of related standards, as depicted in Figure 5.3.A, Landscaping Section Structure:

1. Applicability and configuration provisions in Subsections 5.3.B through 5.3.H;
2. The standards for the four types of required landscaping (parking lots, perimeter buffers, streetscape buffers, and street trees) in Subsection 5.3.I through 5.3.L; and
3. The flexibility, maintenance, and replacement standards in subsections 5.3.M through 5.3.Q.

FIGURE 5.3.A: LANDSCAPING SECTION STRUCTURE



B. PURPOSE AND INTENT

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of buildings, site features, and off-street parking areas. These standards are intended to:

1. Promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties;
2. Assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites;
3. Shield adjacent properties from potentially adverse external impacts of adjacent land uses and activities;
4. Abate glare and moderate temperatures of impervious areas;
5. Help filter air of fumes and dust;
6. Provide shade;
7. Reduce noise;
8. Reduce the visual impact of large expanses of pavement;
9. Promote energy conservation;
10. Reduce the amount and rate of stormwater runoff and erosion;
11. Improve stormwater runoff quality;
12. Increase in the capacity for groundwater recharge; and
13. Enhance the appearance and value of both residential and non-residential development.

C. APPLICABILITY

The standards in this section apply to the following forms of development:

1. New Principal Buildings or Uses

New principal buildings or open uses of land, including publicly-owned buildings or sites, constructed, reconstructed, or established after November 1, 2019.

2. Improvements and Expansions

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 10.20.20 UDOTA-03-20)

All improvements, including expansions of principal buildings, parking areas, or open uses of land lawfully-established before November 1, 2019, shall comply with Section 9.6, Nonconforming Site Features.

3. Multi-Phase Development

(AMENDED 1.4.22 UDOTA-1-22)

Multi-family, single-family attached residential, non-residential, and mixed-use development that is planned and developed in phases shall be required to install landscaping that is associated with the active phase or phases only, unless an alternative arrangement is otherwise agreed to by the Planning Director and the developer. An active phase of a development is the one that is subject to permitted and on-going development activity.

D. EXEMPTIONS

(AMENDED 10.20.20 UDOTA-03-20)

The following forms of development are exempted from these standards:

1. Changes to an existing or development of a new individual single-family detached or duplex dwelling on a residentially-zoned lot;
2. Routine maintenance of existing vegetation, such as watering and fertilizing;
3. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, provided the screening function of the landscaping is maintained or re-established. Failure to maintain the screening function of a required landscaping area is a violation of this Ordinance;
4. Pruning of vegetation, provided the screening function of the required landscaping is maintained. Severe pruning is a violation of this Ordinance, and shall require replacement of required vegetation; and
5. Repaving or restriping of a parking lot, provided there is no increase in parking lot size or the number of parking spaces, which would impact landscaping requirements.

E. LANDSCAPE PLAN REQUIRED

1. Generally

(AMENDED 10.20.20 UDOTA-03-20)

a. A landscape plan depicting how required landscaping will be planted in accordance with these standards shall be included with an application for site plan, preliminary plat, planned development master plan, special use permit, or building permit, as appropriate, to ensure compliance with this section.
b. The landscape plan shall be approved prior to, or concurrent with, the approval of a site plan, preliminary plat, planned development master plan, special use permit, or the issuance of a building permit.
c. A landscape plan shall contain, at a minimum, the following:
   i. Location of required planting material;
   ii. Grouping or clusters of planting material, if proposed;
   iii. Identification of required plants, including their scientific names;
   iv. Minimum and maximum dimensions of all planting yard areas;
   v. Calculations determining the number of canopy trees, understory trees, and shrubs required;
   vi. Locations, species, sizes, and methods of protection during construction for existing vegetation to be retained and counted towards minimum landscaping requirements;
   vii. Location(s), species, and size or planting density of required trees included if the development is subject to the standards in Section 7.2, Reforestation; and
   viii. Existing topography, or proposed topography where site grading is proposed to occur.

2. Phased Development

Development subject to these standards that is planned in phases may submit a landscape plan for the entire development, or separate landscape plans for each phase, which shall be approved prior to approval of the final plat.

3. Landscaping in a Stormwater Retention Pond

If trees or shrubs are proposed on or within 20 feet of the embankment of a stormwater retention pond, a landscape plan showing the retention pond and surrounding landscaping must be submitted for review to determine that the safety and functionality of the device will not be compromised by the trees or shrubs.

F. PLANT MATERIAL SPECIFICATIONS

1. Canopy Tree Size

a. Canopy trees shall have a minimum height at maturity of 40 feet and a minimum crown width of 30 feet (see Figure 5.3.F, Plant Material Specifications).

b. All canopy trees shall have a minimum height of eight feet, or more, and a minimum caliper size of two inches, or more, at planting (see Section 8.3.L.1, Determining Tree Size at Time of Planting).

c. Evergreen trees shall be a minimum of six feet in height at planting.

2. Understory Tree Size

a. Understory trees shall have a minimum height at maturity of 15 to 40 feet, except that trees to be placed below overhead utility lines may not exceed a mature height of 20 feet (see Figure 5.3.F, Plant Material Specifications).

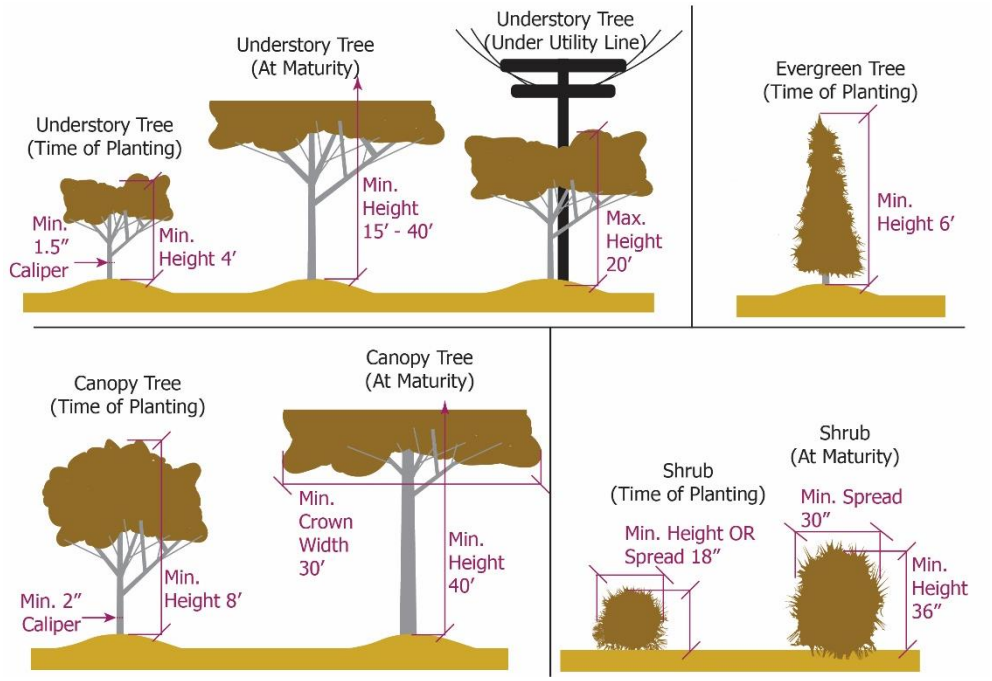
b. All understory trees shall have a minimum height of four feet, or more, and a minimum caliper size of one-and-one-half (1½) inches, or more, at planting (see Section 8.3.L.1, Determining Tree Size at Time of Planting).

c. Drought tolerant understory trees shall have a minimum caliper size of one inch at planting.

d. Nothing shall limit the use of multi-stemmed understory trees provided that 25 percent or more of the leaders meet the requirements in Section 8.3.L.1, Determining Tree Size at Time of Planting.

FIGURE 5.3.F: PLANT MATERIAL SPECIFICATIONS

(AMENDED 10.20.20 UDOTA-03-20)



3. Shrub Size and Variety

a. All shrubs shall be at least a three-gallon size and have a minimum height or spread of 18 inches at the time of planting (see Section 5.3.I.3.d, Size of Plant Material).

b. Shrubs shall reach a minimum height of 36 inches and a spread of 30 inches within three years of planting.

c. Decorative grasses may be proposed as a substitute for shrubs, provided the grasses meet the screening objectives and are approved by the Planning Director.

d. Shrubs or grasses used to screen off-street parking areas shall be evergreen or retain their leaves/blades throughout the year.

4. Native or Locally-Adapted Species

a. Required landscaping materials shall be cold-hardy for the location where planted.

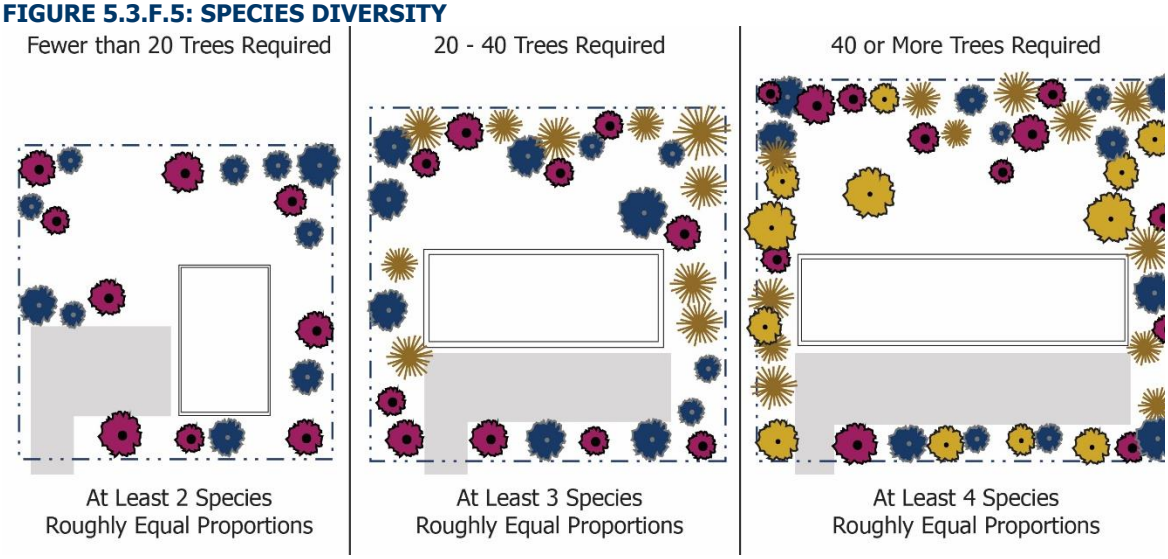
b. Plant species used in required landscaping areas must be native species or species of a locally-adapted nature. Other species require approval by the Planning Director.

5. Species Diversity

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the following standards:

a. When fewer than 20 trees are required on a site, at least two different species shall be utilized, in roughly equal proportions (see Figure 5.3.F.5, Species Diversity);
b. When more than 20 but fewer than 40 trees are required to be planted on site, at least three different species shall be utilized, in roughly equal proportions;
c. When 40 or more trees are required on a site, at least four different species shall be utilized, in roughly equal proportions;
d. A larger number of different species than specified may be utilized; and
e. In no instance shall invasive species, as determined by the North Carolina Forest Service, be utilized as landscaping materials to meet the requirements of this Ordinance.

FIGURE 5.3.F.5: SPECIES DIVERSITY



6. Stabilization

a. Required landscaping areas shall be stabilized and maintained with vegetative cover, mulch, decorative gravel, cinders, or other approved materials to prevent soil erosion and allow rainwater infiltration.
b. Required landscaping areas with slopes of 15 percent or more shall be stabilized with vegetative cover (not mulch or gravel) designed to minimize erosion. Required vegetative cover shall be established and functional prior to issuance of a certificate of occupancy.
c. Use of landscape fabric on slopes of 15 percent or more is discouraged.

G. LANDSCAPING PLACEMENT

1. Outside Public Street Rights-of-Way

a. Except for street trees, required landscaping material shall not be located within a street right-of-way.
b. Street trees may be located within a street right-of-way in the CBD, PD, and PDD districts as well as within the GCO when specified by adopted policy guidance.
c. Where provided, street trees shall be configured in accordance with Section 5.3.L, Street Trees.

2. Grouping of Plant Material

a. Except for street trees, vegetation within a Type A perimeter buffer, shrubs around a parking lot, or when vegetation is included as a screening device in accordance with Section 5.4, Screening, required plant material may generally be grouped or clustered, however, the overall screening intent must be adequately addressed.
b. Required plant material in a Type A perimeter buffer may not be grouped, and shall be planted according to the required on-center spacing in Table 5.3.J, Buffer Configuration.
c. Street trees shall maintain on-center spacing requirements in Section 5.3.L, Street Trees.

d. Shrubs intended to screen features in accordance with Section 5.4, Screening, may not be grouped if such grouping results in the failure to meet the minimum screening standards of this Ordinance.

3. Multiple-Lot Development

A multiple-lot development is not required to provide perimeter buffers along lot lines internal to the development, but the perimeter of the development shall be subject to the standards in Section 5.3.J, Perimeter Buffers.

4. Easements

a. Trees and shrubs may be located within a required easement on a case-by-case basis with the permission of the easement holder.

b. When landscaping is within an easement, the landowner is responsible for replacement of any required vegetation if maintenance or other actions result in its removal.

c. When landscaping is planted in a drainage easement, it shall not impact the easement design or impede the flow of water through the easement.

d. Where an easement and a required landscape area coincide and there is a prohibition on planting within the easement, then the required landscaping area shall be located outside the easement.

5. Setback Smaller than Required Landscaping Area

In cases where a required setback is smaller or more narrow than a required landscaping area, the landscaping area width or size shall not be reduced except as authorized by any of the following:

a. An alternative landscape plan;

b. An administrative adjustment;

c. A conditional rezoning approval;

d. An approved planned development master plan; or

e. A sustainable development incentive.

6. Fire Protection System

Minimum clear separation distances required by the current adopted version of the North Carolina Fire Code shall be maintained for landscaping near a fire protection system.

7. Landscaping in Bio-retention Cells

Trees and shrubs used in bio-retention cells or rain gardens located in parking lots or within landscape yards may be counted toward tree or shrub requirements of this Ordinance, provided they meet the minimum specifications in Section 5.3.F, Plant Material Specifications.

8. Permitted Encroachments

a. The following features may be located entirely within required landscaping areas, provided the screening function of the landscaping is maintained and provided any encroachments into a required setback are in accordance with Table 8.3.E, Allowable Encroachment into Setbacks:

i. Principal buildings, provided the minimum setbacks of the zoning district where located, are maintained;

ii. Landscaping features such as, ornamental pools, planting boxes, sculpture, arbors, trellises, and birdbaths;

iii. Pet shelters, well houses, and mechanical enclosures;

iv. On-grade patios, steps, benches, outdoor fireplaces, playground equipment serving an individual dwelling unit, accessibility ramps, roof overhangs, and fire escapes;

v. Ornamental entry columns, gates, fences, walls, and retaining walls;

vi. Flagpoles of 30 feet in height or less;

vii. Lamp and address posts;

viii. Utility cabinets of four feet in height or less;

ix. Mailboxes; and

x. Signage.

b. The following features may cross a required landscaping area in a manner that minimizes the impact to the required landscaping:

i. Driveways, sidewalks, pedestrian walkways, greenways, or multi-use trails;

ii. Utilities; and

iii. Stormwater management facilities.

9. Prohibited Features

The following features shall not be located within a required landscaping area:

a. An accessory structure or open air use;
b. Off-street parking or loading areas; or
c. Outdoor storage or display of products for sale.

H. FEATURES ALLOWED WITHIN REQUIRED LANDSCAPING AREAS

1. Berms

(AMENDED 12.3.19 UDOTA-01-20)

Berms may be used independently, or in conjunction with a wall or fencing, to meet the screening intent of a perimeter buffer or other required screening when configured in accordance with the following:

a. Berms shall have a minimum height of three feet, a minimum crown width of at least three feet, and a slope of no greater than 3:1;
b. Berms shall be no taller than twelve feet above the toe of the berm;
c. Berms shall be stabilized with vegetation and ground cover;
d. A berm may not damage the roots of existing healthy vegetation being preserved for credit towards the landscaping requirements in this Ordinance. Suffocation of existing roots by deposition of fill in excess of 12 inches shall be considered damage to existing tree roots; and
e. A berm shall not interfere with a required sight distance triangle (see Section 5.2.G, Sight Distance Triangles).

2. Fences and Walls

a. Opaque fences or walls, a minimum of four feet in height, constructed within required landscaping areas, and configured in accordance with Section 5.3.H.2, Fences and Walls, may reduce the minimum and average perimeter buffer width requirement in accordance with Table 5.3.J, Buffer Configuration.
b. If utilized, fences or walls shall be located within the required landscaping area and all required shrubs shall be planted between the fence or wall and the lot line.
c. Required trees may be planted either in front of or behind the fence or wall.

3. Planters

a. Planters, if provided, shall be constructed of masonry, stone, or pressure treated lumber stamped for ground contact. Other materials may be approved, based upon their durability, by the Planning Director.
b. Planters shall maintain a minimum height of 30 inches and have an effective planting area of seven feet (measured in any direction) if trees are to be planted and an effective planting area of four feet (measured in any direction) if no trees are to be included.
c. The minimum height of shrubs in the planter, except for ground cover, shall be six inches at the time of planting.

I. PARKING LOT LANDSCAPING

(AMENDED 1.4.22 UDOTA-1-22)

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

1. Shade Trees

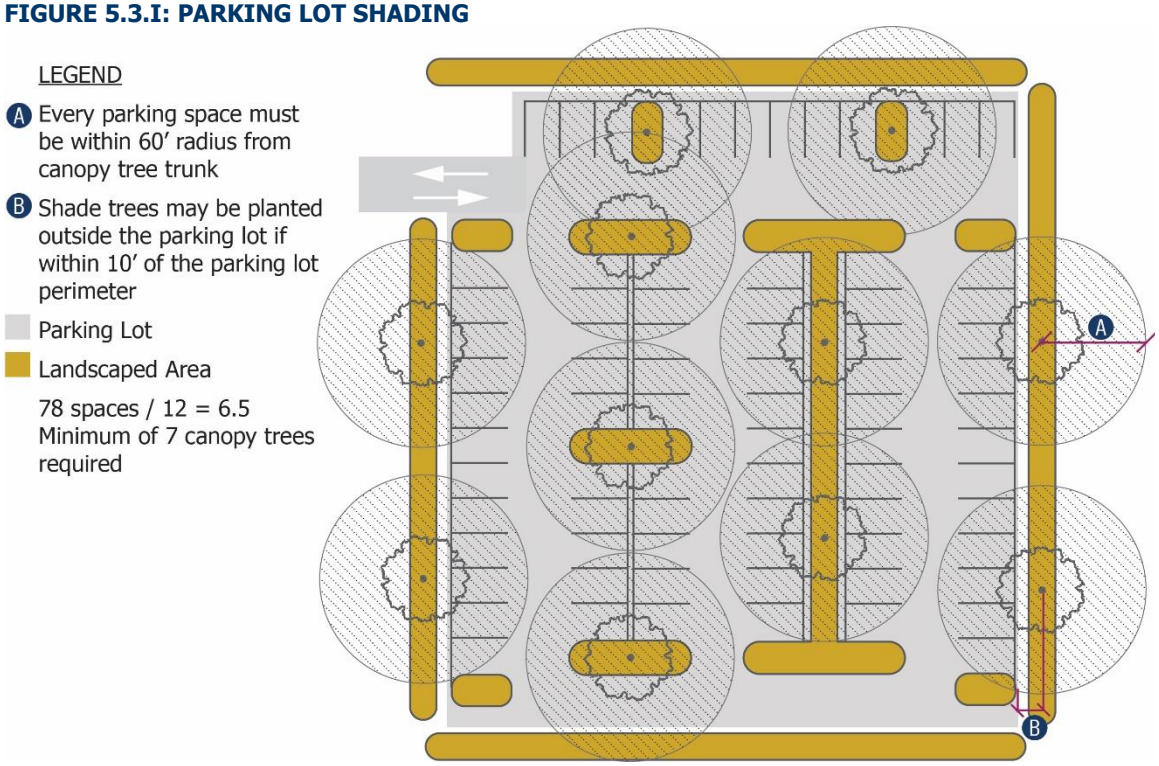
All parking lots shall be served by shade trees to reduce the heat island effect and soften the appearance of the parking lot, in accordance with the following standards:

a. Parking lots subject to these standards shall include at least one canopy tree for every 12 off-street parking spaces provided;

b. Required canopy trees may be placed around, in, or near the parking lot provided that no parking space is more than 60 feet from the trunk of a canopy tree (see Figure 5.3.I: Parking Lot Shading); and

c. Required canopy trees shall be distributed throughout parking areas and may be located in landscape islands, between rows of parking, in driveway medians, and within ten feet of the perimeter of the parking lot.

FIGURE 5.3.I: PARKING LOT SHADING



2. Interior Plantings

a. Area to be Landscaped

For the purposes of this section, the interior of a parking lot shall be all of the area within the outer boundary of the parking lot including interior and corner landscape islands intended to fulfill the interior parking lot landscaping requirements, but not including landscaping planted around the perimeter of the parking lot (see Figure 5.3.I.2, Parking Lot Interior Plantings).

b. Landscaping Islands and Strips

A parking aisle with more than 12 vehicle spaces in a single row shall provide and maintain landscaping islands at each end, or provide landscaping strips along the full length of the row, in accordance with the following standards:

i. Islands shall have a minimum dimension of nine feet and a minimum area of 200 square feet, including the curb (if curbing is provided);

ii. Landscape islands that do not contain canopy trees shall contain three or more shrubs and also may contain understory trees;

iii. Landscaping islands intended for the placement of canopy or understory trees shall maintain a minimum width of nine feet;

iv. Landscape strips between adjoining rows of parking spaces or serving as driveway medians shall have a minimum dimension of nine feet, including the curb (if provided). Landscape strips that do not have canopy trees shall include shrubs planted no more than five feet on-center; and

v. Landscaping strips running the full length of a row of parking spaces shall be provided so that no more than six rows of parking spaces are provided without a landscaping strip.

c. Separation of Light Poles and Trees

In order to prevent the need to excessively trim required trees within landscape areas and to maintain the effectiveness of parking area exterior lighting, light poles shall be spaced at least ten linear feet from a canopy tree trunk, to the maximum extent practicable.

d. Protection of Landscape Islands

i. Landscape islands shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods.

ii. The placement of plant material within landscape islands shall allow for a two-and-one-half-foot vehicle overhang from the face of the curb or wheel stop.

e. Protection from Pedestrian Walkways

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

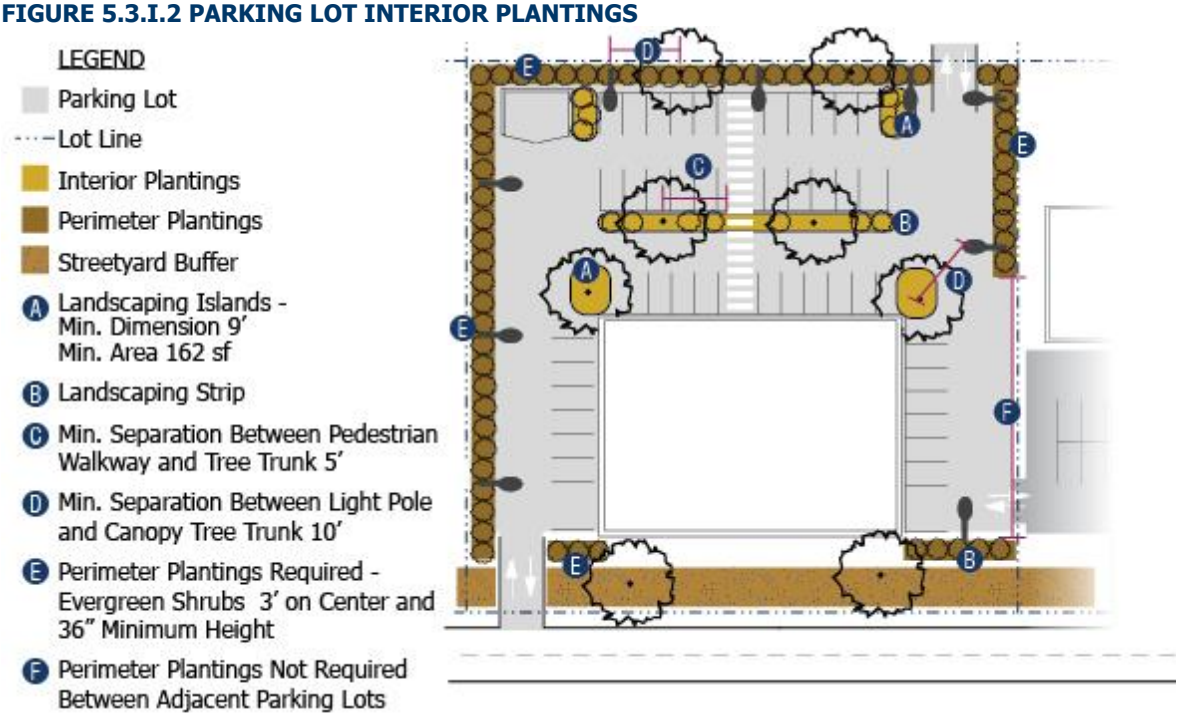
f. Stormwater Management

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

g. Structural Soil Required

Landscaping islands and strips located within a parking lot shall be comprised of properly-prepared structural soil that has been amended and cultivated to support healthy vegetation.

FIGURE 5.3.I.2 PARKING LOT INTERIOR PLANTINGS



3. Perimeter Plantings

a. Intent

Parking lot perimeter landscaping shall be designed to soften the view of the parking lot from an abutting street or development and to filter spillover light from vehicle headlights. Required plant material shall be planted in such a way as to best achieve this intent.

b. Location

Required plant material shall be placed adjacent to the perimeter of the parking lot.

c. Planting Rate

(AMENDED 3.17.20 UDOTA-02-20); (AMENDED 10.20.20 UDOTA-03-20)

Parking lot perimeter landscaping shall consist of a single continuous row of evergreen shrubs planted no greater than three feet on-center and within five feet of the parking lot edge.

d. Size of Plant Material

i. Shrubs used for parking lot perimeter landscaping shall be of a minimum size necessary to achieve a maximum height of 36 inches above grade within three years of planting.

ii. In cases when vegetation provided as perimeter plantings around a parking lot grow to a height exceeding 48 inches above grade, they shall be trimmed or pruned as necessary to maintain a minimum height of 36 inches.

iii. It shall be a violation of this Ordinance to remove or severely prune shrubs required as parking lot perimeter vegetation to a height of less than 36 inches.

e. Credit Towards Required Perimeter Buffers

(AMENDED 10.20.20 UDOTA-03-20)

Perimeter parking lot landscaping may be credited towards the perimeter buffer requirements in this Ordinance in cases where it meets the locational requirements of this section and is also located within an adjacent perimeter landscaping buffer.

f. Alternatives

Perimeter parking lot plantings may be supplemented or replaced through use of a vegetated berm configured in accordance with Section 5.3.H.1, Berms, or an opaque fence or wall that meets the screening objective of this section and is configured in accordance with Section 5.3.H.2, Fences and Walls.

g. Exemptions

i. Where off-street parking lots are adjacent to one another, but on different lots, perimeter plantings or other forms of screening are not required along the common boundary between the two parking lots.

ii. Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter plantings are only located around the perimeter of the entire development instead of between parking lots and buildings located within the development.

J. PERIMETER BUFFERS

1. Purpose and Intent

These standards are proposed to eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas through physical and visual separation between land uses in separate zoning districts.

2. Applicability

a. All development shall comply with the perimeter buffer standards in this section.

b. Development shall provide perimeter buffers along side and rear lot lines in accordance with Table 5.3.J.6, Buffer Application.

c. Lot lines abutting street rights-of-way shall comply with the standards in Section 5.3.K, Streetscape Buffers.

3. Buffers Distinguished

Table 5.3.J, Perimeter Buffer Configuration, establishes the standards for perimeter buffers, including the minimum requirements for each of the following buffer types:

a. Type A, Separation Buffer;

b. Type B, Intermittent Buffer;

c. Type C, Semi-Opaque Buffer; and

d. Type D, Opaque Buffer.

4. Buffer Determination

(AMENDED 10.20.20 UDOTA-03-20)

a. The lot or site being developed is the one responsible for providing the required perimeter buffer, which shall be located solely upon the lot or site being developed.

b. Landscaping material located on an adjacent lot may not be credited towards these perimeter buffer requirements.

c. The type of perimeter buffer required is based upon the zoning district designation of the land being developed as well as the zoning district designation of the abutting lots (see Table 5.3.J.6, Buffer Application).

5. Buffer Location

a. Perimeter buffers required by this section shall be located along the outer perimeter of the lot and shall extend to the connecting lot lines.

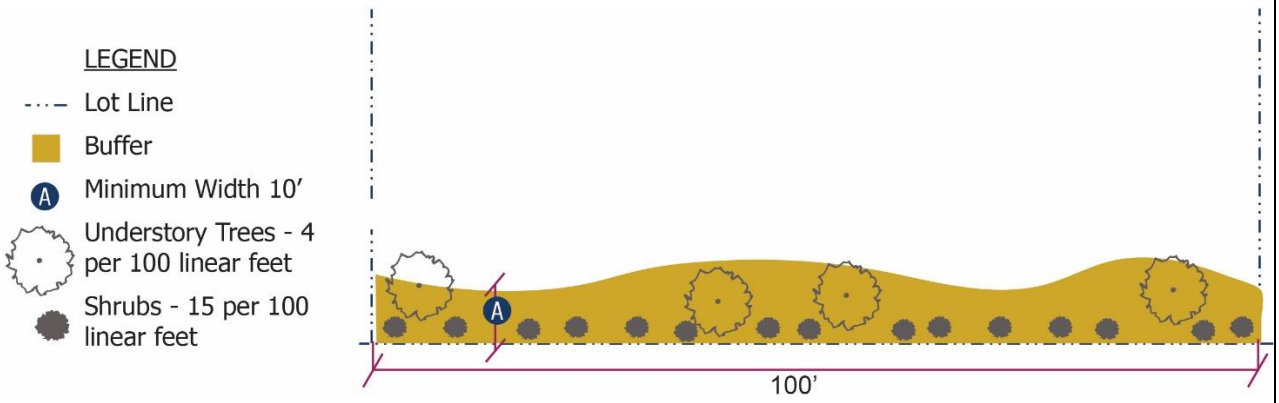
b. In cases where the lot line is within a drainage swale, the perimeter buffer shall extend to the edge of the swale instead of the lot line.

c. A perimeter buffer may be located along shared access easements between parcels in non-residential developments.

TABLE 5.3.J: PERIMETER BUFFER CONFIGURATION

TYPE A SEPARATION

Objective: The Type A Separation perimeter buffer serves as a visual break between land ownership or zoning district designations. It is not intended to provide substantial visual or acoustic buffering. The image below shows an approximation of this buffer type at maturity.



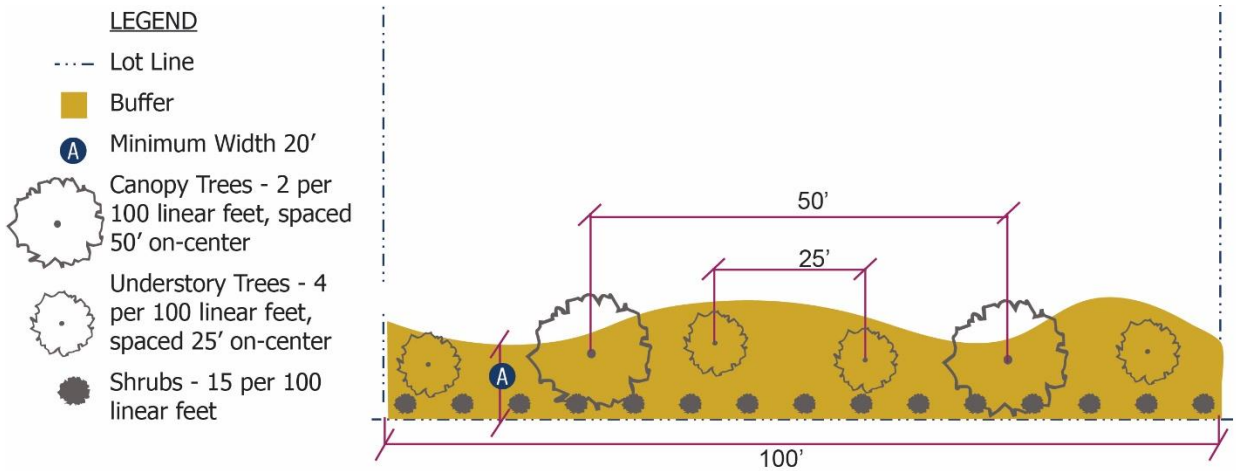
BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	10
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	None
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / None [1]
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [2]	15 / None [1]
Minimum evergreen shrub percentage (%)	50

NOTES:
[1] Grouping of trees or shrubs is permitted provided there is no un-vegetated portion of the buffer exceeding 30 feet in length.
[2] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

TABLE 5.3.J: PERIMETER BUFFER CONFIGURATION

TYPE B INTERMITTENT

Objective: The Type B Intermittent perimeter buffer functions as an intermittent visual screen from the ground to a height of five feet. It is intended to partially block visibility between different uses but not totally obstruct visual contact from one use to another. The image below shows an approximation of this buffer type at maturity.



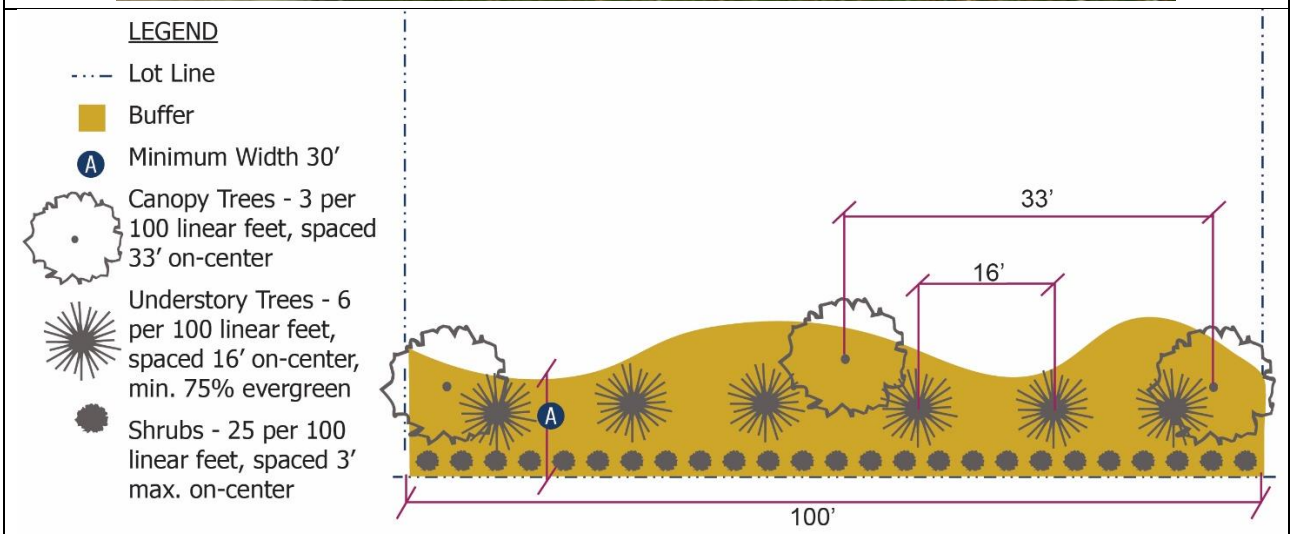
BUFFER CONFIGURATION	REQUIREMENT
Buffer width (feet)	20
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	2 / 50
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / 25 [1]
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [2]	15 / None [1]
Minimum evergreen shrub percentage (%)	60

NOTES:
[1] Grouping of trees or shrubs is permitted provided there is no un-vegetated portion of the buffer exceeding 20 feet in length.
[2] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

TABLE 5.3.J: PERIMETER BUFFER CONFIGURATION

TYPE C SEMI-OPAQUE

Objective: The Type C Semi-Opaque perimeter buffer functions as a partially opaque screen from the ground to a height of six feet. This type of buffer prevents visual contact between uses but not total obstruction from one use to another. The buffer creates a sense of visual separation but provides only minor acoustic separation. The image below shows an approximation of this buffer type at maturity.



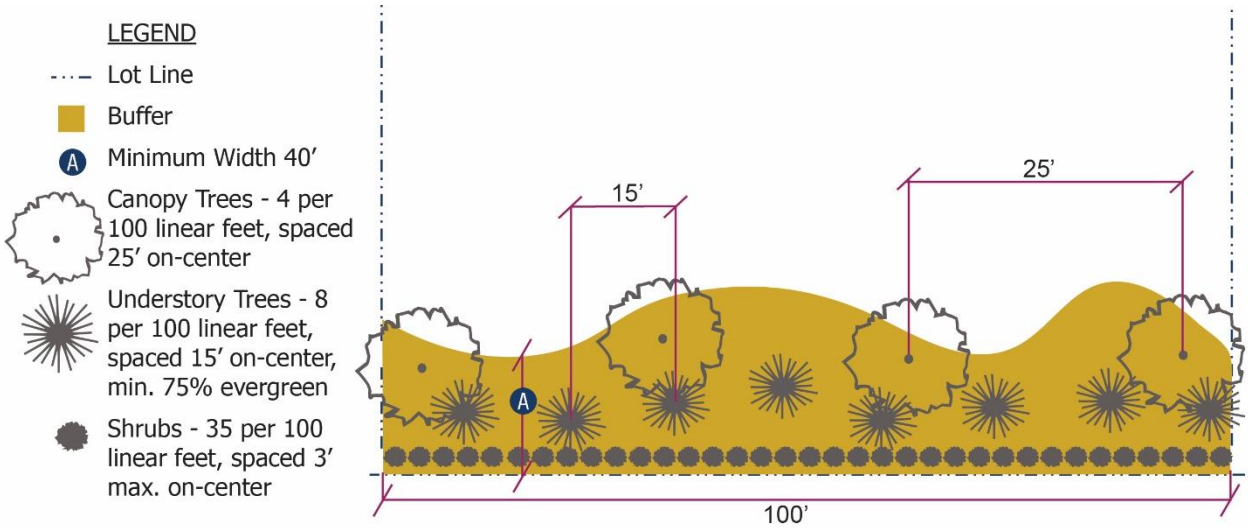
BUFFER CONFIGURATION	REQUIREMENT
Minimum buffer width (feet) [1] [2]	30
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	3 / 33
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	6 / 16 [3]
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [4]	25 / 4 [3]
Minimum evergreen shrub percentage (%)	75

NOTES:
[1] Provision of a semi-opaque fence or wall allows the buffer width to be reduced by 5 feet.
[2] Provision of a fully-opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
[3] Grouping of trees or shrubs is permitted within 20 feet of the edge of a street right-of-way provided there is no un-vegetated portion of the buffer exceeding 10 feet in length.
[4] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

TABLE 5.3.J: PERIMETER BUFFER CONFIGURATION

TYPE D OPAQUE

Objective: The Type D Opaque perimeter buffer functions as a fully opaque screen from the ground to a height of eight feet. This type of buffer provides a strong sense of visual and acoustic separation between uses. The image below shows an approximation of this buffer type at maturity.



BUFFER CONFIGURATION	REQUIREMENT
Minimum buffer width (feet) [1] [2]	40
Required canopy trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	4 / 25
Required understory trees per every 100 linear feet (#) / Maximum on-center spacing (feet)	8 / 15
Minimum evergreen understory tree percentage (%)	75
Shrubs per every 100 linear feet (#) / Maximum on-center spacing (feet) [3]	35 / 3
Minimum evergreen shrub percentage (%)	100

NOTES:
[1] Provision of a semi-opaque fence or wall allows the buffer width to be reduced by 5 feet.
[2] Provision of a fully-opaque fence, wall, or berm allows the buffer width to be reduced by 10 feet.
[3] In the event a fence or wall is provided, shrubs shall be planted between the fence or wall and the lot line. Shrubs shall be no closer than 3 feet to the lot line.

6. Buffer Application

Table 5.3.J.6, Buffer Application, specifies the type of perimeter buffer that development shall provide between it and adjacent land, based on the zoning district of the development site and that of the adjacent land. The buffer type is indicated by a letter corresponding to one of the four buffer types described in Table 5.3.J, Perimeter Buffer Configuration.

TABLE 5.3.J.6: BUFFER APPLICATION

Zoning District of Developing Land [1] [2]	Zoning District of Land Adjacent to Proposed Development [3] [4] [5] [6] (AMENDED 12.3.19 UDOTA-01-20)					
	PC, LDR	MDR, RMH, CR	HDR, OI, COI	NB, MX	GB, CB, LI	MI, CI, HI
LDR	A	None	None	A	B	B
MDR, RMH, CR	B	A [7]	A	None	A	A
HDR, OI, COI	C	B	A	A	None	None
NB, MX	D	C	B	A	A	None
GB, CB, LI	D	D	C	B	A	None
MI, CI, HI	D	D	D	D	C	None

NOTES:
(AMENDED 12.3.19 UDOTA-01-20)
[1] Development in PD and PDD districts is subject to the perimeter buffer configurations proposed in the applicable planned development master plan.
[2] No perimeter buffers are required in the CBD district.
[3] A Type A or B perimeter buffer shall not be required when the lot line abuts unbuildable land within a riparian buffer, the FHO, a City-designated tree-save area, a reforestation area, or other City-designated conservation area where existing vegetation will not be removed.
[4] In cases where a Type C or D perimeter buffer is required but the lot line abuts unbuildable land within a riparian buffer, the FHO, a City-designated tree-save area, a reforestation area, or other City-designated conservation area where existing vegetation will not be removed, the required perimeter buffer width and amount of required landscaping material may be reduced by 50 percent (see Table 5.3.J, Perimeter Buffer Configuration).
[5] Lot lines abutting public street rights-of-way shall be subject to the standards in Section 5.3.K, Streetscape Buffers.
[6] A Type A buffer shall be provided along all lot lines bordering the City's jurisdiction.
[7] Residential development in the MDR district consisting of buildings other than single-family detached dwellings shall provide a type B buffer along all lot lines shared with single-family detached dwellings in the MDR district.

7. Exemptions

Developments consisting of multiple lots that are planned and developed as a single, unified, or consolidated project may be configured so that perimeter buffers are only located around the perimeter of the entire development instead of between lots within the development.

K. STREETSCAPE BUFFERS

1. Purpose and Intent

Streetscape buffers are proposed to soften the view of development from the City's street rights-of-way, and are intended to:

a. Enhance pedestrian orientation and encourage pedestrian travel;
b. Address urban heat islands by providing shade for streets and sidewalks;
c. Provide shade on sidewalks;
d. Promote the City's "sense of place";
e. Support property values by enhancing the aesthetic character of the City's streets; and
f. Provide habitat for flora and fauna.

2. Applicability

(AMENDED 1.4.22 UDOTA-1-22)

a. The standards in this section shall apply to all lot lines bounded by the following features, whether existing or identified in the City's adopted policy guidance.

i. Local streets;
ii. Collector streets; and
iii. Arterial streets.

b. In cases where a future street is planned but its approximate location is not indicated on an adopted or approved City map or plan, streetscape buffering shall not be required on lots abutting the future street alignment.

c. In cases where the rear yard of a lot abuts a City street right-of-way, the rear yard shall include a streetscape buffer configured in accordance with these standards.

3. Exemption

a. Streetscape buffers are not required along lot lines abutting the following features:

i. Driveways, private drives, or alleys;
ii. Lot lines abutting platted street rights-of-way that are or have remained unopened for at least 15 years; or
iii. Lot frontages where the entirety of the lot frontage is within a required sight distance triangle.

b. Development subject to the standards in Section 5.3.L, Street Trees, is not required to provide streetscape buffers.

4. Required Plant Material

a. Generally

Streetscape buffers shall be configured in one of the following three ways (see Figure 5.3.K: Streetscape Buffer Configuration):

i. Three canopy trees for every 100 linear feet of lot frontage; or
ii. Two canopy trees and two understory trees for every 100 linear feet of lot frontage; or
iii. Four understory trees for every 100 linear feet, where overhead utilities are present.

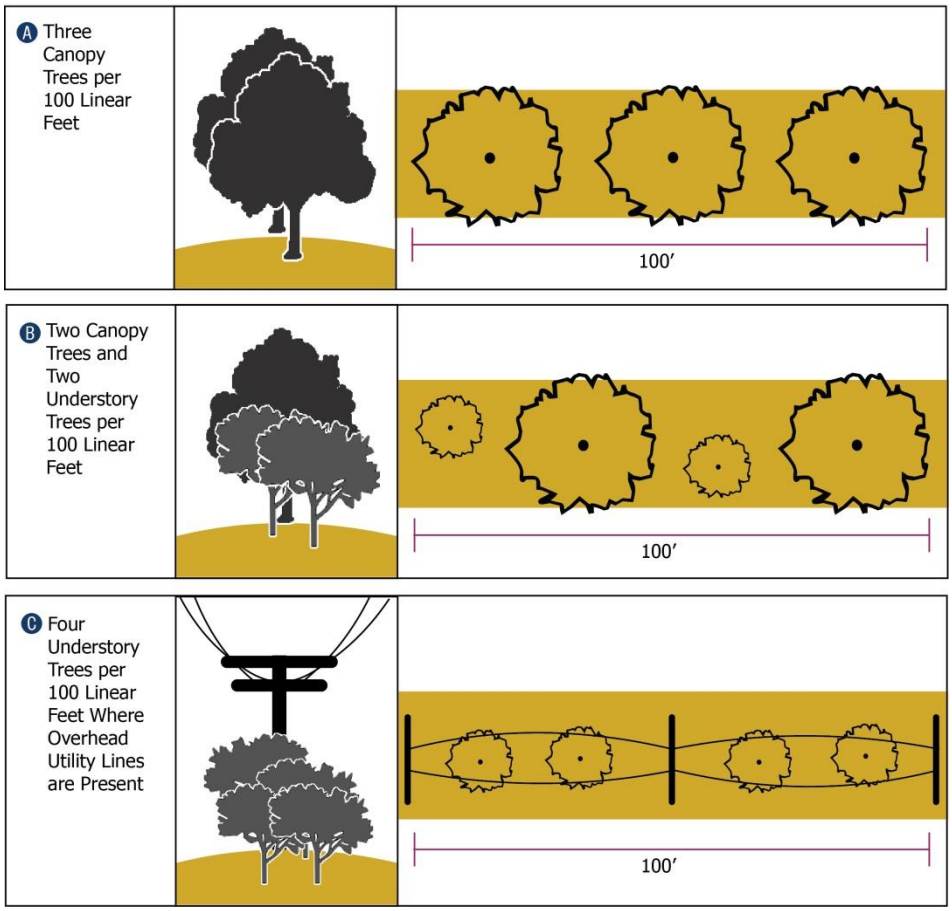
b. Rear Yard Streetscape Buffers

(AMENDED 1.4.22 UDOTA-1-22)

In cases when a lot's rear yard abuts a City street right-of-way, the rear yard shall be configured with a streetscape buffer meeting the requirements for a type C perimeter buffer (see Section 5.3.J, Perimeter Buffers). In cases where a streetscape buffer is configured in accordance with a type C perimeter buffer, trees shall maintain a uniform on-center spacing across the width of the buffer and the distance from the right of way shall be in accordance with the perimeter buffering standards instead of the placement standards in this section.

FIGURE 5.3.K: STREETSCAPE BUFFER CONFIGURATION

(AMENDED 3.17.20 UDOTA-02-20) (AMENDED 12.3.19 UDOTA-01-20)



5. Placement

a. Vegetation required as part of a streetscape buffer shall be located outside the street right-of-way.

b. Canopy trees shall be located within ten feet of the right-of-way edge.

c. Understory trees shall be located within five feet of the right-of-way edge.

d. An alternative location may be approved by the Planning Director in cases where underground utilities, drainage easements, topography, or other obstructions make placement of streetscape buffer vegetation in accordance with these standards impractical.

6. Prohibited Features

Off-street parking, off-street loading, merchandise display, or outdoor storage shall not take place within a required streetscape buffer.

L. STREET TREES

(AMENDED 12.3.19 UDOTA-01-20)

Development within the CBD, PD, and PDD districts, as well as development within GCO districts subject to City-adopted or approved plans that call for the establishment of street trees shall provide street trees in accordance with the following standards:

1. Where Required

Street trees shall be located within tree pits or planting strips within the street right-of-way (see Figure 5.3.L: Street Tree Configuration).

2. Location

a. Within Tree Pits

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

i. Tree pits shall have a minimum planting area of at least 25 square feet per tree pit;
ii. Tree pits shall be covered or configured with ground covering at the same general height as the pedestrian walkway to avoid being a tripping hazard; and
iii. Tree pits shall include structural soils or screened backfill to ensure appropriate drainage and backfill.

b. Within Planting Strips

(AMENDED 10.20.20 UDOTA-03-20)

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

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

3. Tree Placement

a. Street trees, when located within tree pits or planting strips, shall be located so that the trunk is at least two-and-one-half feet from the back of the curb or the edge of the pavement.
b. Street trees shall not be located within sight distance triangles (see Section 5.2.G, Sight Distance Triangles).

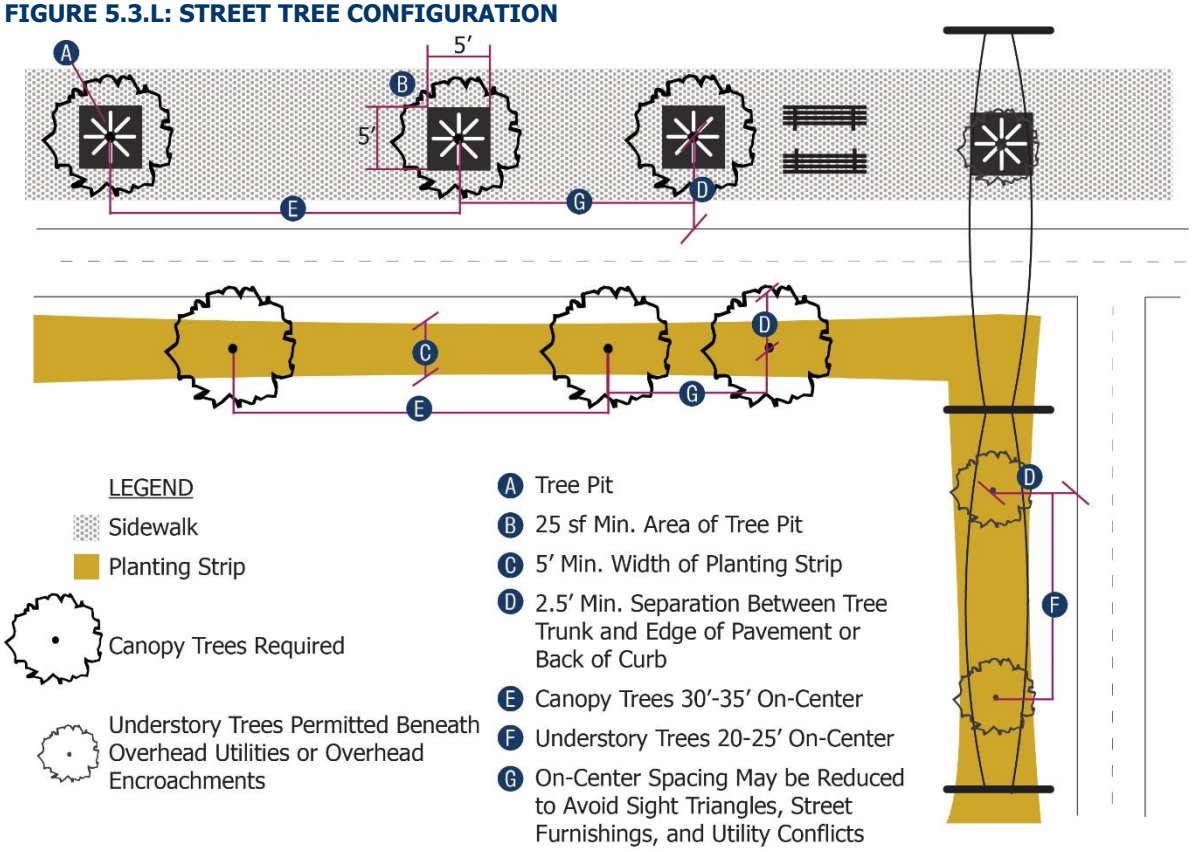
4. Types of Trees

a. Except in areas underneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be canopy trees that meet the standards in Figure 5.3.F, Plant Material Specifications.
b. In areas beneath existing overhead utilities or upper story encroachments into the right-of-way, street trees shall be understory trees that meet the standards in Figure 5.3.F, Plant Material Specifications.

5. On-Center Spacing

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

FIGURE 5.3.L: STREET TREE CONFIGURATION



6. Compliance with NCDOT Standards

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

M. PLANTING FLEXIBILITY

1. Credit for Existing Vegetation

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

a. In order to encourage the preservation of established, healthy vegetation, credit shall be given towards the landscaping requirements in this section for preservation of existing trees that are pre-existing within required landscaping areas at a rate of 1.25 times the amount of existing, healthy vegetation to be retained.

b. Credit towards landscaping requirements shall be determined in accordance with Section 7.2.F, Credit Towards Other Ordinance Requirements.

c. Vegetation to be credited towards these requirements shall be protected in accordance with Section 7.2.E, Tree Protection Devices, before and during development of the site and maintained thereafter in a healthy growing condition.

d. In no instance shall credit be given for the retention of existing vegetation that is identified as an invasive species by the North Carolina Agricultural Extension, the North Carolina Forest Service, or the North Carolina Invasive Plant Council.

2. Revisions to Approved Landscape Plans

Due to seasonal planting problems and/or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the Planning Director if:

a. There is no reduction in the quantity of plant material;

b. There is no significant change in size or location of plant materials; and

c. The new plants are of the same general category (i.e., canopy tree, understory tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread, etc.) as the materials being replaced.

3. Alternative Landscape Plans

An alternate landscape plan that allows modifications to the requirements of this section may be approved by the Planning Director in accordance with the following.

a. Conditions Justifying Alternative Landscape Plan

Any of the following natural physical conditions may be used as a justification for an alternative landscape plan:

i. Wetland areas;
ii. Topography;
iii. Non-arable soils;
iv. Difficult or unusual lot configuration;
v. Utility, access, drainage, or maintenance easements;
vi. A desire to retain existing on-site vegetation;
vii. Natural rock formations;
viii. Required landscaping areas that are shaded; and
ix. Impractical situations that would result from application of this section.

b. Intent

To be approved, any alternative landscape plan shall meet the intent of the applicable planting area(s) and the purpose and intent of the landscaping standards of this section.

c. Allowable Modifications

i. The following landscape standards may be modified by an alternate landscape plan:

a) The location of required plant materials;
b) The width of required planting areas;
c) The configuration of required plant materials; and
d) The number of required plant materials.

ii. The alternative landscape plan shall include justification for the modifications requested, based upon but not limited to, the following:

a) The presence or planned location of public utilities, infrastructure, or easements;
b) The location of existing healthy vegetation or other beneficial site features to be retained after development;
c) The size, shape, or topographic elevation of the site relative to the street(s) it abuts; and
d) The need to protect solar access or avoid permanently shaded areas on the site.

N. TIME OF INSTALLATION

1. A certificate of occupancy shall not be issued, until all required plant materials have been placed in accordance with the approved site plan and requirements of this section.
2. A temporary certificate of occupancy may be issued for a period of 180 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the Planning Director.
3. In cases where a temporary certificate of occupancy is requested, the applicant shall furnish the following:
   a. A signed contract for the installation of all required landscape materials; and
   b. A performance guarantee for the amount of the contract configured in accordance with the standards in Section 6.7, Performance Guarantees.

O. REQUIRED MAINTENANCE

1. Responsibility

a. The responsibility for maintenance of required landscaping areas shall remain with the owner of the property, their successors, heirs, assignees or any consenting grantee.
b. Maintenance is required in order to ensure the proper functioning of the plantings as a landscaped area which reduces or eliminates nuisance and/or conflict.

c. Failure to adequately maintain required landscaping material is a violation of this Ordinance subject to the remedies and penalties in Section 2.5, Enforcement.

2. Maintenance

a. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to: watering, mulching, fertilizing, pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

b. Necessary pruning and trimming shall be accomplished in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not include:

i. The topping of trees;
ii. Removal of 30 percent or more of the crown material in one calendar year;
iii. Removal of the central leader; or
iv. Any other similarly severe procedures that may cause irreparable harm to the natural form of the tree.

c. Dead or diseased plantings shall be removed. Unless specifically exempted (such as understory trees shaded by canopy trees), replacement plantings shall be provided for any dead, diseased, or removed vegetation when such replacement plantings are necessary to meet the standards or this Ordinance or maintain the screening objective of the landscaping material.

d. Landscape structural features such as walls, fences, berms, or water features shall be maintained in a structurally safe and attractive condition.

e. Where other uses, including pedestrian and bicycle accessways, are allowed within a required landscaping area, these uses shall be maintained to provide for their safe use.

3. Excessive Pruning or Trimming

Pruning or trimming exceeding the TCIA standards or activities exceeding necessary pruning or trimming as identified in subsection (5.3.O.2.b) above shall be a violation of this Ordinance, and shall require replacement of damaged vegetation in accordance with Section 5.3.Q, Replacement of Required Vegetation.

4. Failure to Maintain

Failure to maintain required landscaping areas is a violation of this Ordinance, in accordance with Section 2.5, Enforcement.

P. SITE INSPECTION

1. Post Construction Inspection

a. A permanent certificate of occupancy for any development shall not be issued unless the landscaping required under this section is installed in accordance with these standards and in accordance with the approved site plan, preliminary plat, planned development master plan, or building permit, as appropriate.

b. No person shall refuse entry or access to any staff or authorized representative of the City who requests entry for the purpose of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with that representative while in the process of carrying out official duties.

2. Follow-up Inspection

The Planning Director shall inspect the site one year after the issuance of a permanent certificate of occupancy in order to ensure compliance with this Ordinance.

3. Periodic Inspection

a. The Planning Director may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a site does not comply with the approved site plan, preliminary plat, planned development master plan, or building permit, a notice to comply shall be served upon the landowner by registered mail with return receipt or other means by the City.

b. The notice shall set forth that which will be necessary to comply with the Ordinance.

c. The City shall have the power to conduct investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site(s) subject to the provisions of this Ordinance.

Q. REPLACEMENT OF REQUIRED VEGETATION

1. Damage or Removal of Vegetation is a Violation

The damage, disturbance, or removal of any landscaping area or vegetation required by this section shall constitute a violation of this Ordinance subject to the remedies described in Section 2.5, Enforcement.

2. Replacement Required

a. Any disturbed landscaping areas, areas of preserved existing vegetation, or required plant material shall be replaced in accordance with the approved development application and these standards.

b. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.

c. Replacement trees shall be planted within 180 days of removal of required vegetation.

3. Revegetation Plan Required

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

a. Any tree with a caliper of at least eight inches that is damaged or removed shall be replaced with one or more trees that have a caliper of at least two and one-half (2½) inches and a cumulative caliper equal to or greater than the original tree.

b. Trees damaged or destroyed less than eight inches in diameter shall be replaced to satisfy the performance criteria of this section.

c. Shrubs may also be required to restore the landscaping performance criteria for the disturbed area.

4. Location of Replacement Trees and Vegetation

a. Replanting shall be located within the vicinity of the violation.

b. If the area is too small for sufficient growth, a more suitable location on the site may be selected, as permitted by the Planning Director.

5.4. SCREENING

A. PURPOSE AND INTENT

(AMENDED 1.4.22 UDOTA-1-22)

These standards are intended to reduce the visual and auditory impact upon adjacent lots and the public realm from certain site features and activities occurring on individual non-residential, multi-family, single-family attached residential, and mixed-use lots. In addition to mitigating negative impacts, these standards are also proposed to enhance the aesthetics of development in the City's jurisdiction.

B. USING THESE STANDARDS

1. These standards identify a series of use types, site features, and activities that are required to be screened from off-site views (see Section 5.4.C, Applicability, and Section 5.4.D, Exemptions).
2. The standards establish a series of screening methods organized into differing levels (e.g., Level 1 through Level 10). The higher the screening method's level number, the greater its opacity, or its ability to obscure a particular site feature from off-site view (see Table 5.4, Screening Methods).
3. The standards identify which methods of screening may be used to screen a site feature or activity from view from a particular location, such as an adjacent street or abutting lot with residential zoning (see Table 5.4.F: Views to be Screened). Nothing prohibits a landowner from using a more intense or opaque screening technique than is required by Table 5.4.F: Views to be Screened.

C. APPLICABILITY

1. Generally

(AMENDED 3.17.20 UDOTA-02-20)

Unless exempted in accordance with Section 5.4.D, Exemptions, the standards in this section apply to the following site features and activities for all development in the City's jurisdiction:

a. Refuse collection containers of more than 100 gallons in size;
b. Recycling containers of more than 100 gallons in size, including cardboard recycling containers;
c. Waste and cardboard compactors;
d. Ground-based mechanical equipment, including but not limited to wireless telecommunications equipment, permanently-mounted electrical generators, compressors, climate control equipment, breaker panels, meters, electrical service risers, and similar equipment;
e. Roof-mounted equipment of any kind;
f. Above ground storage tanks for gases, solids, or liquids;
g. Outdoor equipment storage or repair areas;
h. Outdoor storage of raw or semi-finished materials, including tires;
i. Outdoor storage of finished products for sale, including tires; and
j. The outdoor storage, repair, or impoundment of vehicles or equipment, whether operable, inoperable, or being used for parts.

2. Pre-Existing Development

Lawfully-established development established prior to November 1, 2019, that is subject to, but that does not comply with these standards shall be subject to applicable the standards in CHAPTER 9. NONCONFORMITIES.

3. Expansions or Remodeling

All expansions or remodeling of principal buildings or open uses of land existing on or before November 1, 2019, shall comply with these standards, subject to the requirements in Section 9.6, Nonconforming Site Features.

D. EXEMPTIONS

The following items are exempted from the screening requirements of this section:

1. Any of the features listed in the sub-section above (5.4.C) that are located entirely within a building;
2. Refuse collection containers serving individual single-family detached, single-family attached, duplex, triplex, or quadriplex dwellings;
3. Mechanical and climate control equipment serving individual single-family detached, single-family attached, duplex, triplex, or quadriplex dwellings;
4. Utility meters, whether wall or ground mounted;
5. Small wireless facilities;
6. Roof-mounted solar energy or wind energy conversion devices;

7. Transformers and similar devices serving electric vehicle charging stations;
8. Family health care structures;
9. Outdoor display/sales as a principal or accessory use subject to an approved building permit;
10. Outdoor seasonal sales and portable storage containers subject to an approved temporary use permit (see Figure 2.4.V, Temporary Use Permit) and Section 4.6, Temporary Uses; and
11. Above ground storage tanks serving individual single-family detached, single-family attached, duplex, triplex, or quadriplex dwellings.

E. GENERAL REQUIREMENTS

1. Items or activities subject to the requirements in this section shall be fully screened from one or more off-site views in accordance with Section 5.4.F, Views to be Screened, using one of the allowable methods identified in Table 5.4, Screening Methods.
2. Table 5.4, Screening Methods, sets out the various methods for screening site features and activities subject to these standards. Screening, when required, shall comply with the configuration requirements listed below.
3. In the event a ground-based site feature or activity to be screened exceeds a height of eight feet above grade, evergreen understory trees configured in accordance with the standards for Screening Level 2 shall be included as part of any required screening method.

TABLE 5.4: SCREENING METHODS [1]

LEVEL OF SCREENING	REQUIREMENTS
1. Screening Level 1: **Understory Tree Hedgerow**	
	a. All trees shall be of the same species and all shrubs shall be of an evergreen species. b. A hedgerow shall include one row of evergreen understory trees and one row of evergreen shrubs. c. The hedgerow shall include plants capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the minimum height required. d. Trees shall maintain an on-center spacing of no greater than 60 inches. Shrubs shall maintain an on-center spacing of no greater than 48 inches. e. Trees shall be of a minimum height necessary at time of planting to achieve a minimum height of 8 feet above grade within 3 years. f. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years. g. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.
2. Screening Level 2: **Evergreen Shrub Hedge**	
	a. All shrubs shall be evergreen and of the same species. b. The screening material shall be configured as two staggered rows of shrubs that together form a hedge. c. The screening shall maintain a minimum width of at least 36 inches at the time of planting. d. Shrubs shall be capable of providing a fully opaque screen of at least 36 inches in depth from the grade to the min. height required. e. Shrub rows shall be planted no more than 30 inches apart. f. Shrubs shall maintain an on-center spacing of no greater than 36 inches. g. Shrubs shall be of a minimum height necessary at time of planting to achieve a minimum height of 6 feet above grade within 3 years. h. If damaged in a manner that impairs the performance of the screening, vegetative material shall be promptly replaced.
3. Screening Level 3: **Chain Link Fence with Opaque Slats/Fabric**	

TABLE 5.4: SCREENING METHODS [1]	
LEVEL OF SCREENING	**REQUIREMENTS**
	a. Fencing must be configured in accordance with Section 5.3.H.2, Fences and Walls. b. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity. c. Fencing shall be at least 60 percent opaque, when viewed from a distance of ten feet or more. d. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. e. Slats or fabric shall extend downwards to the grade. f. The fence and screening material shall be comprised of consistent materials and shall maintain a single color. g. Slats may be plastic or wood and shall be promptly repaired if damaged in a manner that reduces the screening function.
4. Screening Level 4:	**Building Wall Projection**
	a. Building wall projections must be attached to a principal or accessory structure. b. All walls shall maintain the minimum height necessary to fully screen the site feature or activity. c. The wall shall be comprised of consistent materials and colors to those used on the principal or accessory structure. d. Building walls may incorporate louvers, grates, or similar features, provided the screening function is maintained. e. All gates shall be comprised of a complimentary material and be opaque excluding gaps for mounting hardware, latches, and hinges. f. Screening materials shall be promptly repaired if damaged in a manner that reduces the screening function.
5. Screening Level 5:	**Wooden Opaque Fence**
	a. Fencing shall be configured in accordance with Section 5.3.H.2, Fences and Walls, and the North Carolina Building Code. b. All fencing shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 8 feet. c. All gates shall maintain a complimentary level of opacity excluding gaps for mounting hardware, latches, and hinges. d. The fence shall be comprised of consistent materials and colors. e. Enclosures for refuse and recycling containers shall meet all applicable City requirements. f. Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.
6. Screening Level 6:	**Opaque Masonry Wall**

TABLE 5.4: SCREENING METHODS [1]	
LEVEL OF SCREENING	**REQUIREMENTS**
	a. Walls shall be configured in accordance with Section 5.3.H.2, Fences and Walls. b. All walls shall maintain the minimum height necessary to fully screen the site feature or activity, but shall not exceed a maximum height of 8 feet. c. The wall shall be comprised of consistent materials and colors to those used on the principal structure. d. Masonry walls may incorporate louvers or similar features, provided the screening function is maintained. e. All gates shall be comprised of a complimentary material and be opaque, excluding gaps for mounting hardware, latches, and hinges. f. Support columns may exceed the maximum height as necessary for wall construction. g. Enclosures for refuse and recycling containers shall meet all applicable City requirements. h. Screening material shall be promptly repaired if damaged in a manner that reduces the screening function.
7. Screening Level 7:	**Berms and Mounds**
	a. Berms shall be configured in accordance with the standards in Section 5.3.H.1, Berms. b. Nothing shall limit the use of retaining walls, as necessary. c. Berms shall be supplemented with walls, fencing, or vegetation as necessary to meet screening objectives.
8. Screening Level 8:	**Concealment by Other On-site Structures**
	a. Site features and activities subject to these standards may be screened by other permanent buildings or structures on the same lot. b. Buildings or structures used to provide screening shall be permanent and shall be of a minimum height necessary to provide required screening. (note: red circle in photo added for clarity)
9. Screening Type 9:	**Roof Screening**
	a. Roof screening shall be 100 percent opaque, and shall only be used to screen items on a roof. b. Roof screening shall extend the minimum height necessary to fully screen roof-mounted equipment as seen at grade from any lot line. c. Roof-mounted equipment on pitched roofs shall be located on the side of the roof least visible from the street, to the maximum extent practicable.
10. Screening Level 10:	**Parapet Wall**

TABLE 5.4: SCREENING METHODS [1]	
LEVEL OF SCREENING	**REQUIREMENTS**
	a. Parapet walls shall be comprised of the same exterior material or be the same color as the building and shall be capped with a cornice, coping, or other decorative molding. b. Parapet walls shall be in alignment with the exterior building wall below. c. Parapet walls shall extend above the roof deck the minimum height necessary to screen roof-mounted equipment as seen from grade-level at the lot line. d. Parapet walls shall be engineered to comply with all applicable North Carolina Building Code requirements, including wind loading.
NOTES: [1] Screening provided in accordance with this section shall be credited towards perimeter buffer and parking lot landscaping requirements (see Section 5.3, Landscaping) when the screening methods contribute to the performance objective of required landscaping.	

F. VIEWS TO BE SCREENED

Site features and activities subject to these standards shall be screened from identified locations in Table 5.4.F, Views to be Screened. The level of screening provided is at the applicant or landowner's discretion, provided it meets or exceeds the minimum screening level specified in the table below.

TABLE 5.4.F: VIEWS TO BE SCREENED
(AMENDED 3.17.20 UDOTA-02-20)

FEATURE OR ACTIVITY TO BE SCREENED	REQUIRED SCREENING LEVEL, BY LOCATION			
	FROM AN ABUTTING PUBLIC STREET, SIDEWALK, GREENWAY, OR OPEN SPACE	FROM ABUTTING LAND IN A RESIDENTIAL OR MIXED-USE ZONING DISTRICT	FROM ABUTTING LAND IN AN OI, NB, GB, CBD, OR CB ZONING DISTRICT	FROM ABUTTING LAND IN AN LI, MI, HI, OR CI ZONING DISTRICT
Refuse or Recycling Containers or Compactors	4 or higher	3 or higher	1 or higher	1 or higher
Ground-based Mechanical Equipment	3 or higher	2 or higher	1 or higher	1 or higher
Roof-mounted Equipment	10	9 or higher		1 or higher
Above Ground Storage Tanks	4 or higher	3 or higher	1 or higher	1 or higher
Outdoor Equipment Storage or Repair	4 or higher	3 or higher	2 or higher	1 or higher
Outdoor Storage of Raw or Semi-finished Materials	3 or higher		2 or higher	1 or higher
Outdoor Storage of Finished Products for Sale	1 or higher	2 or higher	1 or higher	1 or higher
Vehicles and Equipment Being Stored, Repaired, or Impounded, Whether Operable, Inoperable, or Being Used for Parts (AMENDED 3.17.20 UDOTA-02-20) (AMENDED 12.3.19 UDOTA-01-20)	4 or higher	5 or higher	3 or higher	1 or higher

5.5. DESIGN STANDARDS AND GUIDELINES

A. SECTION CONTENTS

1. The design standards in this section address the following types of development:
   a. Commercial use types;
   b. Mixed-uses; and
   c. Multi-family residential use types.
2. This section also sets out a series of design guidelines that may be applied to single-family detached, single-family attached, and duplex development through landowner or applicant consent or as a condition associated with establishment of a conditional zoning district designation.

B. COMMERCIAL DESIGN STANDARDS

1. Purpose and Intent

These commercial design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing minimum requirements for design and configuration of commercial development within the City's jurisdiction. They are proposed to provide clarity on the City's expectations for the quality and appearance of new commercial development. More specifically, the purposes of these standards are to:

a. Foster high-quality, attractive commercial development consistent with City's adopted policy guidance;
b. Assure a fair and consistent application of the commercial design standards to new development and redevelopment;
c. Foster creativity in commercial design and greater compatibility between commercial development and its local surroundings; and
d. Promote property values and protect existing public and private investment.

2. Applicability

a. Generally

These commercial design standards shall apply to new construction of any of the following use types:

i. Principal structures from all use types listed in the Commercial Use Classification section of Table 4.2.C, Principal Use Table;
ii. Auditoriums;
iii. Blood/tissue collection uses;
iv. Child day care centers;
v. Community/youth/senior centers;
vi. Cultural facilities, libraries, or museums;
vii. Government administration/offices;
viii. Outpatient treatment facilities;
ix. Passenger terminals; and
x. Urgent care uses.

3. Exemptions

(AMENDED 10.20.20 UDOTA-03-20)

The standards in this section shall not apply to the following forms of development:

a. Mixed-uses, which shall instead comply with the standards in Section 5.5.C, Mixed-Use Design Standards;
b. Development located within the LHO;
c. Industrial use types identified in Table 4.2.C, Principal Use Table, when located in the LI, MI, HI, and CI zoning districts;
d. Conversion of an existing non-commercial structure to a commercial use where no additional floor area is being added; and
e. Routine maintenance and repairs to existing commercial buildings.

4. Timing of Review

Review for compliance with these standards shall take place during review of an associated rezoning, site plan, planned development master plan, or special use permit, as appropriate.

5. Building Walls Distinguished

(AMENDED 10.20.20 UDOTA-03-20)

Building walls are distinguished from one another in accordance with Section 8.3.N, Building Façade Type.

6. Design Requirements

Development subject to these commercial design standards shall be designed in accordance with the following:

a. Street Network

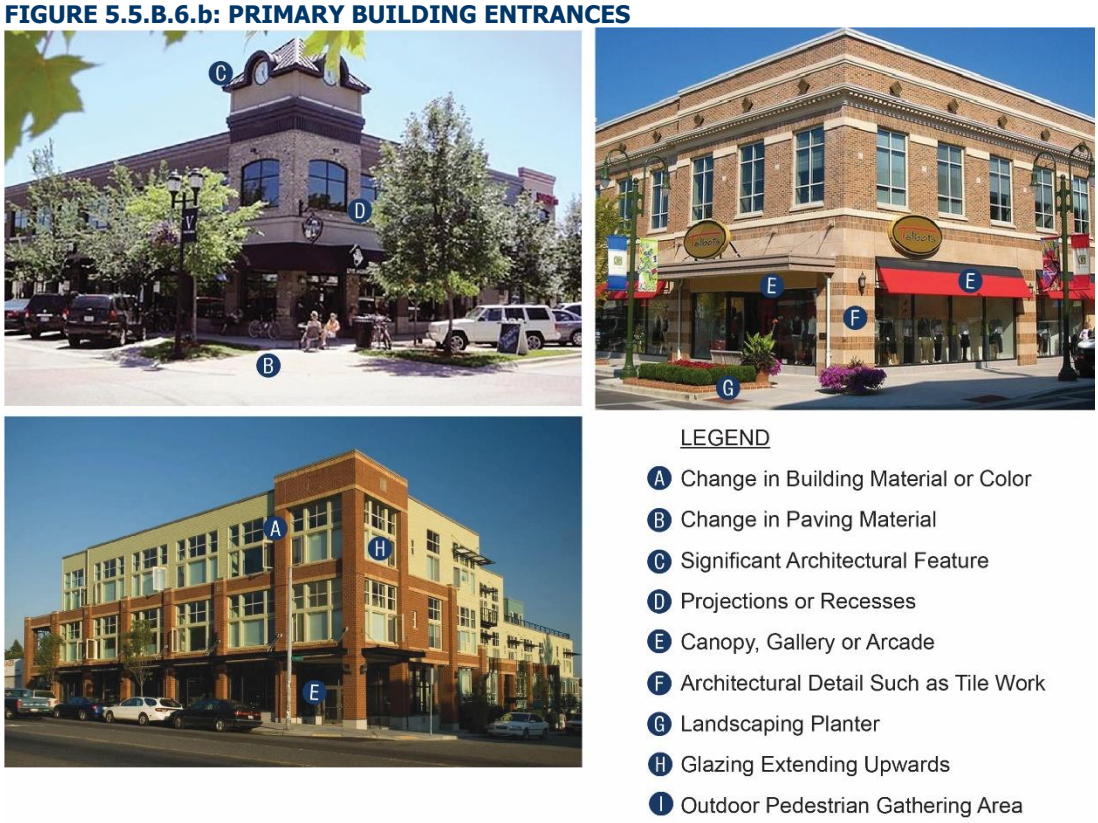
- **i.** On sites including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.
- **ii.** Circulation patterns for drive-through facilities shall be designed to accommodate the stacking of vehicles without interfering with the movement of vehicles or pedestrians.
- **iii.** Development shall comply with all applicable provisions in Section 5.2, Access and Circulation.

b. Customer Entrances

(AMENDED 10.20.20 UDOTA-03-20)

- **i.** Building entrances shall be designated as a primary or a secondary entrance by the applicant, but each principal building shall have at least one primary entrance. Nothing shall limit a building from having multiple primary entrances.
- **ii.** Primary building entrances shall be visually prominent and shall include at least three of the following features (see Figure 5.5.B.6.b: Primary Building Entrances):
  - **a)** Changes in building material or color;
  - **b)** Changes in paving or walking surface materials adjacent to the entrance;
  - **c)** A significant architectural feature that extends above the primary roof height;
  - **d)** A projection or recess of at least five feet beyond the adjacent wall plane;
  - **e)** Outdoor pedestrian gathering or seating areas capable of serving at least five people at the same time;
  - **f)** A canopy, awning, portico, archway, arcade, or other covering that extends outwards from the building wall by at least five feet;
  - **g)** Glazing that extends upwards for at least 75 percent of the building's height proximate to the entrance door(s);
  - **h)** Architectural detailing around the entryway such as tilework, entablature, or integrated moldings; or
  - **i)** Fountains, artwork, or landscaping plantings in raised planters immediately adjacent to the entrance door(s).

FIGURE 5.5.B.6.b: PRIMARY BUILDING ENTRANCES



c. Building Address Numbers

i. Every principal building subject to these standards shall include the building's street address above or adjacent to the primary building entrance in accordance with applicable requirements in the City Code of Ordinances.

ii. Address numbers shall be provided in numeric form rather than spelled out, and shall be provided in an easily discernable typeface.

d. Building Articulation

Building walls subject to these standards shall include articulation features in accordance with the following standards (see Figure 5.5.B.6.d: Commercial Building Articulation).

i. Number of Articulation Features Required

(AMENDED 10.20.20 UDOTA-03-20)

The minimum number of articulation features to be provided on any single building wall depends upon whether the wall is a primary, secondary, or a tertiary wall. Nothing shall limit a building wall from providing more articulation features than the minimum number required by this section.

a) Primary Building Walls

Primary building walls shall be configured to provide at least two types of building articulation listed in Section 5.5.B.6.d.ii, Types of Building Articulation.

b) Secondary Building Walls

Secondary building walls shall provide at least one of the building articulation types identified in Section 5.5.B.6.d.ii, Types of Building Articulation.

c) Tertiary Building Walls

Tertiary building walls shall not be required to provide any building articulation features.

ii. Types of Building Articulation

Each of the following seven features shall qualify as one type of building articulation for the purposes of Section 5.5.B.6.d.i, Number of Articulation Features Required:

a) Horizontal Facade Modulation

i) Horizontal façade modulation is the projection or recesses of building floor area either forward of primary wall plane or inwards from the primary wall plane.
ii) Each individual projection or recess shall have a minimum depth of ten feet either beyond or inwards from the primary wall plane.
iii) Each individual projection or recess shall have a minimum span of at least to 20 percent of the façade's total length.
iv) At least 40 percent of the façade's total length shall be occupied by a projection or recess.
v) Individual projections or recesses along a wall shall be separated from one another by at least two linear feet.
vi) In the case of multi-story buildings, horizontal façade modulation shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

b) Vertical Façade Modulation

Vertical façade modulation consists of architectural building elements such as columns, pilasters, posts, bays, fins, ribs, moldings, pediments, arcades, or similar features that extend outwards or recess inwards from the primary wall plan for a minimum distance of two feet. Vertical façade modulation shall extend from the grade to the top of the façade and shall maintain regular spacing across at least 50 percent of the facade.

c) Bow or Curvilinear Feature

i) Inclusion of a convex or concave bow or other curvilinear wall feature with a minimum depth or projection of at least ten feet relative to the primary façade plane.
ii) Bows or curvilinear features shall occupy at least 50 percent of the total facade length.
iii) In the case of multi-story buildings, a bow or curvilinear feature shall be required only on the first floor for two-story buildings and on the first and second floors for three- or more-story buildings.

d) Green Wall

Wall-mounted panels affixed to an exterior building wall configured in accordance with the following:

i) Each panel shall include living plants in a growing medium spaced so that no portion of the growing medium or the exterior wall beneath the panel is visible from a distance of five feet;
ii) Panels shall be self-watering and comprised of cold-hardy plants endemic to central North Carolina;
iii) Panels shall be configured so that at least 40 percent of the exterior façade is beneath a panel; and
iv) Plants shall be maintained and replaced as needed to ensure compliance with subsection (i) above.

e) Roof Modulation

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

Inclusion of two or more differing roof planes, roof pitches, roof heights, or roof materials that are visually distinct from one another and visible from the public realm adjacent to the building wall. This standard may be met by any of the following:

i) Combining sections of flat roof with sections of pitched roof on a single building such that no single type occupies more than 75 percent of the roof area;
ii) Use of three or more roof pitches that differ from one another by an amount that is discernable from the adjacent public realm;
iii) Use of two or more parapet wall heights with a height difference of at least two feet from one another;
iv) Use of dormer windows or shed dormers spaced at uniform intervals or configured to present a balanced appearance;
v) Use of a barrel vault, arc, or other curvilinear roof form configured to cover at least 25 percent of the roof area;
vi) Use of a tower, spire, steeple, or other vertical projection with a width no less than ten feet and a height of at least seven feet above the adjacent roof height; or

vii) Other architectural feature acceptable to the review authority approving the development.

f) Primary Building Entrance

Inclusion of a primary building entrance configured in accordance with Section 5.5.B.6.b, Customer Entrances.

g) Outdoor Seating

(AMENDED 10.20.20 UDOTA-03-20)

Inclusion of an outdoor seating or outdoor dining area adjacent to the façade with all the following features:

i) A direct means of entry into the building;
ii) Seating capable of accommodating at least ten people at the same time;
iii) Protection from automobiles and bicycles circulating on the site or on an adjacent street;
iv) Exterior lighting, if the establishment is open before sunrise or after dark;
v) Shading from the sun or rain; and
vi) Wi-Fi access, if Wi-Fi is provided to members of the public indoors.

FIGURE 5.5.B.6.d: COMMERCIAL BUILDING ARTICULATION

e. Materials and Colors

i. Material Configuration

a) Where two or more materials are proposed on a building façade, the heavier or more massive material (like stone) shall be located below the lighter or less massive material (like stucco).

b) Heavier materials may be permitted as details on corners or around doors and windows.

c) Material changes shall take place at locations such as the intersection of building wings, the intersection of differing storefronts or leaseholds, interior corners, or other logical locations.

d) Material changes shall not take place at outside corners and material returns shall be included to a logical termination point past an exterior building corner such as a bump-

out, building wing, or change in wall direction (see Figure 5.5.B.6.e: Commercial Building Materials).

FIGURE 5.5.B.6.e: COMMERCIAL BUILDING MATERIALS

ii. Prohibited Materials

The following materials shall be prohibited on any primary or secondary building façade walls:

a) Untextured tilt-up concrete panels;
b) Pre-fabricated steel panels;
c) Corrugated sheet metal;
d) Smooth-face concrete blocks;
e) Vinyl siding, soffit, or fascia;
f) Synthetic stucco within two feet of the grade;
g) Asphalt shingles or siding; or
h) Mirrored glass.

iii. Color

(AMENDED 10.20.20 UDOTA-03-20)

a) Primary Colors

Overly-bright, neon, or "day-glow" colors shall not be used as primary exterior building colors. Nothing shall limit the use of pastel or traditional community material colors as primary colors.

b) Accent Colors

Building trim and accent areas may feature brighter colors including primary colors, but accent colors may not comprise more than 15 percent of any building facade.

f. Roof Form

(AMENDED 10.20.20 UDOTA-03-20)

i. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street in accordance with Section 5.4, Screening.
ii. Parapet walls shall have decorative cornices or caps.
iii. A pitched roof shall have eaves that extend a minimum of 12 inches beyond the building's exterior walls.
iv. Gable roofs shall incorporate roof rakes that project outwards a minimum of six inches beyond the building's exterior walls.

g. Fenestration

Building walls shall incorporate fenestration features in accordance with the following standards (see Figure 5.5.B.6.g, Commercial Building Fenestration):

i. Primary Building Walls

(AMENDED 1.4.22 UDOTA-1-22)

Primary building walls shall be configured so that:

a) At least 40 percent of the ground floor portion of the primary wall is occupied by visually transparent windows or doors. For the purposes of this section, the ground floor extends from the finished floor elevation upwards to the underside of the roof deck;

b) At least 30 percent of a second floor portion of the primary wall (if provided) is occupied by visually transparent windows or doors;

c) Primary wall calculations exclude parapet walls, cornices, mansard roofs, and dormer windows;

d) A window or functional general access doorway is located at least every 20 feet along the façade; and

e) No more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

ii. Secondary Building Walls

(AMENDED 1.4.22 UDOTA-1-22)

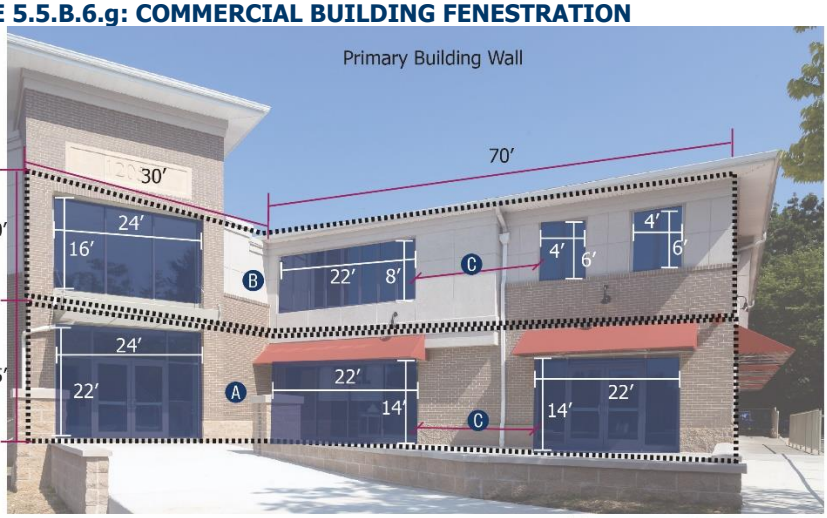
a) Secondary building walls shall be configured so that at least 30 percent of the ground floor façade and at least 20 percent of any second floor façade is occupied by:

- **i)** Visually transparent windows or doors with regular spacing;
- **ii)** False or opaque windows with regular spacing; or
- **iii)** Articulated wall forms designed to mimic window openings that also include an overhang or awning.

b) For the purposes of this section, the ground floor extends from the finished floor elevation upwards to the underside of the roof deck;

c) Secondary wall calculations exclude parapet walls, cornices, mansard roofs, and dormer windows.

FIGURE 5.5.B.6.g: COMMERCIAL BUILDING FENESTRATION



LEGEND

Ⓐ First Floor Primary Wall
Total Area = 25 x (30+70) = 2,500 sf
Fenestration Area = (22x24) + (22x14) + (22x14) = 1,164 sf
Percent Fenestration = 1,164 / 2,500 = 46.6% (Minimum 40%)

Ⓑ Second Floor Primary Wall
Total Area = 20 x (30+70) = 2,000 sf
Fenestration Area = (16x24) + (22x8) + (4x6) + (4x6)= 1,176 sf
Percent Fenestration = 608 / 2,000 = 30.4% (Minimum 30%)

Ⓒ 20′ Max. Distance Between Windows or General Access Doorways

Ⓓ Secondary Building Wall Alternative: False or Opaque Windows

Ⓔ Secondary Building Wall Alternative: Articulated Wall Forms with Awnings

h. Awnings

- **i.** No awning shall extend outwards from the building wall more than the width of the sidewalk or ten feet, whichever is less.
- **ii.** Awnings must be self-supporting from the building wall.
- **iii.** No supports shall rest on or interfere with the use of pedestrian walkways or streets.
- **iv.** In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.

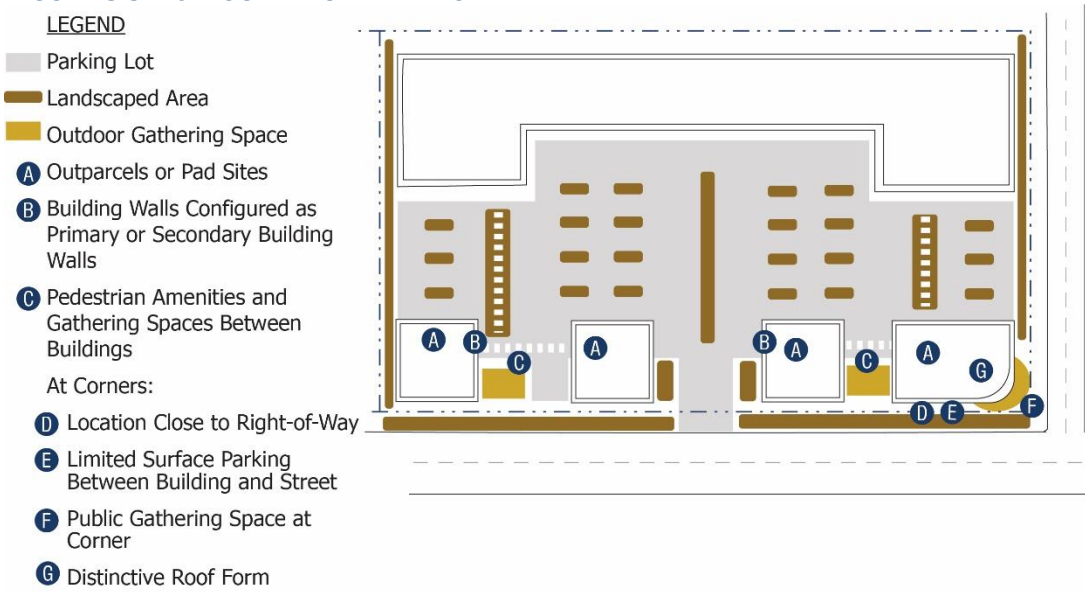
i. Outparcels

Development on outparcels or pad sites associated with a commercial development shall comply with the following requirements (see Figure 5.5.B.6.i: Outparcel Development):

- **i.** Buildings on outparcels or pad sites shall incorporate materials that are similar to and compatible with those used on the primary buildings in the development. Corporate or prototypical architecture shall be reconfigured as necessary in order to comply with this standard.
- **ii.** Building walls associated with development on an outparcel or pad site shall be configured solely in accordance with the articulation and fenestration provisions for primary or secondary walls, as appropriate, for the main buildings in the development.
- **iii.** Spaces between buildings on outparcels or pad sites shall include pedestrian amenities such as plazas, seating areas, and gathering places in addition to off-street parking spaces.
- **iv.** Outparcel buildings on lots at street corners shall be located and configured to define the corner through a combination of:
  - **a)** Locating the building as close to the rights-of-way as is practicable;
  - **b)** Limiting surface parking between the building and the streets;
  - **c)** Providing a public gathering space adjacent to the corner; and

d) Use of distinctive roof form or other pedestrian features such as porches, canopies, or arcades.

FIGURE 5.5.B.6.i: OUTPARCEL DEVELOPMENT

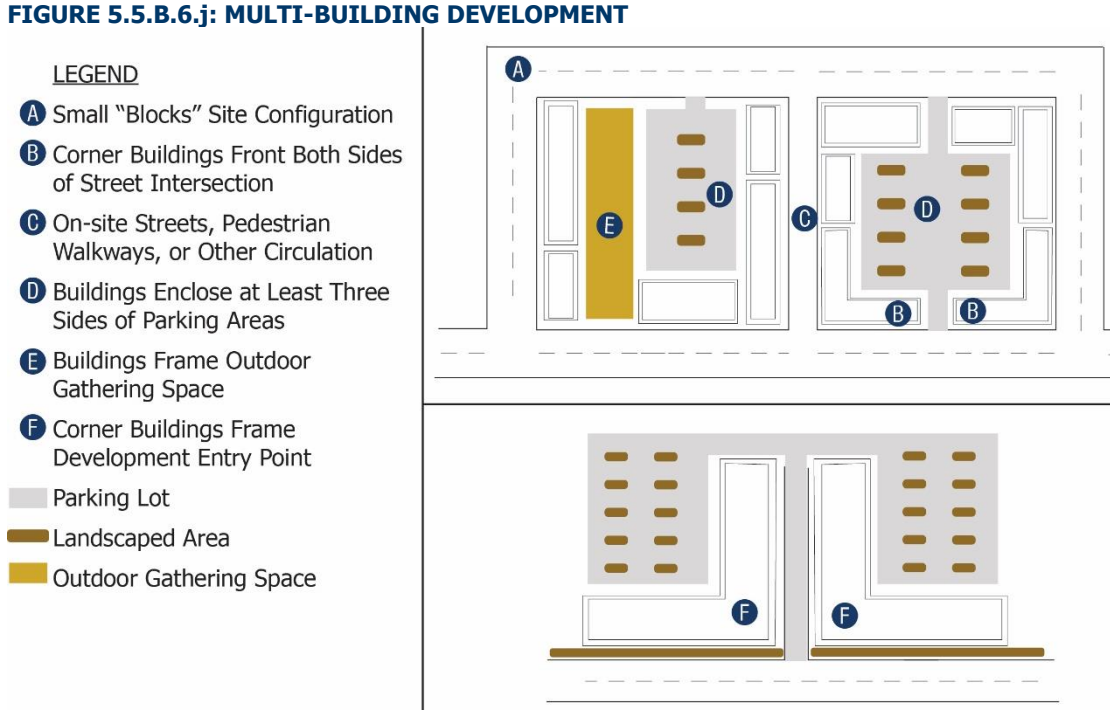


j. Multi-building Development

Development composed of multiple buildings totaling 30,000 gross square feet or more shall be configured in one or more of the following ways (see Figure 5.5.B.6.j, Multi-building Development):

i. Break up the site into a series of smaller "blocks" defined by on-site streets,
ii. pedestrian walkways, or other circulation routes;
iii. Locate the buildings around the corner of an adjacent street intersection or entry point to the development;
iv. Enclose parking areas, public spaces, or other site amenities on at least three sides through the placement of buildings; or
v. Enclose outdoor dining or gathering places between buildings.

FIGURE 5.5.B.6.j: MULTI-BUILDING DEVELOPMENT



k. Site Features

i. Off-Street Parking Location

a) Sites comprised of commercial buildings subject to these design standards shall be configured such that no more than 50 percent of the provided off-street parking shall be located between a building's primary building façade and the street it faces.

b) Off-street parking serving development located within a Gateway Corridor Overlay (GCO) district shall be configured in accordance with the applicable requirements in Section 3.20.D, Gateway Corridor Overlay (GCO) District.

ii. Service, Loading, and Delivery Areas

Ground-mounted mechanical equipment, solid waste collection, recycling collection, and loading spaces shall be located to the rear or side yard and screened in accordance with Section 5.4, Screening.

iii. Canopies

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

Except for canopies associated with fuel sales, overhead canopies intended to cover the vehicles of patrons shall be configured in accordance with the following standards:

a) There shall be no limit on the number of individual canopies, but the combined total area of all detached canopies shall not exceed 25 percent of the building's ground-floor footprint square footage;

b) The canopy shall be located to the side or rear of the structure, or configured so that it has the appearance of being enclosed by building walls on at least two sides;

c) The canopy and canopy supports shall be configured with exterior materials and colors that are consistent with or complementary to the primary structure on the site;

d) The canopy shall be subject to maximum height standards for buildings in the zoning district where located; and

e) The canopy shall comply with the standards in Section 5.7, Exterior Lighting.

7. Standards for Large Format Retail Uses

The following standards shall apply to large format retail uses:

a. Large Format Retail Uses Distinguished

(AMENDED 12.3.19 UDOTA-01-20)

Large format retail uses are commercial use types (see Table 4.2.C, Principal Use Table) consisting of a single or multiple commercial tenants in one or more buildings totaling more than 70,000 square feet in area when 70% or more of the total floor area is occupied by retail sales activity.

b. Compliance with Commercial Design Requirements

Large format retail uses shall comply with the following commercial design standards:

i. Section 5.5.B.6.a, Street Network;
ii. Section 5.5.B.6.c, Building Address Numbers;
iii. Section 5.5.B.6.d, Building Articulation;
iv. Section 5.5.B.6.e, Materials and Colors;
v. Section 5.5.B.6.f, Roof Form;
vi. Section 5.5.B.6.h, Awnings;
vii. Section 5.5.B.6.i, Outparcels;
viii. Section 5.5.B.6.j, Multi-building Development; and
ix. Section 5.5.B.6.k, Site Features, except off-street parking location.

c. Additional Standards for Large Format Retail Uses

i. Customer Entrances

Large format retail uses shall comply with the standards in Section 5.5.B.6.b, Customer Entrances, except that primary entrances shall include four of the listed options instead of three.

ii. Fenestration

Building walls on large format retail uses shall incorporate fenestration features in accordance with the following standards (see Figure 5.5.B.7.c.ii, Large Retail Building Fenestration):

a) Primary Building Walls

Primary building walls shall be configured so that:

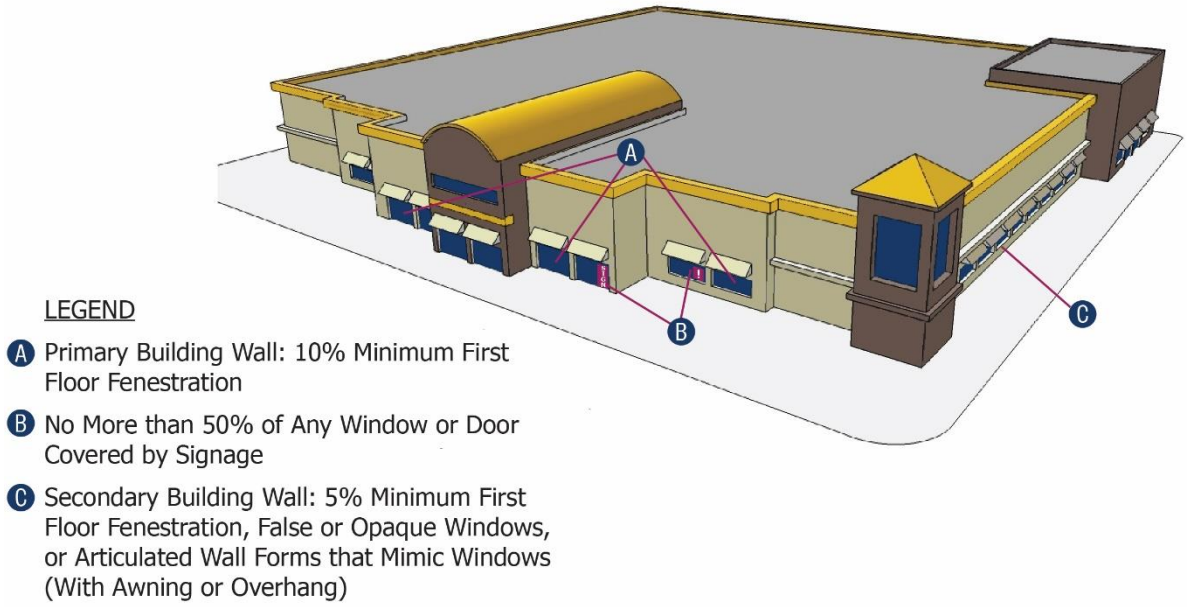
i) At least 10 percent of the first floor portion of the primary wall is occupied by visually transparent windows or doors; and
ii) No more than 50 percent of any single window or door is obstructed by a window sign or other opaque display.

b) Secondary Building Walls

Secondary building walls shall be configured so that at least five percent of the ground floor façade is occupied by:

i) Visually transparent windows or doors;
ii) False or opaque windows; or
iii) Articulated wall forms designed to mimic window openings that also include an overhang or awning.

FIGURE 5.5.B.7.c.ii: LARGE RETAIL BUILDING FENESTRATION



iii. Off-Street Parking Location

a) Sites comprised of large format retail uses subject to these design standards shall be configured such that no more than 75 percent of the provided off-street parking shall be located between a building's primary building façade and the street it faces.

b) Off-street parking serving large format retail development located within a Gateway Corridor Overlay (GCO) district shall be configured in accordance with the applicable requirements in Section 3.20.D, Gateway Corridor Overlay (GCO) District.

C. MIXED-USE DESIGN STANDARDS

1. Purpose and Intent

The purpose for these standards is to create vibrant, pedestrian-oriented areas of residential and non-residential use that are located in the same building or in close proximity to one another on the same site. More specifically, these standards are intended to:

a. Create well-designed, desirable places for City residents and visitors to shop, dine, recreate, and live;
b. Ensure development within mixed use areas is compact and walkable;
c. Shorten travel times and support alternative modes of transportation by reducing the need for automobile travel within urban portions of the City;
d. Encourage human-scaled development that is pedestrian-oriented;
e. Reduce development costs by facilitating the most dense forms of development in areas easily served by public infrastructure; and
f. Accommodate both vertically mixed-use development within an individual building as well as horizontally mixed-use development on a single site.

2. Applicability

The standards in this section shall apply to all the following:

a. New development within the MX district;
b. Live/work dwellings;
c. Upper story residential; and
d. Any development that includes principal use types from the residential and commercial or institutional use classifications in Table 4.2.C, Principal Use Table, within the same building or within the same development site.

3. Exemptions

(AMENDED 3.4.21 UDOTA-01-21)

These standards shall not be applied to the following forms of development:

a. Agriculture-related uses;
b. Renovation of existing structures in the CBD district; and
c. Mixed-use development established prior to November 1, 2019.

4. Timing of Review

Review for compliance with these standards shall take place during review of an associated rezoning, site plan, special use permit, or planned development master plan, as appropriate.

5. Design Requirements

Development subject to these standards shall be designed in accordance with the following:

a. Street Network

In cases where mixed-use development involves the construction of new streets or alleys, the new streets shall be configured in accordance with the following standards:

i. Streets shall be organized into a grid pattern with block lengths that do not exceed 500 feet;
ii. Streets shall be configured to a design speed of 25 miles per hour;
iii. Streets shall include traffic-calming features such as roundabouts, raised pedestrian crossings, bulb-outs, speed tables, raised medians, and chicanes, but excluding speed bumps, which shall not be included;
iv. Streets shall include well-defined ADA-compliant crosswalks and small turning radii at intersections;
v. Streets shall include bicycle lanes in accordance with NCDOT standards;
vi. Streets shall include sidewalks configured in accordance with Section 6.4, Sidewalks;
vii. Mid-block alleys shall be included to facilitate off-street parking and to accommodate service functions; and
viii. Cul-de-sacs and dead-end streets are prohibited, except where topography or natural features make them necessary.

b. Building Orientation

i. Single Building Development

New development consisting of a single building shall be oriented such that the long axis of the building is either parallel or perpendicular to the street right-of-way it faces.

ii. Multiple Building Development

Development comprised of multiple buildings shall be configured with two or more of the following design elements (see Figure 5.5.C.5.b.ii, Multiple Building Development):

a) Site configuration as a series of smaller "blocks" defined by buildings fronting on-site streets and internal vehicle accessways, utilizing pedestrian oriented design such as walkways, or other circulation routes and multi-modal transportation access/waiting areas when appropriate;

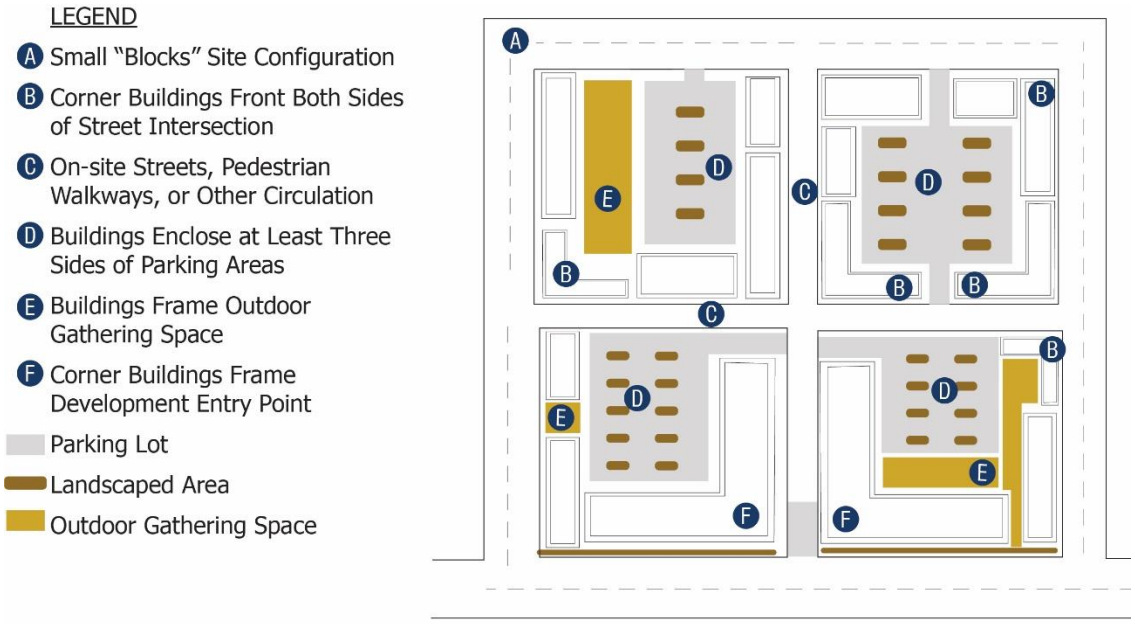
b) Corner buildings designed to front both sides of an adjacent street intersection or entry point to the development in an "L" configuration;

c) Buildings facing each other across a relatively narrow vehicular access area with pedestrian amenities in a "main street" character;

d) Buildings enclosing at least three sides of parking areas, public spaces, or other site amenities; or

e) Buildings enclosing outdoor dining or gathering spaces for pedestrians between buildings.

FIGURE 5.5.C.5.b.ii: MULTIPLE BUILDING DEVELOPMENT



c. Building Location

i. Buildings on lots bounding streets shall be built to the edge of the sidewalk. In the case of double or reverse frontage lots, the building shall be located adjacent to the street providing the street address for the building.

ii. When development is proposed on a corner lot, the building shall be configured to occupy the lot corner at the street intersection.

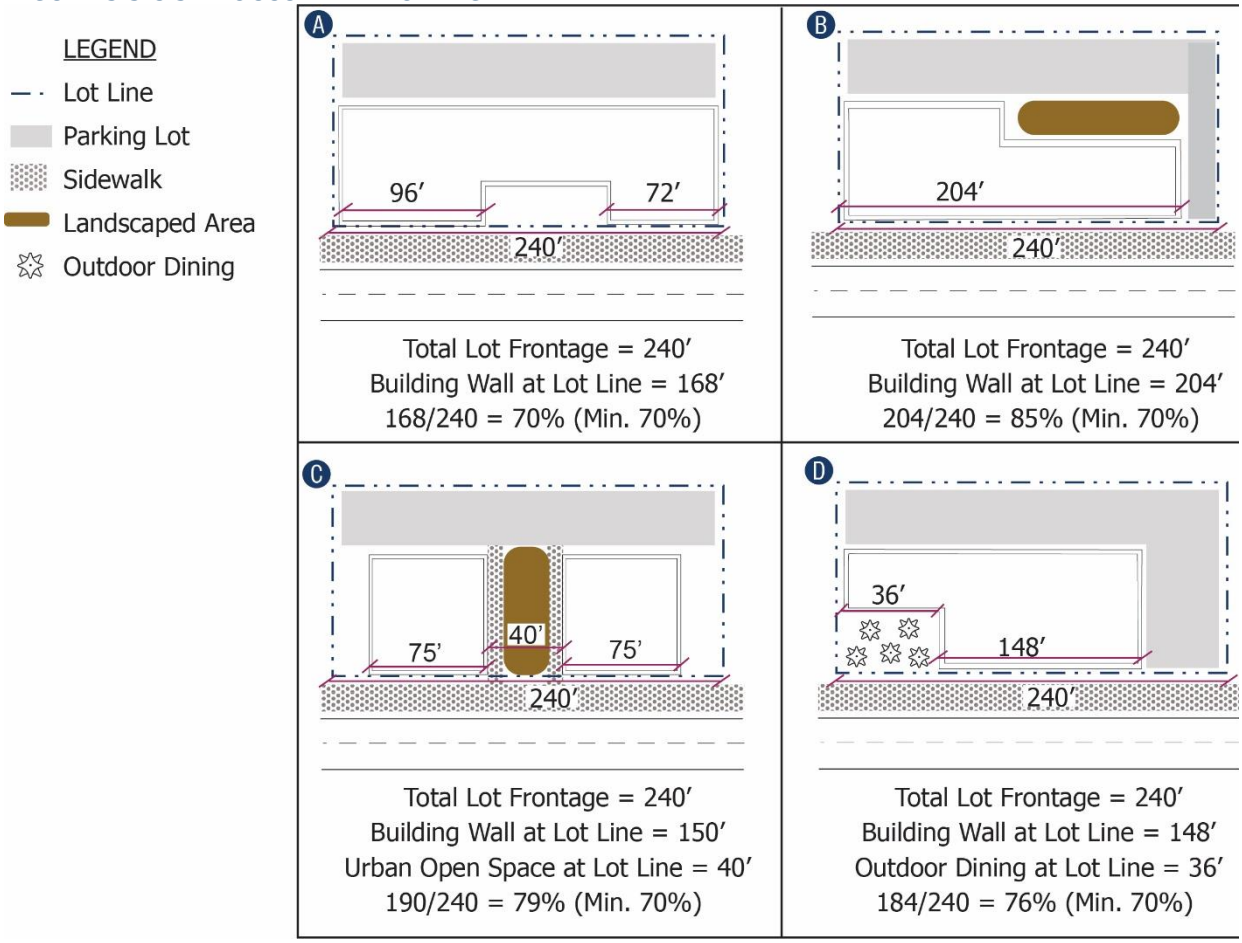
iii. Nothing shall prevent a mixed-use building from exceeding a maximum street setback, provided the area between the building and the street is occupied by a public gathering space, open space set-aside, or an area used for outdoor dining.

d. Lot Frontage to be Occupied by Building Wall

i. In order to ensure an inviting and desirable streetscape for pedestrians, mixed use development shall be configured so that at least 70 percent of the lot frontage is occupied by building wall (see Figure 5.5.C.5.d, Occupied Frontage).

ii. Areas occupied by gathering areas (like plazas), urban open space set-aside, or outdoor dining areas shall be credited towards the lot frontage requirements.

FIGURE 5.5.C.5.D: OCCUPIED FRONTAGE



e. Ground Floor Configuration

(AMENDED 3.4.21 UDOTA-01-21)

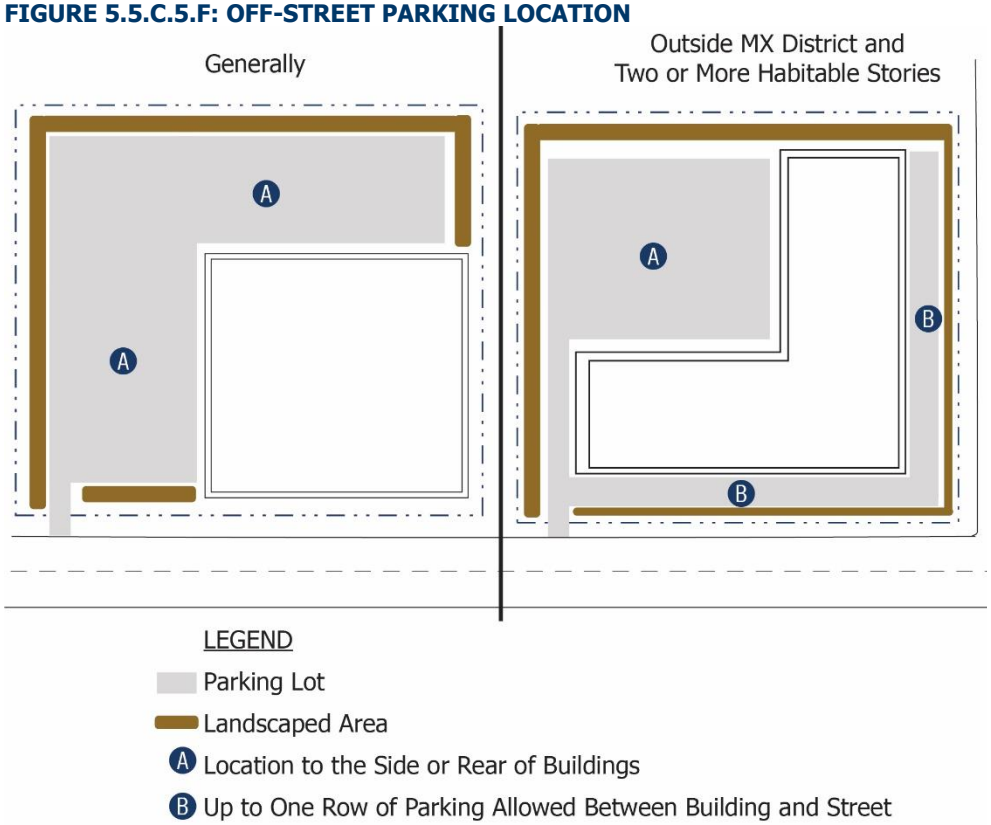
The ground floor of mixed-use buildings and buildings located in the MX district shall be configured to meet the North Carolina Building Code requirements for commercial development. Nothing shall prevent the ground floor from being occupied by a residential use, however, the non-residential portion of the building must occupy the front façade of the street-level ground floor.

f. Off-Street Parking Location

i. Off-street parking areas shall be located to the side or rear of buildings subject to these standards.

ii. Mixed-use buildings located outside the MX district and with two or more habitable stories may be configured to allow up to one row of off-street parking spaces between the building and the street it fronts (see Figure 5.5.C.5.f, Off-Street Parking Location). All other off-street parking shall be located to the side or the rear of a mixed-use building.

FIGURE 5.5.C.5.F: OFF-STREET PARKING LOCATION



g. Building Articulation

Buildings subject to these standards shall be configured so that no single facade fronting a public street shall extend for longer than 35 linear feet without inclusion of one or more of the following features (see Figure 5.5.C.5.g, Mixed-use Building Articulation):

- **i.** The use of projections or recesses in the building façade wall with a depth of between 18 inches and 36 inches from the primary facade plane and a minimum span of eight feet;
- **ii.** The use of columns, pilasters, or other architectural detail harmonious with the general design of the structure with a minimum width of eight inches and spaced no less than every ten feet on-center;
- **iii.** Distinct changes in building material that are vertically aligned with variations in roof form and parapet heights; or
- **iv.** A single vertical accent or focal point such as a tower feature located on a prominent building corner.

FIGURE 5.5.C.5.g: MIXED-USE BUILDING ARTICULATION

LEGEND

- A Projections or Recesses in the Facade Wall (Depth Between 18-36" and Min. Span 8')
- B Columns, Pilasters, or Other Architectural Detail (Spaced Max. 10' On-center)
- C Changes in Building Material (Vertically Aligned with Roof Form Changes)
- D Single Vertical Accent Point on Corner

h. Fenestration

- **i.** Blank, windowless walls facing sidewalks, streets, and other public places shall be prohibited.
- **ii.** At least 40 percent of the first floor facade facing a street shall be transparent, whether through the use of glass windows, doors, or both (see Figure 5.5.C.5.h, Mixed-use Building Fenestration).
- **iii.** At least 25 percent of each upper story façade facing a street shall be transparent
- **iv.** Ventilation grates or emergency exit doors located at the first floor level oriented toward a street shall be decorative.

FIGURE 5.5.C.5.h: MIXED-USE BUILDING FENESTRATION

A Upper Story Facade =
10' x 60' = 600 sf

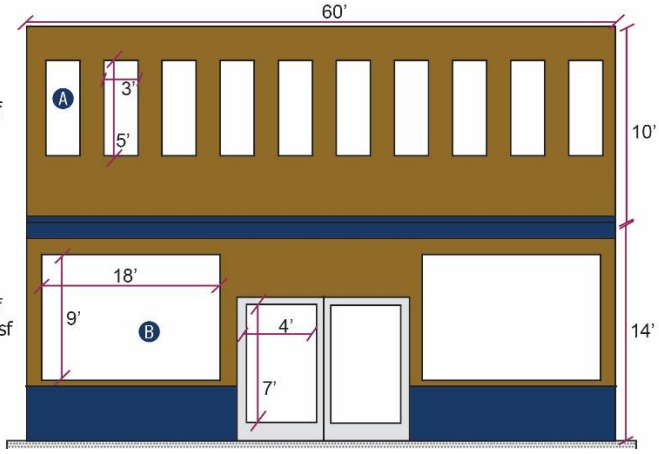
Fenestration =
10 Windows x 15 sf = 150 sf

Percent Transparent =
150 ÷ 600 = **25%**
(Minimum 25%)

B First Floor Facade =
14' x 60' = 840 sf

Fenestration =
2 Windows x 162 sf = 324 sf
Glass Portion of Doors = 56 sf

Percent Transparent =
380 ÷ 840 = **45.2%**
(Minimum 40%)



i. Building Entrances

i. Primary structures must be oriented with their main entrance facing the street upon which the project fronts.

ii. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.

iii. Entrances serving mixed-use buildings shall include at least two of the following features fronts (see Figure 5.5.C.5.i, Mixed-use Building Entrances):

a) Canopies or porticos;
b) Overhangs;
c) Recesses/projections;
d) Soldier courses or story lines;
e) Galleries or arcades;
f) Raised corniced parapets over the door;
g) Peaked roof forms;
h) Arches;
i) Architectural detail such as tile work and moldings integrated into the building structure and design; or
j) Integral planters that incorporate landscaped areas and places for sitting.

FIGURE 5.5.C.5.i: MIXED-USE BUILDING ENTRANCES

j. Roof Form

i. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street.

ii. Parapet walls shall have decorative cornices or caps.
iii. A pitched roof shall have eaves that extend a minimum of 12 inches from the building face.
iv. Roof-mounted mechanical equipment on a pitched roof shall be screened or otherwise camouflaged from view from the street.

k. Weather Protection

Weather protection for pedestrians, such as awnings, canopies, galleries, and arcades, shall be provided along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.

l. Drive-up/Drive Through Prohibited

No building within a mixed-use development or MX district shall include drive-up or drive through facilities.

D. MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

1. Purpose and Intent

These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing the minimum requirements for design and configuration of multi-family development within the City's jurisdiction. They are intended to:

a. Ensure multi-family development takes place in a manner consistent with the context, scale, and proportion of its surroundings;
b. Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent residential single-family detached dwellings;
c. Establish expectations for minimum level of quality for multi-family development;
d. Encourage creativity in design and promote individual project identity;
e. Create neighborhoods with enhanced architectural and visual interest; and
f. Preserve property values and protect public and private investment.

2. Applicability

a. Generally

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

i. New multi-family dwellings;
ii. New triplex and quadriplex dwellings; and
iii. New multi-unit residential structures within a continuing care retirement community use type; and
iv. New assisted living facilities and nursing homes.

b. Voluntary Compliance for Single-Family Attached Dwellings

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 10.20.20 UDOTA-03-20)

i. Single-family attached development shall be exempted from these standards, though a landowner may voluntarily agree to comply with them.
ii. In cases where an applicant agrees to comply with these standards, a signed copy of the following statement shall be included on all approved site plans and subdivision plats.

The single-family attached development depicted on the attached site plan or subdivision plat is subject to the City of Burlington's Multi-family Residential Design Standards in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design standards, the acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable requirements following approval is a violation of the Burlington Unified Development Ordinance.

_____ _____
Landowner Signature Date

iii. The signed statement of consent and an associated site plan depicting the development's compliance with these standards shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a building permit.

3. Exemptions

(AMENDED 3.4.21 UDOTA-01-21)

The following forms of development shall be exempted from these standards:

a. Single-family attached development, unless subject to voluntary consent by the landowner in accordance with subsection (2) above or subject to conditions of approval incorporated in a conditional rezoning approval;
b. Duplex dwellings;
c. Renovation of existing structures in the CBD district; and
d. Routine maintenance and repairs.

4. Timing of Review

Review for compliance with these standards shall take place during review of an associated rezoning, site plan, special use permit, or planned development master plan, as appropriate.

5. Design Requirements

Development subject to these standards shall be designed in accordance with the following:

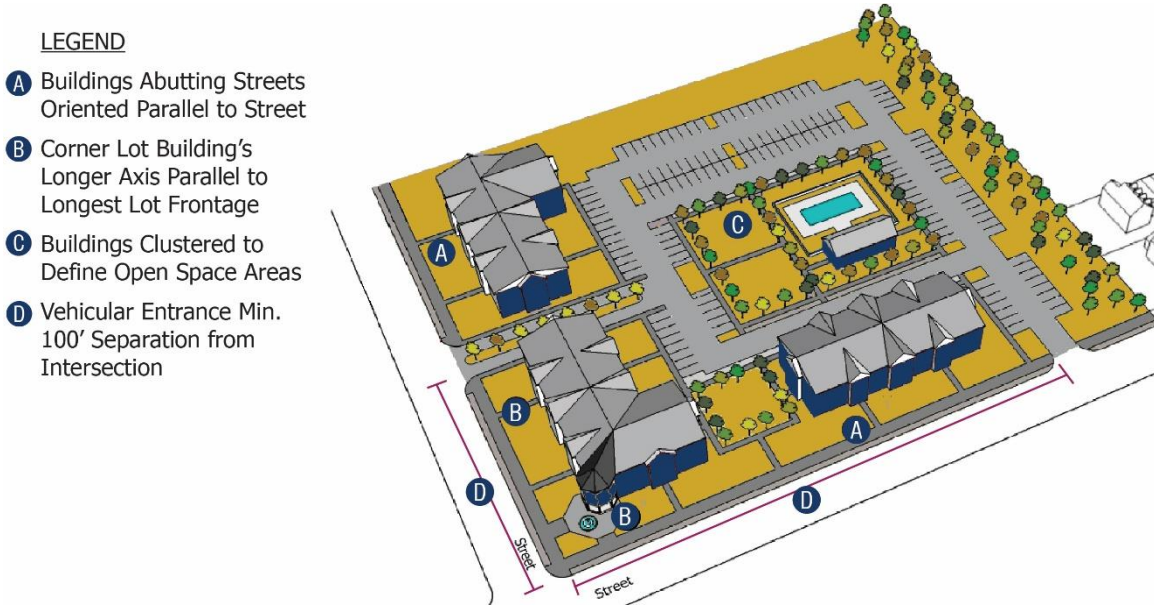
a. Street Network

- **i.** On sites including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.
- **ii.** Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection, to the maximum extent practicable.
- **iii.** Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

b. Building Orientation

- **i.** Buildings that abut streets shall be oriented parallel to the street they front rather than being oriented at an angle to the street.
- **ii.** On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure 5.5.D.5.b, Multi-family Building Orientation).
- **iii.** Buildings within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.

FIGURE 5.5.D.5.b: MULTI-FAMILY BUILDING ORIENTATION



c. Building Entrances

- **i.** The facades of buildings abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.
- **ii.** Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkways to individual upper-story dwelling units take place on the exterior of the building.
- **iii.** Individual ground-floor and shared entryways shall be sheltered from the weather either by:
  - **a)** Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or
  - **b)** Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

d. Building Facades

- **i.** Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade facing a street.
- **ii.** Building facades facing streets shall provide a minimum of three of the following architectural elements (see Figure 5.5.D.5.d, Multi-family Building Facades):

a) A covered porch or terrace;
b) One or more dormer windows or cupolas;
c) Eyebrow windows;
d) Awnings or overhangs;
e) Decorative moldings;
f) Shutters;
g) Pillars, posts, or pilasters;
h) One or more bay windows with a minimum twelve-inch projection from the facade plane;
i) Multiple windows with a minimum of four-inch-wide trim;
j) Corniced parapets;
k) Eaves with a minimum of four-inch-wide trim; or
l) Integral planters that incorporate landscaped areas and/or places for sitting.

FIGURE 5.5.D.5.d: MULTI-FAMILY BUILDING FACADES

LEGEND

- A Covered Porch or Terrace
- B Dormer Windows or Cupolas
- C Eyebrow Windows
- D Awnings or Overhangs
- E Decorative Moldings
- F Shutters
- G Pillars, Posts, or Pilasters
- H Bay Window(s) (Min. 12" Projection)
- I Windows With Minimum 4" Wide Trim
- J Corniced Parapets
- K Eaves With Min. 4" Wide Trim
- L Integral Planters or Seating Areas

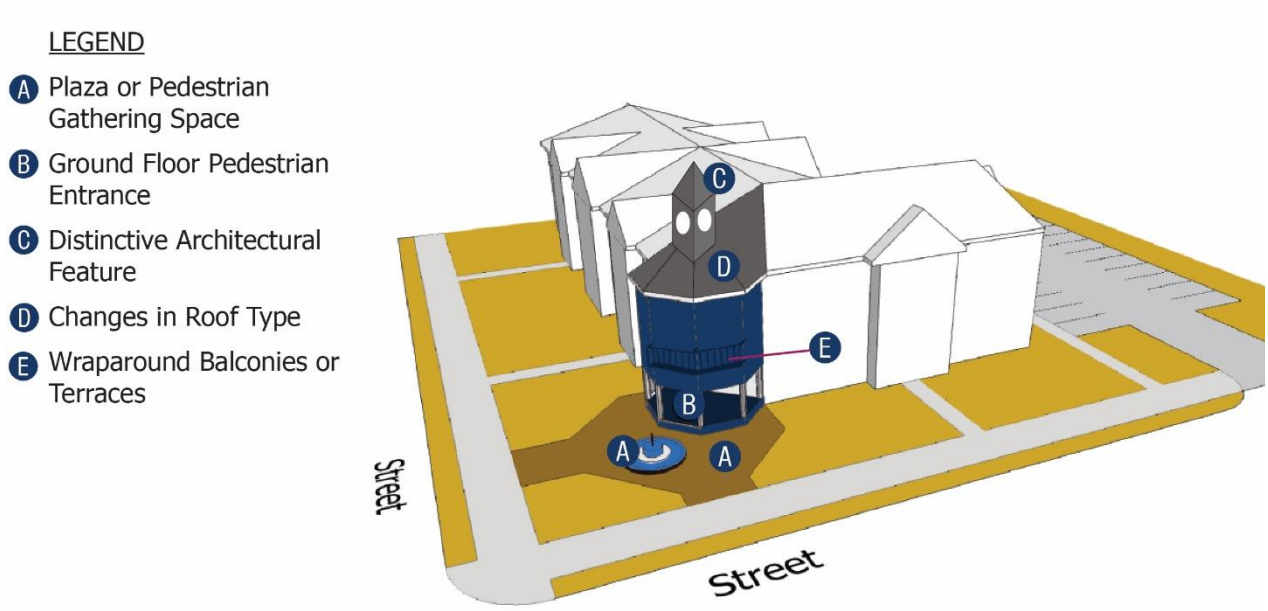
iii. Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade facing a street.
iv. Attached street-facing garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.
v. Developments with three or more principal buildings shall provide variation in building size, shape, height, color, and roofline in a manner that allows different buildings to be distinguished from one another.

e. Building Corners

Building corners that are adjacent to one or more streets shall include at least one of the following features (see Figure 5.5.D.5.e, Multi-family Building Corners):

- **i.** A plaza or other gathering space;
- **ii.** A shared ground-floor pedestrian entryway;
- **iii.** A distinctive roof feature such as a tower, turret, spire, pediment, or other architectural feature with a height above the roofline of adjacent dwelling units;
- **iv.** Changes in roof type or pitch from the adjacent building sides; or
- **v.** Upper-story balconies or terraces that wrap both sides of the corner.

FIGURE 5.5.D.5.e: MULTI-FAMILY BUILDING CORNERS



f. Building Massing

(AMENDED 1.4.22 UDOTA-1-22)

- **i.** Upper story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows.
- **ii.** In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first floor façade walls.
- **iii.** Multi-family buildings configured with upper story façade walls that are setback from the second or ground-floor floor façade walls to preserve light and air and avoid casting shadows (see Figure 5.5.D.5.f, Multi-family Building Massing) may utilize sustainable development incentives in Section 7.6, Sustainability Incentives.

FIGURE 5.5.D.5.f: MULTI-FAMILY BUILDING MASSING

LEGEND

A Upper Story Facade May Only Project Beyond Ground Floor Footprint With Window Bump-Outs

Two Story Building Options:

B Second Story In Line With Facade of First Story

C Upper Story Setback from First Story Facade

g. Building Articulation

i. Street-facing building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of facade frontage (see Figure 5.5.D.5.g, Multi-family Façade Articulation).

ii. Where provided, projections or recesses shall extend from the grade to the top of the highest story in line with the ground-floor footprint.

FIGURE 5.5.D.5.g: MULTI-FAMILY BUILDING ARTICULATION

LEGEND

A Primary Facade

B Minimum 2' Articulation Every 35 Linear Feet

C Projections Extend to Top of Highest Story

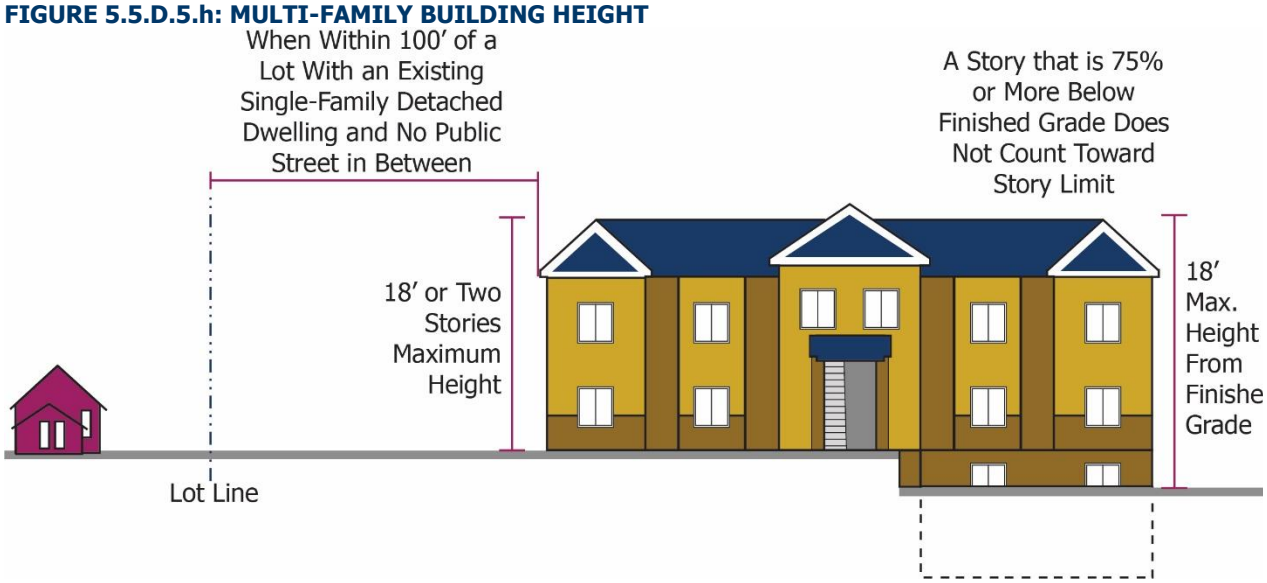
D Not a Projection Because Does Not Extend to Highest Story

h. Building Height

i. Buildings subject to the standards of this section shall have a maximum height of two stories or 18 feet within 100 feet of a lot with an existing single-family detached residential dwelling, without an intervening street. This standard shall apply regardless of any incentives, administrative adjustments, or planned development master plans (see Figure 5.5.D.5.h, Multi-family Building Height).

ii. Building stories that are 75 percent or more below the finished grade at the front of the lot shall not be counted towards the number of allowable stories.

FIGURE 5.5.D.5.h: MULTI-FAMILY BUILDING HEIGHT



i. Roof Form

i. Development shall incorporate roof pitches between 3:12 and 12:12, or shall incorporate parapet walls with a dimensional cornice around a flat roof.

ii. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.

iii. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, or articulation feature.

iv. Overhanging eaves and roof rakes shall extend at least six inches beyond supporting walls.

j. Building Materials and Colors

i. Configuration

a) Buildings subject to these standards shall include at least two primary exterior materials on any single building.

b) Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure 5.5.D.5.j, Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.

c) Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

FIGURE 5.5.D.5.j: MULTI-FAMILY BUILDING MATERIALS

ii. Prohibited Materials

The following materials shall be prohibited on any façade facing a street, open space, or district intended primarily for single-family detached development:

a) Smooth-faced concrete block;
b) Corrugated metal siding; or
c) Synthetic stucco within two feet of the grade.

k. Accessory Structures

In addition to the standards in Section 4.5, Accessory Uses, accessory uses and structures associated with a development subject to these standards shall comply with the following:

i. Street-facing detached garages on corner lots shall be located to the side or rear of buildings;
ii. Access to accessory structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets, to the maximum extent practicable;
iii. Accessory buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure;
iv. Accessory structures shall not physically obstruct pedestrian entrances; and
v. Centralized refuse collection containers, if provided, shall be located in an enclosed area located to the rear of principal buildings.

l. Site Features

i. Except for nursing homes, development subject to these standards shall not include a gate or obstruction that blocks access to the site for vehicles, bicycles, or pedestrians.
ii. Off-street parking serving guests shall be evenly distributed throughout the development.
iii. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.
iv. Detached garages or carports shall not be located between a principal building and the street it faces.
v. Utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.

E. SINGLE-FAMILY RESIDENTIAL DESIGN GUIDELINES

1. Purpose and Intent

These residential design guidelines are proposed as ways to ensure that new single-family detached and duplex housing is high quality, aesthetically pleasing, and provides a wide variety of living options for City residents. More specifically, these guidelines are intended to:

a. Ensure single-family detached and duplex homes maintain consistent exterior materials and architectural treatments on the front and sides of buildings;
b. Establish guidance regarding changes of exterior finishes and materials on individual facades;
c. Avoid garage-dominated street fronts in residential neighborhoods;
d. Encourage duplex structures to appear as single-family homes; and
e. Ensure an adequate level of variability in single-family home design so as to avoid monotonous streetscapes where every dwelling appears identical or very similar to its neighboring dwellings.

2. Applicability

a. Single-family detached residential dwellings and duplex dwellings shall comply with these guidelines in the following instances:

i. When proposed development is subject to a signed statement of consent in accordance with Section 5.5.E.3, Statement of Consent; and
ii. When compliance with these guidelines is included as a condition of approval associated with a conditional rezoning (see Section 2.4.P, Rezoning).

b. Single-family detached residential and duplex dwellings not subject to a statement of consent are not required to comply with these guidelines, though conformance is strongly encouraged.

3. Statement of Consent

(AMENDED 10.20.20 UDOTA-03-20)

a. Compliance with the design guidelines in this section is voluntary and at the discretion of the applicant. In cases where an applicant chooses to comply with the guidelines in this section, the landowner shall sign the following statement of consent and include it with the application for a preliminary plat, special use permit, site plan, or building permit, as appropriate.

The single-family detached dwellings or duplex dwellings depicted on the attached site plan, subdivision plat, or other development approval is subject to the City of Burlington's Single-Family Residential Design Guidelines in place at the time the application for this development was determined to be complete. I hereby voluntarily consent to the application of these design guidelines, this acceptance of which shall run with the land regardless of changes in ownership, and recognize that failure to comply with the applicable guidelines following approval is a violation of the Burlington Unified Development Ordinance.

_____ _____
Landowner Signature Date

b. The signed statement of consent and the development approval shall be recorded in the office of the Register of Deeds for the county where the development is located prior to issuance of a building permit.

4. Design Features

a. Side and Rear Facades

i. Although the front facade of a principal building is expected to be the primary focal point in terms of architectural character and features, all sides of a building shall incorporate architectural detailing and windows that complement the front facade and provide visual interest.
ii. Blank walls void of windows and architectural detailing are prohibited when adjacent to a street.

b. Foundation Materials

i. Poured concrete foundations, concrete block foundations, or smooth-faced concrete masonry unit foundations shall be covered by decks, porches, or be clad in face brick, stone, stucco, or some other masonry material accurately imitating these materials. In no instance shall poured

concrete, concrete block, or smooth-faced concrete masonry unit foundations be visible on a front or street-facing facade.

ii. In cases where a dwelling includes a finished or unfinished basement, the exterior basement walls on the rear or on sides not visible from streets are exempted from these standards.

c. Material Changes

(AMENDED 10.20.20 UDOTA-03-20)

i. Exterior materials on the front façade shall not change at outside corners, but shall continue along side or rear facades for a minimum distance of at least five feet. Wherever possible, materials shall continue to a logical termination point such as a change in roof line or where a separate wing meets the main body of the dwelling (see Figure 5.5.E.4.c, Exterior Material Changes).

ii. Exterior material changes shall take place along a horizontal line where two forms meet, such as the wall and the foundation, the first and second stories, or the wall and roof. It is acceptable for material changes to be configured as architectural accents in areas around windows, doors, cornices, at corners, or in a repeating pattern across a façade.

iii. Where two or more exterior materials meet or are combined, the heavier or more massive material shall be located below the lighter element(s). For example, brick below wood siding, stone below brick, wood siding below stucco, etc.

iv. It is acceptable for heavier materials to be used as accents around doors, windows, and corners.

FIGURE 5.5.E.4.c, EXTERIOR MATERIAL CHANGES

LEGEND

- A Materials Change at Least 5' Past Outside Corners
- B Materials Change at Logical Points
- C Heavier or More Massive Material Below Lighter Material
- D Heavier Materials Acceptable as Accents Around Doors, Windows, and Corners

d. Prohibited Materials

i. The use of corrugated metal siding, unpainted plywood, or smooth-face concrete block is prohibited.

ii. Synthetic stucco or EIFS shall be prohibited within two feet of the finished grade.

e. Street-Facing Garages

i. Maximum Door Width

Street-facing garage doors configured in accordance with these guidelines shall not exceed a maximum width of 18 feet per garage door.

ii. Location

The placement of the primary entrance closer to the street than a street-facing garage door is strongly encouraged, but in no instance shall a primary dwelling entrance be more than nine feet farther from the street than a street-facing garage door.

iii. Design Features

Street-facing garages configured in accordance with these guidelines shall incorporate at least three of the following design features on the building wall containing the garage doors (see Figure 5.5.E.4.e.iii, Garage Door Design Features):

a) Each garage door shall include transparent or opaque windows;
b) Garage doors shall incorporate decorative hinges or hardware that may be functional or aesthetic;
c) Garage doors shall include an overhang, eave, trellis, arbor, awning, or other similar architectural feature that projects at least 16 inches beyond the facade directly above the garage door(s);
d) Garage doors shall be flanked on either side by vertical design elements like columns, pilasters, posts, or similar vertical feature; or
e) The garage door(s) are located at least two or more feet behind a front porch or the primary entrance to the dwelling.

FIGURE 5.5.E.4.e.iii: GARAGE DOOR DESIGN FEATURES

LEGEND
- A Transparent or Opaque Windows
- B Decorative Hinges or Hardware
- C Overhang, Eave, or Arbor
- D Vertical Design Elements on Either Side
- E Garage Doors Min. 2' Behind Front Porch or Entrance

f. Side-loaded Garages

Side-loaded garages configured in accordance with these guidelines may be closer to the street than the primary entrance to the dwelling, provided the garage facade facing the street includes compatible design features found on other building facades, including but not limited to:

i. Windows;
ii. Eaves;
iii. Overhangs;
iv. Decorative trim;
v. Material changes; or
vi. Other architectural features included for the sake of compatibility with the building's other facades.

g. Duplex Entrances

(AMENDED 10.20.20 UDOTA-03-20)

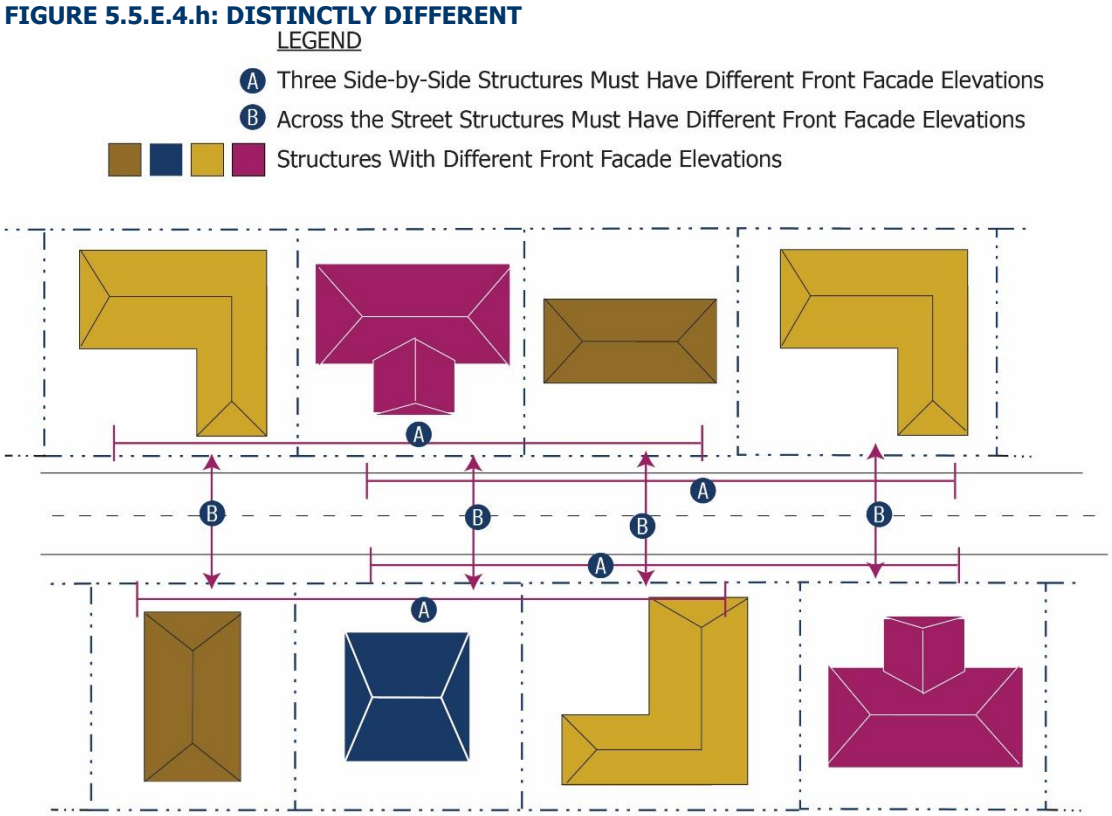
- **i.** A duplex structure shall be organized so as to give the appearance of being a large single-family detached home.
- **ii.** A single shared main entry door is strongly encouraged.
- **iii.** In no instance shall entry doors into separate units be located on the same side of the house.

h. Architectural Variability

(AMENDED 10.20.20 UDOTA-03-20)

- **i.** A continuous row of identical buildings along a block shall be prohibited. Each building shall include "distinctly different" front facade elevations within any single phase of the development such that:
  - **a)** No three structures that are side-by-side may have the same front facade elevation; and
  - **b)** No structures directly across the street from one another shall have the same front facade elevation (see Figure 5.5.E.4.h: Distinctly Different).

FIGURE 5.5.E.4.h: DISTINCTLY DIFFERENT



- **ii.** For the purposes of this section, "distinctly different" shall mean that a dwelling must differ from other adjacent and opposing dwellings in at least six of the following ways (see Figure 5.5.E.4.h.ii: Distinction Options):
  - **a)** A discernable exterior primary color variation, not a slight variation of a similar hue, such as beige or pastel;
  - **b)** Variation in exterior materials;
  - **c)** Use of two or more distinct variations in roof forms (e.g., gable, hip, shed, mansard, gambrel, flat, or other);
  - **d)** Variations in the number of building stories of at least one story;
  - **e)** Variation in the amount of habitable space by 400 square feet or more;
  - **f)** A change in the depth of the setback from the street which gives the dwelling its street address by 15 feet or more;
  - **g)** Changes in the type and color of roofing material on structures with pitched roofs;

h) The orientation of the longest building axis to the street the dwelling faces, whether parallel, perpendicular, or at an angle; or

i) The orientation of primary roof ridgeline to the street the dwelling faces, whether parallel, perpendicular, or at an angle.

FIGURE 5.5.E.4.h.ii: DISTINCTION OPTIONS

5.6. SIGNAGE

A. SECTION ORGANIZATION

1. These signage standards are comprised of eight subsections that address the purpose and intent of these regulations, the types of signage subject to or excluded from these regulations, the prohibited forms of signage, a subsection on general standards applied to all forms of signage subject to these regulations, a subsection on removal of dilapidated or obsolete signage, and a subsection that sets out a series of standards applied to each specific type of sign.
2. The subsection on general standards applied to all forms of signage (see Section 5.6.F General Standards Applicable to All Signs) addresses the following topics:
   a. Sign permit requirements;
   b. Distinctions for public art and murals;
   c. Allowance for signs in the right-of-way;
   d. Prohibited sign locations;
   e. How signage is measured;
   f. Changeable copy;
   g. Sign illumination;
   h. Structural configuration; and
   i. Maintenance of signage.
3. The subsection on standards applied to specific types of signs (see Section 5.6.J, Sign Standards by Sign Type) is organized into standardized tables that establish the standards for the following types of signs:
   a. Awning Signs;
   b. Banners;
   c. Electronic Message Boards;
   d. Flags;
   e. Ground (or monument or pedestal) Signs;
   f. Incidental Signs;
   g. Political Signs;
   h. Projecting Signs;
   i. Sidewalk Signs;
   j. Subdivision Signs;
   k. Supplemental Signs;
   l. Suspended Signs;
   m. Wall Signs; and
   n. Window Signs.

B. PURPOSE AND INTENT

This section provides guidance and standards for signage across the City's jurisdiction. The erection and maintenance of signs is controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on streets and sidewalks. These provisions are also intended to balance between the promotion of beneficial commerce and the protection of community character. More specifically, these standards are intended to:

1. Promote traffic safety;
2. Avoid interference with protected free speech;
3. Regulate the content of signs to the least extent possible and only when absolutely necessary to protect public health and safety;
4. Regulate off-premise signage in accordance with State law and federal jurisprudence;
5. Ensure that any content–based signage standards serve a compelling public purpose and are as narrowly-tailored as possible;
6. Promote economic development and beneficial commerce;
7. Ensure residents and visitors can locate desired goods, services, and destinations;
8. Avoid conflicts between advertising and public safety signage;
9. Reflect the aesthetic character and design quality anticipated in the City's adopted policy guidance; and
10. Minimize any detrimental effects of signage on adjacent properties.

C. APPLICABILITY

Except for the sign types exempted from these standards identified in Section 5.6.D, Exclusions, all signs shall be constructed, erected, affixed, placed, posted, painted, repainted, hung, or otherwise established only in accordance with the standards in this section and Section 2.4.R, Sign Permit.

D. EXCLUSIONS

(AMENDED 10.20.20 UDOTA-03-20); (05.04.21 UDOTA-02-21); (AMENDED 1.4.22 UDOTA-1-22)

The following forms of signage shall not be subject to these signage standards, but may be subject to other applicable standards in this Ordinance, such as the requirement to obtain a building permit. Applicants shall be responsible for securing all required permits prior to erecting or modifying any of the following forms of excluded signage:

1. Fence-wrap signs affixed to fences surrounding a construction site in accordance with the standards in Section 160D-908 of the North Carolina General Statutes;
2. Legal notices required by governmental bodies, public utilities, or civic associations;
3. Signage owned or maintained by any unit of government or public agency that includes, but is not limited to, flags, street signs, traffic warning signs, and other signage provided solely by governmental agencies for public health and safety;
4. Building cornerstones, historical plaques, or grave markers;
5. Signage associated with public transit stops;
6. Holiday displays on lots within all zoning districts;
7. Signage affixed to a motor vehicle or trailer, provided the motor vehicle or trailer is parked or stored on the same lot or site where the business being advertised is located;
8. Signage that is not visible from any off-site areas (e.g., entirely enclosed by opaque walls that prevent the visibility of signage from any off-site areas); and
9. Signage associated with off-street parking spaces or the prohibition of parking in certain locations like fire lanes, bus lanes, or loading zones.

E. PROHIBITED SIGN TYPES

(AMENDED 10.20.20 UDOTA-03-20); (05.04.21 UDOTA-02-21); (AMENDED 1.4.22 UDOTA-1-22)

The following signs, sign construction, and displays are prohibited throughout the City's jurisdiction:

1. Freestanding or pole signs where the sign face area is mounted on one or more poles in a manner where air or open space exists between the bottom of the sign face area and the surface of the ground beneath it, provided that this prohibition shall not apply to incidental signs configured in accordance with the applicable standards in Section 5.6.J, Sign Standards by Sign Type;
2. Except where allowed by Section 5.6.H, Shared Ground Sign, off-premise signs or signage that advertises goods or services provided on a different lot, tract, or site from where the sign is located, provided that this prohibition shall not apply to subdivision signs configured in accordance with the applicable standards in Section 5.6.J, Sign Standards by Sign Type;
3. Outdoor advertising, except for outdoor advertising lawfully established prior to November 1, 2019, which may be permitted to continue as a nonconforming use only in accordance with CHAPTER 9. NONCONFORMITIES, and Section 160D-912 of the North Carolina General Statutes;
4. Feather flags, bow signs, pennants, and streamers;
5. Moving signs, excluding flags, banners, and clocks;
6. Flashing, scrolling, twirling, or blinking signs;
7. Gas- or air-filled balloons, figures, and other inflatable signs;
8. Signs on the roof or above the parapet of a building;
9. Any sign which the Planning Director determines obstructs the view of bicyclists, pedestrians, or motorists using any street, approach to any street intersection, sidewalk, public trail, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal;
10. Signs, lights, rotating features, words, and other devices, which resemble or may be erroneously construed as traffic signals, traffic signs, or emergency vehicle lights;
11. Illuminated or highly reflective signs that law enforcement determines hampers the vision of motorists, pedestrians, or bicyclists;
12. Any sign which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress;
13. Any sign placed on a utility pole, street sign post, traffic signal support, hydrant, bridge, tree, aspect of public infrastructure, or street paving that is not installed or approved by an appropriate governmental agency;

14. Signage affixed to a stationary motor vehicle, boat, or trailer on a lot or site not occupied by the business being advertised. Nothing shall prohibit a motor vehicle, boat, or trailer with signage at a location while services are being provided at that location.
15. Signs with speakers intended for audio playback;
16. Unpainted plywood; and
17. Use of vinyl or fabric material over or around a cabinet sign frame.

F. GENERAL STANDARDS APPLICABLE TO ALL SIGNS

1. Sign Permit Required

a. Unless exempted by Section 5.6.D, Exclusions, or included in Section 5.6.F.2, Signs Not Subject to Sign Permit, all signs shall require issuance of a sign permit in accordance with Section 2.4.R, Sign Permit, prior to construction, installation, revision, or display.

b. Some signs may also require building and electrical permits in accordance with the North Carolina Building Code.

2. Signs Not Subject to Sign Permit

a. The following sign types shall not be required to obtain a sign permit, but shall comply with all applicable requirements in this section and this Ordinance:

i. The placement of one or more incidental signs, subject to the applicable standards in Table 5.6.J, Sign Standards by Sign Type;

ii. The placement of a supplemental sign, subject to the applicable standards in Table 5.6.J, Sign Standards by Sign Type; and

iii. Public art, subject to the standards in Section 5.6.F.3, Public Art.

b. Failure to comply with the standards for these sign types shall be a violation of this Ordinance subject to the provisions in Section 2.5, Enforcement.

3. Public Art

a. Distinguished from Signs

(AMENDED 1.4.22 UDOTA-1-22)

i. Painted or printed murals or other forms of public art shall not be considered as signage subject to these standards in cases where the art or mural does not incorporate a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or artwork. Public art shall be subject to the standards in Section 4.5.F.3, Art Installation.

ii. Any public art or mural that incorporates a direct or indirect reference to a tradename, trademark, or the name of the establishment associated with the mural or artwork shall be considered as signage subject to the standards in this section.

4. Signs in Street Rights-of-Way

a. Generally

No sign shall be permitted within a street right-of-way except in accordance with Section 5.6.F.4.b, Signs Allowed in the Right-of-Way.

b. Signs Allowed in the Right-of-Way

(AMENDED 10.20.20 UDOTA-03-20)

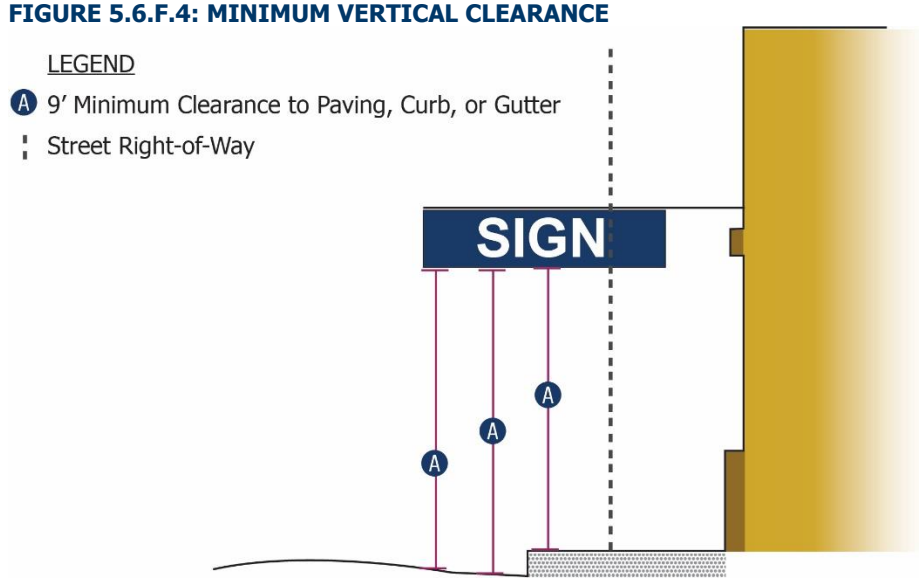
i. Only the following signs may be permitted in a street right-of-way:

a) Governmental signage erected by the City of Burlington;
b) Signage erected by NCDOT;
c) Emergency warning signage erected by a governmental agency, public utility, or contractor performing work within the right-of-way;
d) Signage in the CBD or PDD districts; and
e) Political signs.

ii. Except for sidewalks signs, signs permitted within a street right-of-way shall maintain a minimum vertical clearance of at least nine feet above the paving, curb, gutter, sidewalk, or grade, as appropriate (see Figure 5.6.F.4, Minimum Vertical Clearance).

iii. In the event the establishment or realignment of a street results in an existing sign becoming wholly or partially within the right-of-way in violation of these standards, the sign shall be removed at the expense of the person or agency establishing or realigning the street.

FIGURE 5.6.F.4: MINIMUM VERTICAL CLEARANCE



c. Removal of Illegal Signs in Right-of-Way and Public Properties

i. The Planning Director may remove any sign placed on public property or within any public right-of-way in violation of this Ordinance.

ii. Signage determined to be in violation of this Ordinance and removed from public property or a public right-of-way shall be discarded.

iii. Penalties may be levied for each such illegal sign as prescribed Section 2.5, Enforcement.

5. Prohibited Locations

a. In no instance shall a sign or sign support structure be located within the following areas:

i. Within five feet of the street right-of-way, except as allowed in Section 5.6.F.4, Signs in Street Rights-of-Way;

ii. Sight distance triangles, unless required by NCDOT;

iii. Required open space set-asides; or

iv. Within a recorded access or drainage easement.

b. Nothing shall limit the placement of a sign or sign support structure within a required zoning district setback, provided it complies with the applicable standards in this section and does not interfere with landscaping materials required by Section 5.3, Landscaping.

6. Measurement

Sign face area, maximum sign height, and other measurement standards pertaining to signage are determined in accordance with the standards in Section 8.3.M, Signage Measurement.

7. Changeable Copy

(AMENDED 10.20.20 UDOTA-03-20)

Areas devoted to changeable copy on a sign shall be subject to the following standards:

a. Changeable copy areas may only be located on ground or wall signs;

b. No more than 50 percent of the sign face area may be devoted to changeable copy area;

c. As a means of avoiding distractions for drivers, bicyclists, and pedestrians, the display of changeable copy shall not change more than once per minute;

d. Outdoor advertising signs shall not include areas devoted to changeable copy;

e. Signage copy shall not be animated, and shall not blink, scroll, flash, or have other moving effects. This provision shall not restrict the copy from changing from one message to another.

8. Illumination

Where authorized, signs may only be illuminated in accordance with the following standards:

a. Generally

i. Illuminated signs shall obtain a building permit and be configured in accordance with North Carolina Building Code, applicable electric code, and the adopted fire code.

ii. All wiring to ground, pole, or other freestanding signs erected after November 1, 2019, shall be located underground.

b. Internal Illumination

i. Internally illuminated signs are prohibited within all residential districts.
ii. Signs facing residentially zoned lots or lots used solely for residential purposes shall not be internally illuminated. Nothing shall require a pre-existing internally illuminated sign to be removed if the lot it faces becomes used solely for residential purposes.

c. Indirect or External Illumination

i. All external or indirectly illuminated signs shall illuminate only the face of the sign and shall not shine directly into or create glare on a right-of-way or residential use.
ii. Indirect or externally illuminated signs shall comply with the standards in Section 5.7.H, Maximum Illumination Levels.

d. Flashing or Intermittent Lights Prohibited

i. Flashing lights are prohibited.
ii. Sign illumination shall not vary in degrees of brightness or intensity.

9. Structural Configuration

All signs and sign supporting structures shall be constructed and designed according to generally accepted engineering practices to withstand wind pressures and load distribution as specified in the current North Carolina Building Code.

10. Maintenance Required

a. All signs and sign supports shall be maintained in good repair.
b. In the event a sign or sign support is poorly maintained or becomes unsafe, the Planning Director shall notify the sign owner of the condition in writing, and the sign owner shall take whatever action is required to maintain public safety.
c. Failure to correct the unsafe condition is a violation of this Ordinance and shall be subject to the remedies in Section 2.5.I, Remedies.

G. REMOVAL OF DILAPIDATED OR OBSOLETE SIGNS

1. Dilapidated Signs

a. Dilapidated signs shall be removed or repaired by a landowner or other responsible party in accordance with the requirements described in a notice of violation by the Planning Director.
b. An existing sign shall be considered dilapidated if it:

i. Is in disrepair or exhibits a state of being broken or neglected;
ii. Fails to maintain its form as originally constructed or permitted;
iii. Fails to perform its intended function;
iv. Suffers from support pole or structural failure;
v. Has borders that are falling off or are already removed;
vi. Has panels that are missing or that have fallen off;
vii. Has its message falling off or in a state of disrepair such that it cannot be interpreted by the motoring public; or
viii. Is overgrown by vegetation.

2. Obsolete Signs

a. Permanent Signs

(AMENDED 10.20.20 UDOTA-03-20)

i. Permanent signs identifying business establishments that are no longer in operation shall be removed from the premises within 180 days from the date of termination.
ii. In cases where the cabinet associated with an obsolete sign is removed, all sign supports, sign framework, mounting hardware, or similar features shall also be removed.
iii. In cases where a sign cabinet is left in place, the cabinet shall include blank or permanently obscured sign faces.

b. Supplemental Signs

i. Supplemental signs advertising shows, displays, meetings, or similar events shall be removed within three days from the date the event is completed.

ii. Removal of supplemental signs shall include removal of any frames, supports, or hardware used exclusively for the display of signage.

3. Pole Signs

(AMENDED 10.20.20 UDOTA-03-20)

Establishment of new ground signage or an electronic message board on a lot with an existing pole sign shall comply with the standards in Section 9.5.D, Replacement of Nonconforming Signage.

4. Failure to Remove Signage

Failure of an owner to remove an obsolete or dilapidated sign may result in removal of the sign at the owner's expense following provision of written notice to the owner by the Planning Director.

5. Inspection

If, through inspection, the Planning Director determines that a sign or sign supporting structure does not comply with the provisions of these regulations, the City shall take action in accordance with the standards in Section 2.5, Enforcement.

6. Nonconforming Signage

Nonconforming signage shall be subject to the standards in Section 5.6.G.6, Nonconforming Signage, and Section 9.5, Nonconforming Signs.

H. SHARED GROUND SIGN

(AMENDED 10.20.20 UDOTA-03-20)

Up to one ground sign may be shared by non-residential or mixed use developments on two or more different lots in accordance with the following:

1. All the principal structures, lots, and site features of the uses sharing the ground sign shall be depicted on one shared site plan or planned development master plan;
2. The site plan or planned development master plan identifies the shared ground sign's general location;
3. The shared ground sign is located on one lot within the development depicted on the site plan or planned development master plan;
4. The lots sharing the ground sign are abutting or adjacent to one another, or share a common vehicular access system;
5. The lots sharing a ground sign are not located across a public street from one another;
6. The shared ground sign complies with the ground sign standards applicable to the lot where the sign is located, including the limitation of no more than one ground sign per lot; and
7. Only one lot within a development subject to the site plan or planned development master plan depicting a shared ground sign shall have a ground sign.

I. NONCONFORMING SIGNAGE

1. Lawfully established nonconforming signage may remain in place after November 1, 2019, in accordance with the standards in Section 9.5, Nonconforming Signs, or Section 5.6.G, Removal of Dilapidated or Obsolete Signs, as applicable.
2. After November 1, 2019, all lots shall comply with the incidental, window, and supplemental signage requirements in this section.

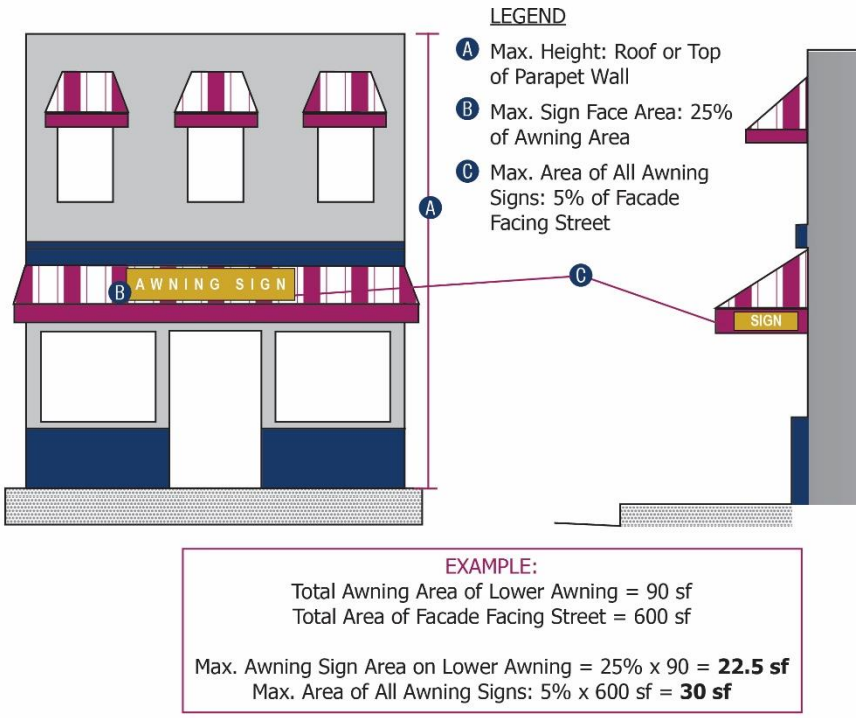
J. SIGN STANDARDS BY SIGN TYPE

Table 5.6.J, Sign Standards by Sign Type, sets out the standards applicable to each sign type regulated by this Ordinance.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

1. Awning Sign

(AMENDED 1.4.22 UDOTA-1-22)



a. Definition	A sign that is part of or attached to an awning, canopy, or other protective canvas, plastic, or metal cover affixed to a building and located over a door, entrance, window, or other outdoor area. Colors, stripes, or patterns on an awning's surface shall not be considered as signage.						
b. Zoning Districts Where Permitted	**RESIDENTIAL & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**INDUSTRIAL & CI**
	No	Yes	No	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Awning Signs per Lot	1 per every ten linear feet of building façade facing a street [1]
Maximum Height	Under the roof or top of a parapet wall [2]
Maximum Sign Face Area per Individual Awning Sign	25 percent of the awning area upon which it is located, including the drip flap, if provided
Maximum Sign Face Area of all Awning Signs per Lot	5 percent of each façade facing a street [1]

NOTES:
[1] Signage on umbrellas or shade structures associated with an outdoor dining area are not counted as awning signs and are exempted from the awning sign number and face area standards.
[2] Awning signs shall maintain a minimum height of at least eight feet above grade.

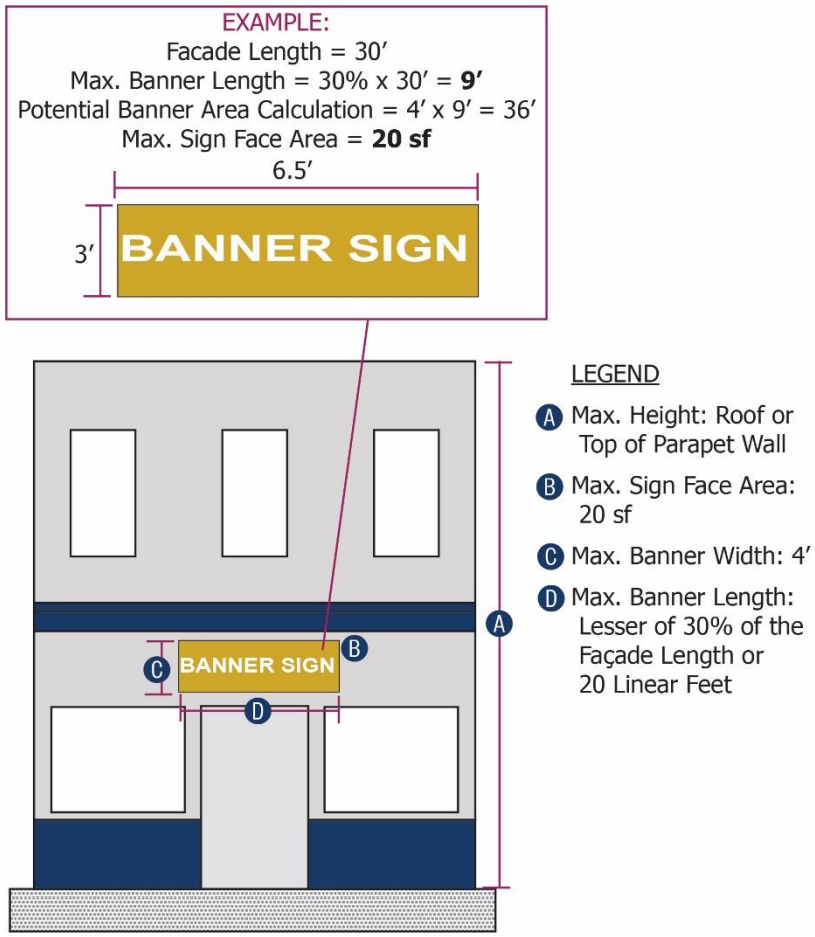
d. Additional Standards

i. Signage may be located on the drip flap, subject to the maximum sign face area standards.
ii. No awnings above the 3rd building story may be internally illuminated.
iii. Awning signs, when allowed within a street right-of-way, shall not project more than five feet into a right-of-way, nor closer than two feet from the curbline.
iv. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
v. An awning sign may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

2. Banner

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-1-22)



a. Definition	A sign made of a flexible fabric or plastic material that is affixed to a building or other vertical projection, except utility poles, but is not an awning sign or a flag. Feather flags and bow signs are not banners and are prohibited by this Ordinance.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	No	Yes	No	No	No	Yes	No

c. Dimensional Standards

Maximum Number of Banners per Lot	1 per use or non-residential tenant in a multi-tenant building [1]
Maximum Mounting Height	Below the roof or parapet [2] [3]
Maximum Sign Face Area per Individual Banner	20 square feet
Maximum Banner Length	Lesser of: 30% of the façade length or 20 linear feet
Maximum Banner Width	4 linear feet

NOTES:
[1] Maximum of 3 banners per multi-tenant site at any one time.
[2] When located over a street right-of-way, at least 18 feet above the street pavement and at least 9 feet above a sidewalk.
[3] When located on a fence, wall, or as a freestanding banner, a maximum height of 12 feet to the highest point. When located on a building wall, the banner shall not be mounted above the first floor.

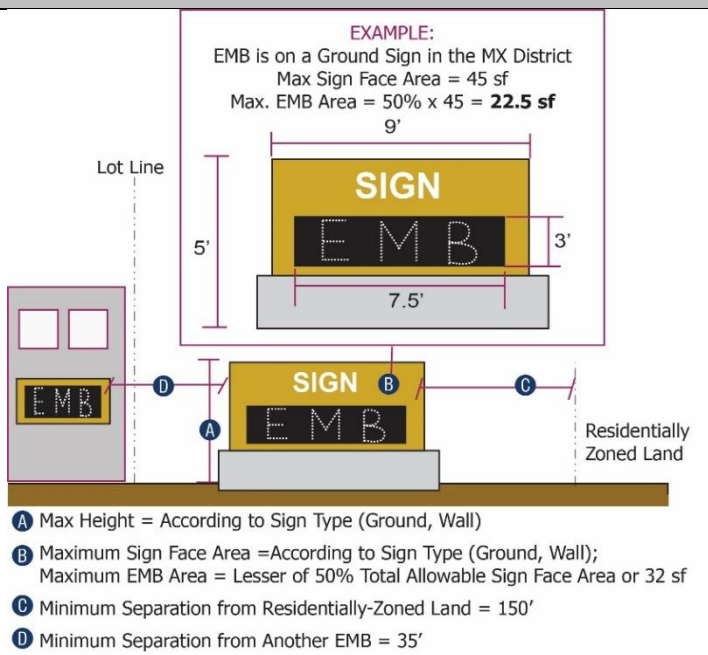
d. Additional Standards

i. Banners shall be adequately secured through the use of grommets, d-rings, brackets, or similar fastening devices.
ii. Banners over 9 square feet in size shall incorporate wind slits.
iii. Banners shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
iv. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
v. Except for open air uses of land, a banner may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

3. Electronic Message Board (EMB)

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-1-22)



a. Definition	A wall or ground sign, or portion thereof that electronically displays information that may or may not change. Sign content is displayed by light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices arranged in a matrix within the display area. Electronic message boards ("EMBs") do not display animation or imagery that appears to move.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	No	No	No	No	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of EMBs per Lot	One per lot or development
Minimum Separation of EMB from Residentially-Zoned Land	150 linear feet
Minimum Separation from Another EMB	35 linear feet
Maximum Height	In accordance with wall or ground sign standards, as appropriate [1]
Maximum EMB Face Area	In accordance with wall or ground sign standards, as appropriate [2]
Maximum Percentage of Total Sign Face Area Devoted to an EMB	Lesser of: 32 square feet or 50% of the total allowable sign face area for the type of sign proposed (i.e., wall, ground)
Minimum Static Hold Time Between Message Changes	1 minute [3]
Maximum Brightness	465 lumens per square foot during daytime hours
	70 lumens per square foot during dawn, dusk, and nighttime hours

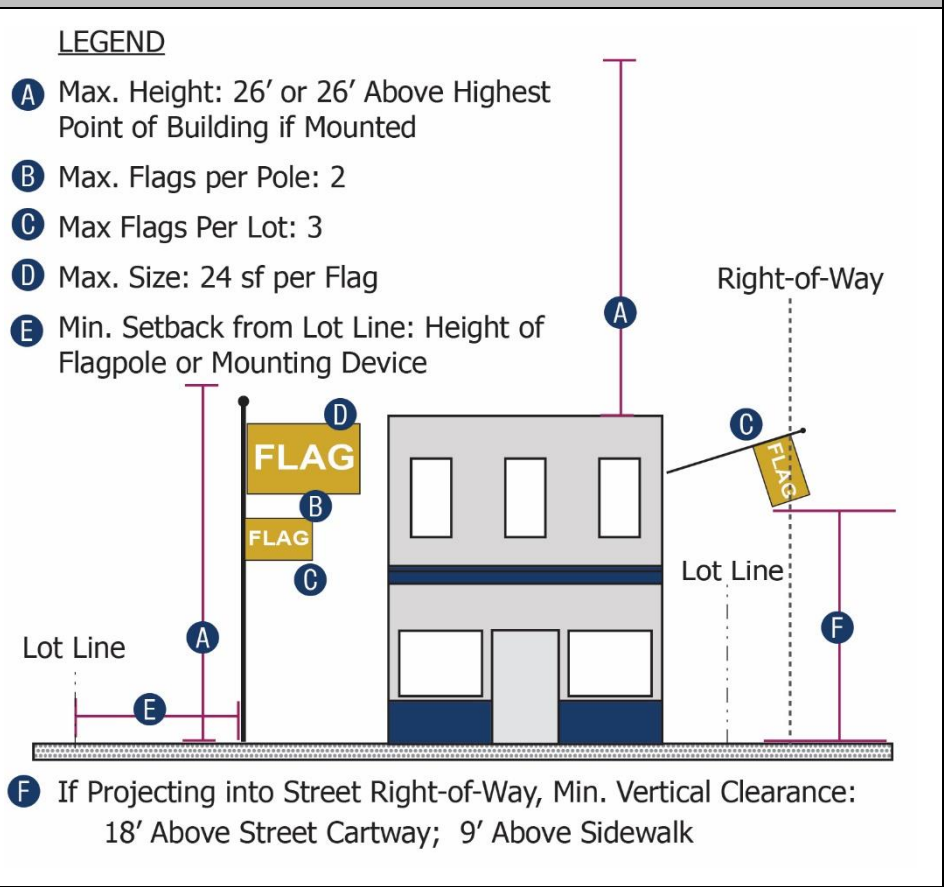
NOTES:
[1] In no instance shall an EMB extend higher than 30 feet above grade.
[2] The face area shall include all mounting hardware, framework, and sign supports.
[3] Transition between images shall take place within one second or less.

d. Additional Standards

i. EMBs may only be configured as a wall or ground sign, or portion thereof.
ii. EMBs may only be allowed as part of a permanent sign, not a temporary sign.
iii. Use of the terms "stop", "caution", or "danger" is prohibited on an EMB for reasons of public safety.
iv. Appearance of animation or message movement is prohibited.
v. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
vi. The owner or operator of an EMB shall attest to the installation of a power supply system that will power the EMB off after a power outage or other condition that causes the sign to blink, flash, or have the appearance of movement.
v. An EMB may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

4. Flags



a. Definition	A piece of cloth or similar material, typically rectangular or square in shape, that is attached to a pole or rope along the shorter side of the material. Flags flown by a governmental agency, located on land owned or operated by a governmental agency, or on a building owned or operated by a governmental agency are exempted from these standards. Flags affixed to two or more poles at the same time are subject to the standards for banners. Feather flags and bow signs are prohibited.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Flags per Lot	3
Maximum Mounting Height	25 feet above grade or 25 feet above the highest point of a building if building-mounted [1]
Maximum Number of Flags per Flag Pole	2
Maximum Size per Flag	24 square feet
Minimum Setback from any Lot Line for a Flagpole or other Mounting Device	The height of the flagpole or mounting device

NOTES:
[1] In cases where a flag projects out into a street right-of-way, the flag shall maintain a minimum vertical clearance of 18 feet above the street pavement and 9 feet above a sidewalk.

d. Additional Standards

i. Flags and flagpoles shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
ii. Except on lots in residential districts, flags on poles shall be located no more than 10 feet from the front building line.
iii. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.

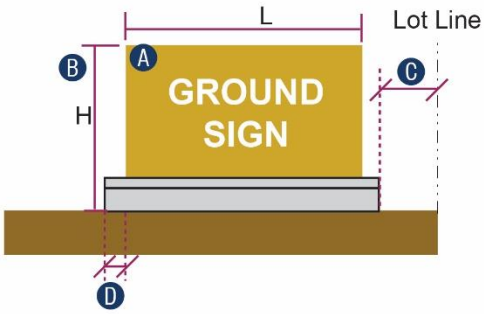
TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

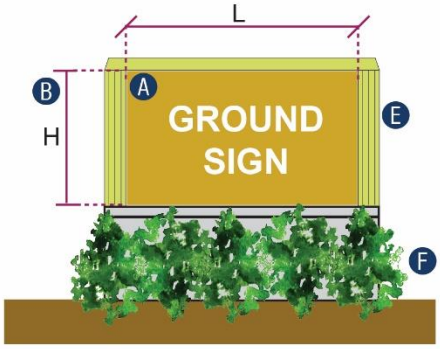
5. Ground Signs

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

LEGEND

- **A** Maximum Sign Face Area = LxH:
  12 sf in Residential Districts; 32 sf in OI and NB Districts
  48 sf in MX and CBD Districts; 150 sf in GB and Industrial Districts
- **B** 6′ Max. Height in Residential District; 15′ in Mixed-Use and Nonresidential Districts
- **C** 5′ Minimum Setback from Lot Line
- **D** 6″ Max. Foundation Base Extension
- **E** Allowable Architectural Embellishment
- **F** Evergreen Shrubs Forming Opaque Screen





a. Definition	Any sign, other than a pole sign, that is attached directly to the ground by means of a supporting system comprised of a solid pedestal, or other bracing system where there is no open space between the bottom of the sign face area and the ground. Ground signs are configured so that the base of the sign support structure is at least as wide as the sign face area. Ground signs may also be referred to as "pedestal" signs or "monument" signs. Any sign with an opening between the bottom of the sign's face area and ground or where the sign face area is wider than the sign support structure shall be considered as a pole or "freestanding" sign, which are prohibited. Ground signs are not mounted to a building wall, and are not located within a street right-of-way.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Ground Signs Per Lot	1 [1]	
Maximum Height [6] [7]	6 feet for lots in residential districts; 15 feet for lots in mixed-use and non-residential districts [2] [3] [4]	
Maximum Sign Face Area [5]	Lots in residential districts	12 square feet per sign [6]
	Lots in OI and NB districts	32 square feet per sign [6]
	Lots in MX and CBD districts	48 square feet per sign [6]
	Lots in GB, PD, PDD, and industrial districts	150 square feet per sign [7]
Minimum Setback from any Lot Line	5 feet [8]	

Minimum Separation between Ground Signs on Adjacent Lots	50 feet [9]

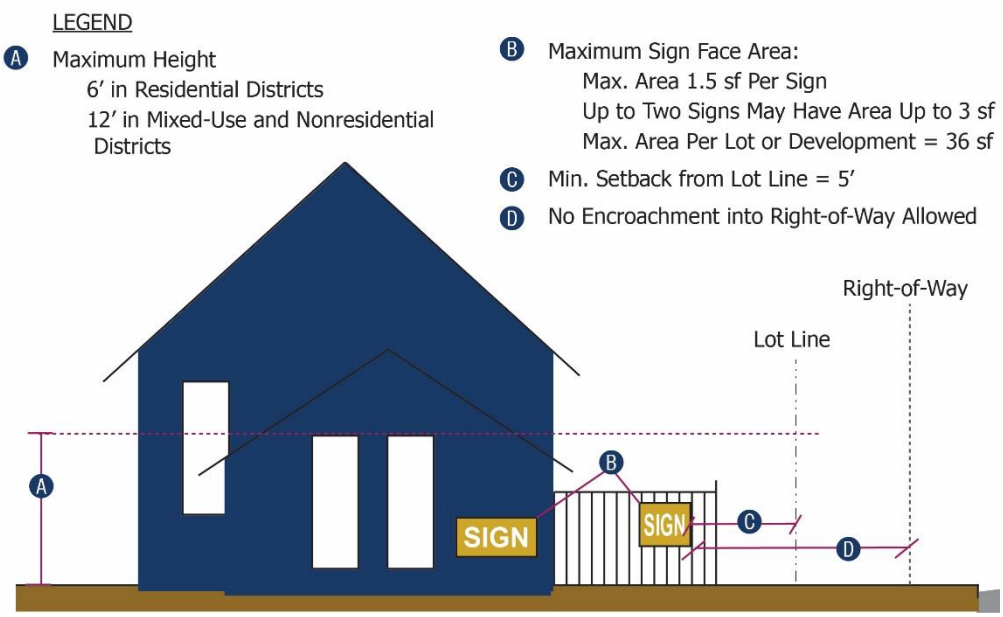
NOTES:
[1] Developments on corner lots of 2 acres in size or greater may have a ground sign for each roadway frontage.
[2] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street.
[3] In non-residential districts, the maximum height of a ground sign may be increased by 1 foot for every 10 feet of setback beyond the minimum applicable setback to a maximum ground sign height of 25 feet.
[4] The support structure shall be included within the measurement of the sign's maximum height.
[5] The maximum sign face area may be increased by 4 square feet for every 10 feet of setback beyond the minimum applicable setback to a maximum ground sign face area of 225 square feet.
[6] The following features may be excluded from the calculation of maximum sign height and maximum sign face area:
a. The first 36 inches in height of a sign's base when it is surrounded by evergreen shrubs configured as a fully opaque screen and sized in accordance with Section 5.3.F.3, Shrub Size and Variety.
b. Architectural embellishments along the side of the sign support structure, such as columns, pilasters, coping, or vertical design features with a maximum width of up to 1 foot, provided such embellishments do not include advertising copy.
c. Architectural embellishments along the top of the sign support structure, such as caps, cornices, coping, eaves, or horizontal design features with a maximum height of up to 1 foot and a maximum projection of up to 6 inches beyond the sign face, provided such embellishments do not include advertising copy.
[7] The following features may be excluded from the calculation of maximum sign height and maximum sign face area:
a. The first 36 inches in height of a sign's base when it is surrounded by evergreen shrubs configured as a fully opaque screen and sized in accordance with Section 5.3.F.3, Shrub Size and Variety.
b. Architectural embellishments along the side of the sign support structure, such as columns, pilasters, coping, or vertical design features with a maximum width of up to 1½ feet, provided such embellishments do not include advertising copy.
c. Architectural embellishments along the top of the sign support structure, such as caps, cornices, coping, eaves, or horizontal design features with a maximum height of 18 inches and a maximum projection of up to 6 inches beyond the sign face, provided such embellishments do not include advertising copy.
[8] Except within the CBD district, all portions of a ground sign shall be at least 5 feet from a street right-of-way.
[9] In cases where a ground sign is proposed and it is impossible to meet the minimum separation distance requirements from an existing ground sign, the proposed sign shall maintain the minimum street setback necessary to ensure an unimpeded view of the existing ground sign on an adjacent lot.

d. Additional Standards

i. Establishment of a new ground sign on a lot with an existing pole or freestanding sign shall require removal of the existing pole or freestanding sign prior to or concurrent with establishment of the ground sign.
ii. Ground signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
iii. A ground sign base may project outwards beyond the edge of the sign face or architectural embellishment by up to six inches on the front, rear, and each side of the sign.
iv. The sign face may project outwards beyond the edge of the ground sign base or architectural embellishment by up to six inches on the front, rear, and each side of the sign.
v. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
vi. In no instance shall the depth of a ground sign, including the sign base, architectural embellishments, and the sign face area exceed four feet.
vii. Ground signs shall not be located on the same lot as a single-family detached or duplex dwelling.
viii. Except for open air uses of land, a ground sign may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

6. Incidental Signs



a. Definition	Any small or nondescript sign that only provides directional information or safety information for the public. Examples of incidental signs include signs addressing on-site traffic circulation (such as "entrance" or "exit" signs), public safety (such as "high voltage" or "beware of dog" signs), or address signs.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards [1]

Maximum Number of Incidental Signs Per Lot	Lots with an existing single family detached dwelling, mobile home, or manufactured home	1 per principal structure
	Lots with a duplex, triplex, or quadriplex dwelling unit	1 per dwelling unit
	Single family attached dwelling	1 per dwelling unit
	Multi-family development	1 per building + 5
	Lots in a mixed-use or non-residential district	[2]
Maximum Height	6 feet for lots in residential districts; 12 feet for lots in mixed-use and non-residential districts [3]	
Maximum Sign Face Area	1½ square feet per sign [4]	
Total Incidental Sign Face Area per Mixed-use or Non-residential Lot or Development	20 square feet	
Minimum Setback from any Lot Line	5 feet [5]	

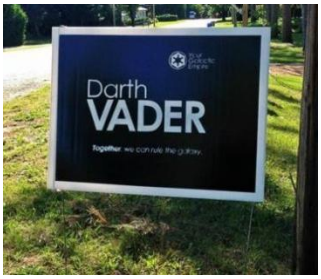
NOTES:
[1] Incidental signs that exceed the maximum height or sign face area shall be considered as a wall sign, ground sign, pole sign, or projecting sign, as appropriate.
[2] See total incidental sign face area per lot or development.
[3] Sign height shall be determined based on the grade immediately adjacent to the sign.
[4] Up to two incidental signs on any single lot may be up to three square feet in sign face area size.
[5] In no instance shall an incidental sign be located within a right-of-way, a sight distance triangle, or in locations that obstruct the safe movement of vehicles and pedestrians

d. Additional Standards

i. No sign permit shall be required for the establishment of incidental signs, but all incidental signage shall comply with the standards in this section.
ii. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.

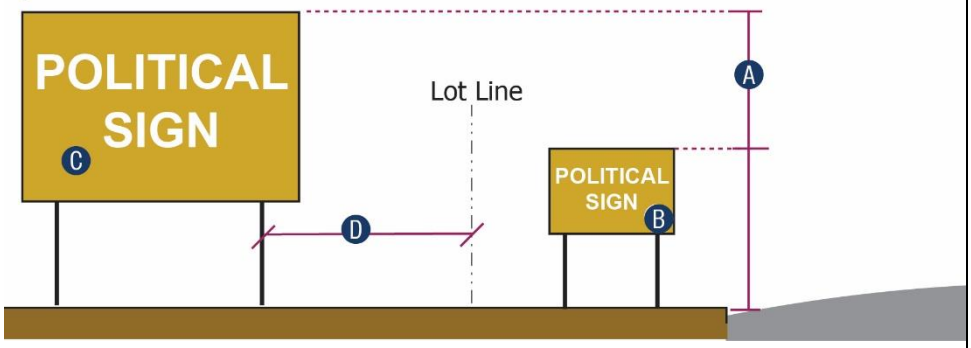
TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

7. Political Signs



LEGEND

- (A) Maximum Height = 60" Above Adjacent Grade When on an Individual Lot; 42" Above Pavement of Adjacent Roadway when in a Street Right-of-Way
- (B) Maximum Sign Face Area within ROW= 6 sf
- (C) Maximum Sign Face Area on a Lot= 32 sf
- (D) No Min. Setback from Lot Line



a. Definition	Any sign that advocates for a particular political candidate, party, position, or political action that is made available for view by the public before and during the portion of a calendar year when elections are underway as described in Section 136-32 of the North Carolina General Statutes. Political signs are also referred to as "campaign" signs or "election" signs. Signs of a political nature that are placed on private property outside the period of time when elections are underway shall be considered as an incidental sign.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Political Signs Per Lot	6 [1]	
Maximum Height	In a right-of-way	42 inches above the edge of the pavement of the adjacent roadway
	On an individual lot	60 inches above adjacent grade
Maximum Sign Face Area	In a right-of-way	6 square feet per sign
	On an individual lot	32 square feet per sign
Minimum Setback from any Lot Line	None	
Minimum Separation between Political Signs	[2]	

NOTES:
[1] There is no limit on the number of political signs that may be placed within the right-of-way in front of a lot during the portion of the year when elections are underway provided the owner of the sign obtains the consent of the lot's owner to place the sign in front of the lot.
[2] No political sign may be placed in any manner that obscures another sign from view.

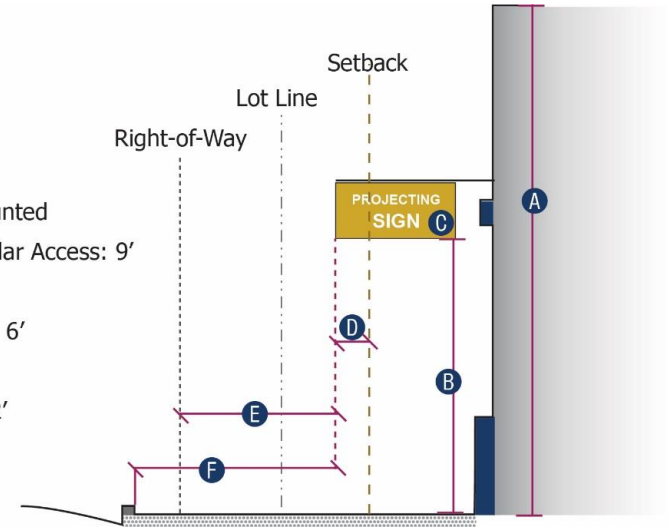
d. Additional Standards

i. Political signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
ii. Political signs may not be placed on utility poles or traffic control signal poles.
iii. Political signs may be placed in the right-of-way only during the period of time when elections are underway as identified in Section 136-32 of the North Carolina General Statutes.
iv. Political signs may not be illuminated.
v. Political signs found to be in violation of these standards or the applicable standards in Section 136-32 of the North Carolina General Statutes may be removed by the Planning Director.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

8. Projecting Signs

(AMENDED 1.4.22 UDOTA-1-22)



LEGEND

- **A** Max. Height: Wall on Which Sign is Mounted
- **B** Min. Clearance Over Sidewalk or Vehicular Access: 9′
- **C** Max. Sign Face Area: 40 sf
- **D** Max. Encroachment into Required Yard: 6′
- **E** Max. Projection into Right-of-Way: 36″
- **F** Minimum Distance from Back of Curb: 2′

a. Definition	Any sign that projects outward from a building's exterior wall where the sign face area is not parallel to the building wall upon which is mounted. Projecting signs are also referred to as "marquee" signs. Signs mounted to a building wall with sign face areas that are parallel to the building wall are considered "wall" signs. A sign comprised of fabric or similar material is a "flag" or a "banner" sign.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Projecting Signs Per Lot	One per building façade
Maximum Height	A projecting sign shall not project above the height of the wall it is mounted to [1]
Maximum Sign Face Area	40 square feet [2]
Minimum Setback from any Lot Line	A projecting sign shall not encroach into a required yard by more than 6 feet [3]

NOTES:
[1] Any projecting sign that projects into a right-of-way or that projects over a sidewalk or vehicular accessway shall maintain a minimum clearance of at least 9 feet above grade.
[2] Projecting signs with 3 sides may have up to 80 square feet of sign area.
[3] A projecting sign shall not project into a right-of-way by more than 36 inches, and shall maintain a minimum of two feet of horizontal distance from the back of the curb.

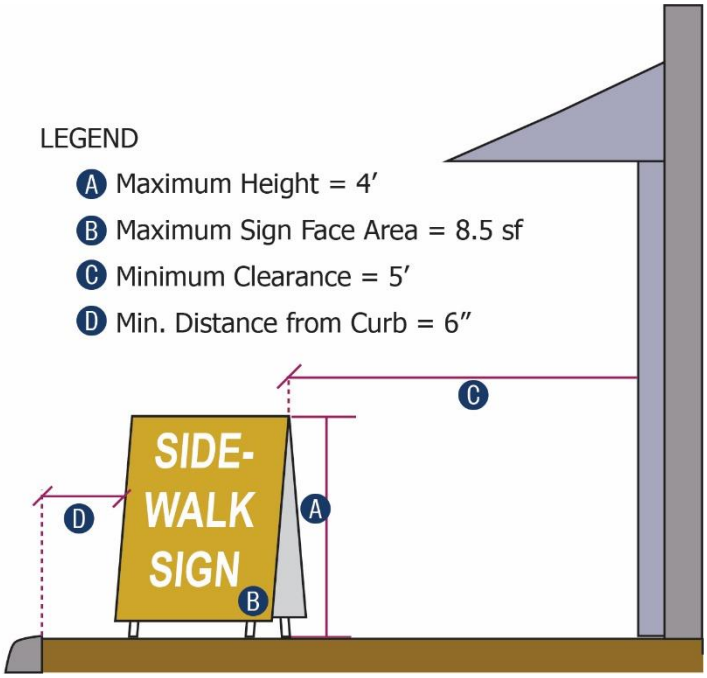
d. Additional Standards

i. Projecting signs of 1½ square feet in total sign area or less shall be considered incidental signs.
ii. Any electrical wiring shall be located within the sign or the wall it is affixed to.
iii. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
iv. Projecting signs shall not be located on the same lot as a single-family detached or duplex dwelling.
v. A projecting sign may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

9. Sidewalk Signs

(AMENDED 1.4.22 UDOTA-1-22)



a. Definition	A pedestrian-oriented movable sign that sits on the grade located proximate to the primary entrance of the non-residential or mixed use being advertised. Sidewalk signs are also referred to as "A-frame" signs or "Board" signs. The sign shall be self-supporting and only visible during operating hours. Sidewalk signs are configured with a broader base then a top or are equipped with supports to ensure they remain stable in normal wind conditions.

b. Zoning Districts Where Permitted [1]	**RESIDENTIAL & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**INDUSTRIAL & CI**
	No	Yes	No	Yes	Yes	Yes	No

c. Dimensional Standards

Maximum Number of Sidewalk Signs Per Lot	1 per street frontage, regardless of the number of tenants [1] [2]
Minimum Clearance Around Sidewalk Sign	5 feet [3] [4]
Maximum Height	4 feet
Maximum Sign Face Area	8.5 square feet
Maximum Number of Sidewalk Sign Sides	2
Maximum Distance from Primary Entrance of Use Being Advertised	25 linear feet

NOTES:
[1] Sidewalk signs may only be permitted on a sidewalk or on-site pedestrian walkway.
[2] Nothing shall limit the rotating of different sidewalk signs on an individual lot provided the total number of signs does not exceed the maximum.
[3] A sidewalk sign may only be placed in a manner that allows for unrestricted pedestrian access around all sides of the sign, and shall not be located within a disabled pedestrian access ramp, proximate to an accessible parking space, or within a sight distance triangle.
[4] A sidewalk sign shall be no closer than 6 inches from the curb.

d. Additional Standards

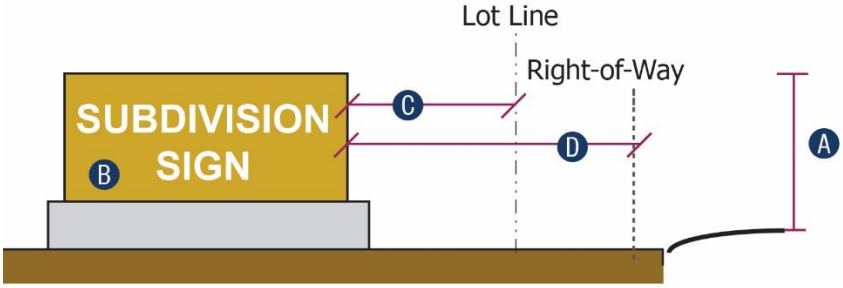
i. A sidewalk sign shall not be permanently attached to the sidewalk, signs, street trees, landscaping, bicycle rack, or any other fixtures on the sidewalk.
ii. Sidewalk signs may be located within the street right-of-way adjacent to lots in the CBD, MX, and PDD districts only.
iii. Each sidewalk sign shall be removed each day by the close of business.
iv. Sidewalks signs may include changeable copy.
v. Sidewalks signs shall not be illuminated.
vi. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
vii. Except for open air uses of land, a sidewalk sign must be associated with an adjacent principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

10. Subdivision Signs

LEGEND

- A 6′ Maximum Height
- B Maximum Sign Face Area = 32 sf (Support Structure Not Counted as Sign Area)
- C No Min. Setback from Lot Line
- D Minimum Setback from Right-of-Way = 5′



a. Definition

A ground sign located at the entrance to a subdivision consisting of two or more lots. Subdivision signs shall be located outside all street rights-of-way, and shall not be located on a lot with a principal building.

b. Zoning Districts Where Permitted

RESIDENTIAL & CR	MX & PD	OI & COI	NB	GB & CB	CBD & PDD	INDUSTRIAL & CI
Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Subdivision Signs Per Development	1 per development entrance
Maximum Height	6 feet [1]
Maximum Sign Face Area	32 square feet [2] [3]
Minimum Setback from any Lot Line	None
Minimum Setback from Right-of-Way	5 feet

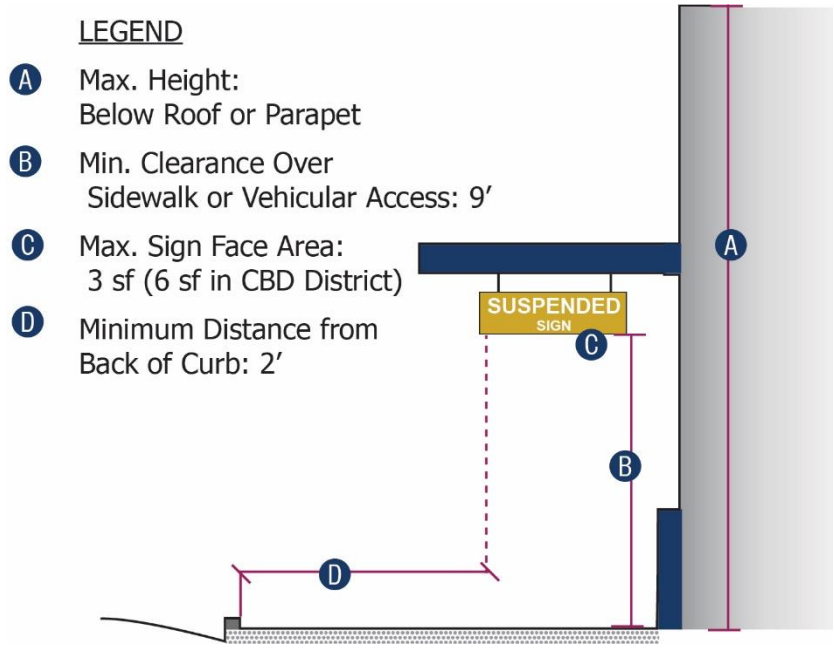
NOTES:
[1] Sign height shall be determined based on the higher of: the adjacent grade level or the grade level of the adjacent street.
[2] The support structure for a subdivision sign configured as a ground sign shall not be included with the calculation of the maximum allowable sign face area.
[3] Developments with 2 or more entries may have up to 64 square feet of subdivision sign provided that no single entry has a subdivision sign with a sign face area exceeding 32 square feet.

d. Additional Standards

i. Subdivision signs may only be configured as a ground sign.
ii. Subdivision signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
iii. Subdivision signs that are illuminated shall comply with the applicable limitations on glare in Section 5.7, Exterior Lighting.
iv. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

11. Suspended Signs



a. Definition	A sign that is suspended from the underside of a principal building's overhang or canopy that is intended for view by pedestrians or patrons already on a site. The sign may be parallel or perpendicular to the building wall. A sign that is not suspended from a canopy or overhang of a building is not a suspended sign. A sign mounted on a building wall parallel to the wall is a "wall" sign. A sign mounted on a building wall perpendicular to the building wall is a "projecting" sign. Signs visible through a window are "window" signs.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	No	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Projection Signs Per Development	1 per lot or 1 per tenant in a multi-tenant building
Maximum Mounting Height	Below the roof or parapet [1]
Maximum Sign Face Area	3 square feet; 6 square feet in the CBD district
Minimum Setback from any Lot Line	[2]

NOTES:
[1] Any suspended sign that projects into a right-of-way or that projects over a sidewalk, walkway, or vehicular accessway shall maintain a minimum clearance of at least 9 feet above the grade or the walkway.
[2] A suspended sign shall maintain a minimum of two feet of horizontal distance from the back of the curb.

d. Additional Standards

i. Suspended signs shall not project beyond the canopy or overhang they are mounted to.
ii. Suspended signs shall be flush mounted or drop mounted with metal pipe, chain, wire, or other comparable material and permanently affixed to the overhang or canopy where mounted.
iii. Suspended signs shall not be mounted to an accessory structure.
iv. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
v. A suspended sign may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

12. Supplemental Signs

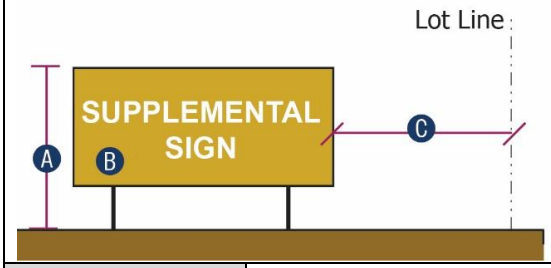
(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-1-22)

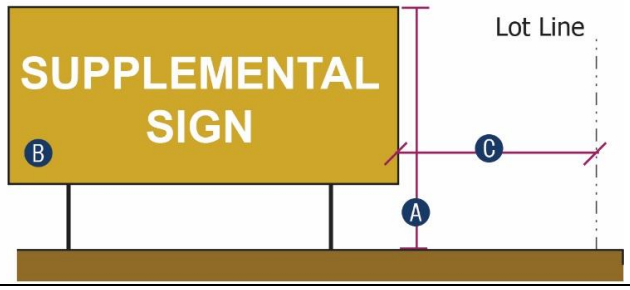
In Residential Districts

- A Maximum Height = 6′
- B Maximum Sign Face Area = 6 sf
- C Min. Setback from Lot Line = 10′

In Nonesidential Districts

- A Maximum Height = 12′
- B Maximum Sign Face Area = 20 sf
- C Min. Setback from Lot Line = 10′





a. Definition	Any sign that is not permanently affixed to the ground or a building which can be removed without special handling. Banners and incidental signs are not supplemental signs. Ideological signs are considered supplemental signs.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	Yes	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Supplemental Signs Per Lot	1 per lot; 1 per non-residential tenant in a multi-tenant development	
Maximum Sign Height [1]	Residential Districts	6 feet
	All Other Districts	12 feet
Maximum Sign Face Area [2]	Residential Districts	6 square feet
	All Other Districts	20 square feet
Minimum Setback	10 feet from the edge of payment [3]	

NOTES:
[1] Sign support structures shall be included in maximum sign height and face area.
[2] Signs visible through a window are also subject to the standards for window signs.
[3] Signs adjacent to a side or rear lot line shall be at least 10 feet from the lot line.

d. Additional Standards

i. Supplemental signs shall not require issuance of a sign permit and are not subject to a maximum duration.
ii. Supplemental signs shall not be located within a street right-of-way.
iii. Supplemental signs shall not be placed within required sight distance triangles or in locations that obstruct the safe movement of vehicles and pedestrians.
iv. Supplemental signs shall not include permanent modifications to a site or building.
v. Supplemental signs may not be illuminated.
vi. Supplemental signs shall not block windows or doors.
vii. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
viii. Supplemental signage associated with a temporary use shall be removed when the temporary use ends.
ix. A supplemental sign consisting of durable, UV resistant, professionally printed fabric stretched taught over an interior frame is permitted provided the sign does not show visible disrepair (fading, torn corners, etc.).

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

13. Wall Signs

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 05.04.21 UDOTA-02-21); (AMENDED 1.4.22 UDOTA-1-22)

Ⓐ Max. Height: Height of Building

Ⓑ Primary Facade Length

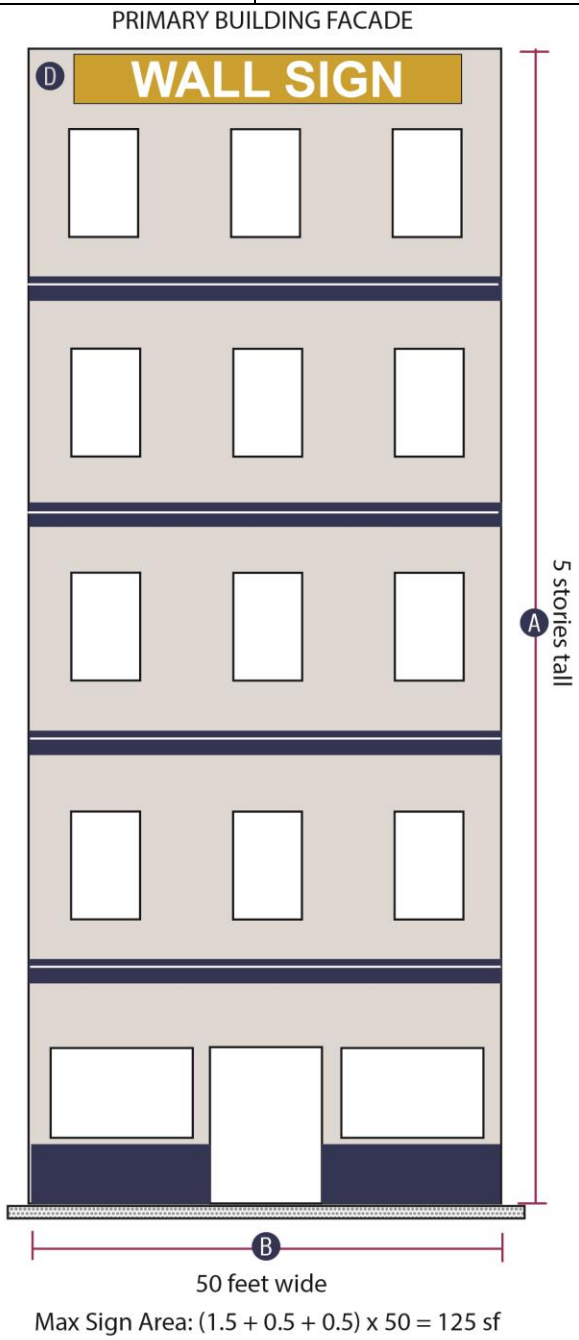
Max. Sign Face Area:

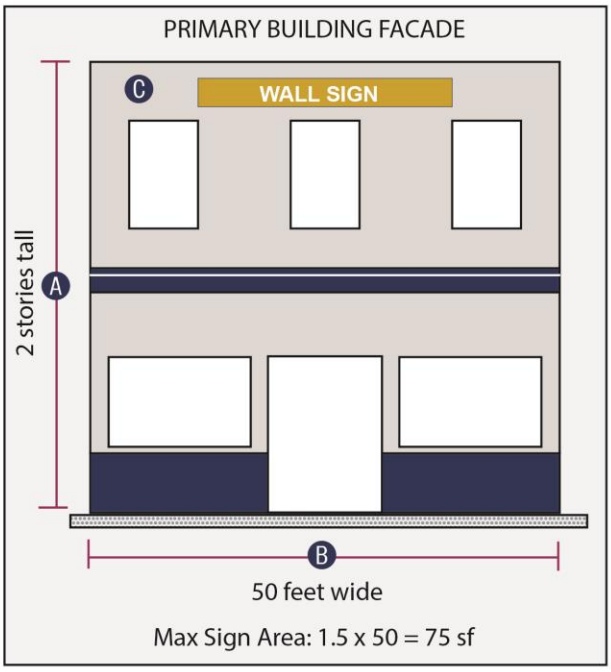
16 sf Residential Districts

32 sf OI and NB Districts

Ⓒ GB, CB, CBD, MX, PD, and Industrial Districts
Buildings up to 3 stories in height:
Lesser of: 1.5 sf area per linear foot of facade or 300 sf on primary building facade; + Lesser of: 1 sf area per linear foot of facade or 150 sf on secondary or tertiary building facade

Ⓓ Buildings of 4 or more stories in height:
Same as buildings up to 3 stories in height, but the maximum allowable sign area per linear foot of facade increases by 0.5 linear feet beyond 1.5 for each additional building story above 3 stories where the sign is located, up to the maximum allowed





[note: the linear foot number used in the equation is based on the story of the building where the sign is located - if the sign was on the 4th floor, the equation would be as follows: (1.5 + .05) x 50 = 100 sf even though the building has 5 stories]

a. Definition	Any sign, other than a projecting sign, that is mounted to or painted on an exterior building wall. Wall signs have only one sign face and are configured to be parallel to the building wall upon which they are located. Signs mounted perpendicular to a wall are "projecting" signs. Signs mounted from the ceiling of a building's canopy or overhang are "suspended" signs. Signs made of fabric or other material that moves are "banners" or "flags." Signs visible through a window are "window" signs.						
b. Zoning Districts Where Permitted	**RESIDENTIAL & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**INDUSTRIAL & CI**
	HDR only	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Signs and Maximum Sign Face Area

Zoning Districts	Type of Tenancy	Type of Façade [1]	Max. # of Signs/ Facade	Total Sign Face Area per Façade [2] [3]
GB, CB, CBD, MX, PD, PDD, CI, & Industrial	Single-tenant [4]	Primary	2	Lesser of: 1.5 sf/linear foot of building façade or 300 sf
	Single-tenant [4]	Secondary & Tertiary	1	Lesser of: 1 sf/linear foot of building façade or 150 sf
	Multi-tenant	Primary	1/tenant	Lesser of: 1.5 sf/linear foot of tenant wall frontage or 300 sf
	Multi-tenant	Secondary & Tertiary	1/tenant [5]	Lesser of: 1 sf/linear foot of tenant wall frontage or 150 sf
	Large Format Retail	Primary	4	Lesser of: 1.5 sf/linear foot of building façade or 300 sf
	Large Format Retail	Secondary & Tertiary	2	Lesser of: 1 sf/linear foot of building façade or 150 sf
OI, COI, & NB	Single-tenant	Primary [6]	1	32 sf
	Multi-tenant		1/tenant	
Residential & CR	All	Primary [6]	1	16 sf

Maximum Mounting Height	No wall sign shall extend above, below, or beyond the building wall to which it is attached [7]
Maximum Distance from a Building Corner or Multi-Tenant Boundary	Wall signs shall be no less than 18 inches from the outside corner of a building wall or from the boundary of a tenant's wall frontage on a multi-tenant building
Minimum Setback from any Lot Line	Same as the building [8]

NOTES:
[1] See Section 8.3.N, Building Façade Type, for building façade type determination.
[2] This is the total amount of allowable wall sign face area per façade of a single-tenant or a large format retail building, regardless of the number of individual wall signs on the façade. It is also the total amount of allowable wall sign face area per individual tenant wall frontage in a multi-tenant building (see Section 8.3.M, Signage Measurement, for determination of individual tenant wall frontage).
[3] The maximum allowable wall sign face area may increase by 0.5 sf per linear foot of façade for each additional building story above the third floor where the sign is placed.
[4] Does not include large format retail establishments.
[5] End units in a multi-tenant building may have a wall sign on a primary, secondary, and tertiary building façade.
[6] Wall signs not permitted on secondary or tertiary building facades.
[7] Wall signs that project into a right-of-way shall maintain a minimum vertical clearance of at least 9 feet above grade.
[8] Wall signs shall not project into a right-of-way by more than six inches.

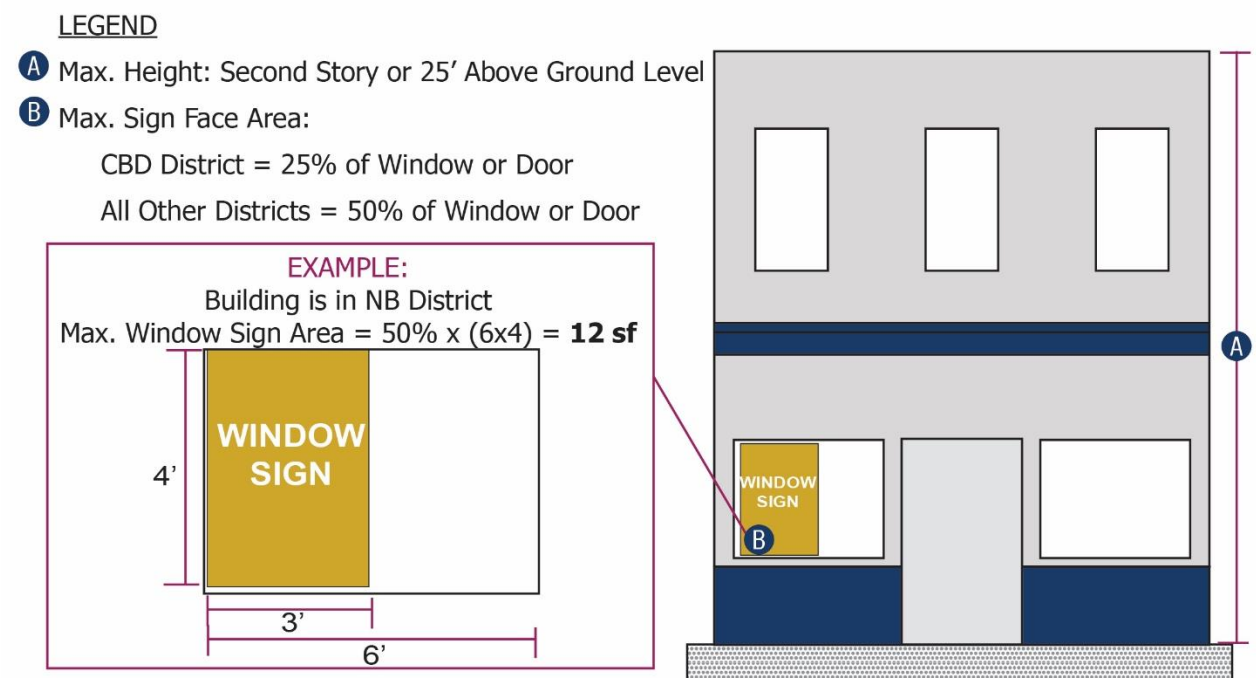
d. Additional Standards

i. No wall sign shall be located in a manner that covers or blocks ingress or egress from a door, window, or fire escape.
ii. Any electrical wiring shall be located within the sign or the wall it is affixed to.
iii. Wall signs on secondary or tertiary building walls abutting a residential use shall not be illuminated.
iv. Wall signs that are illuminated shall comply with the applicable limitations on glare in Section 5.7, Exterior Lighting.
v. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
vi. A wall sign may only be established on a lot with a principal structure.

TABLE 5.6.J: SIGN STANDARDS BY SIGN TYPE

14. Window Signs

(AMENDED 1.4.22 UDOTA-1-22)



a. Definition	A sign affixed to or visible through the surface of a window or glass door that is intended to be visible to the public from outside the building. Signs painted on glass and etched or frosted glass that includes text or symbols shall be considered as a window sign. Signs not visible from off-site areas are exempted from these standards. Signs mounted to a building's exterior wall are "wall" signs.

b. Zoning Districts Where Permitted	**Residential & CR**	**MX & PD**	**OI & COI**	**NB**	**GB & CB**	**CBD & PDD**	**Industrial & CI**
	No	Yes	Yes	Yes	Yes	Yes	Yes

c. Dimensional Standards

Maximum Number of Window Signs Per Development	No limit, subject to the maximum sign face area standards	
Maximum Mounting Height	Window signs are not permitted above the second story or higher than 25 feet above ground level	
Maximum Sign Face Area [1]	CBD district	25% of the outer extent of any single window or door [2]
	All other districts	50% of the outer extent of any single window or door [2]

NOTES:
[1] Groups of multiple windows or doors within six inches of one another on the same building façade shall be considered as one window or door for the purposes of sign face area calculation.
[2] Window signs shall not be located or configured in ways that prevent patrons operating doors safely.

d. Additional Standards

i. Window signs may not be externally illuminated.
ii. Material used to block views into a vacant building (such as brown paper) is not considered to be a window sign.
iii. Blinds, shades, or curtains bearing symbols or text that is visible from off-site areas shall be considered to be a window sign subject to these standards.
iv. Signage may be subject to additional standards identified in Section 3.20.D, Gateway Corridor Overlay (GCO) District.
v. A window sign may only be established on a lot with a principal structure.

5.7. EXTERIOR LIGHTING

A. PURPOSE AND INTENT

The purpose of this section is to establish standards for exterior lighting on individual lots to help ensure the safety of motorists and pedestrians traveling on streets, sidewalks, and trails, and to minimize the potential for adverse impacts on properties from excessive light intensity, light trespass, and glare originating on adjacent lots.

B. APPLICABILITY

1. General

(AMENDED 1.4.22 UDOTA-1-22)

The provisions of this section shall apply to all multi-family, single-family attached residential, mixed-use, and non-residential development unless exempted in accordance with Section 5.7.C, Exemptions.

2. Expansion or Remodeling

All expansions or remodeling of principal buildings, parking areas, or open uses of land shall comply with these standards, subject to the requirements in Section 9.6, Nonconforming Site Features.

C. EXEMPTIONS

(AMENDED 1.4.22 UDOTA-1-22)

The following forms of exterior lighting or activities are exempt from the requirements of this section:

1. Special events and holiday displays;
2. Exterior lighting used exclusively for recreational activities, concerts, plays or other outdoor events that are open to the public, provided that the event or function meets all other applicable requirements of this Ordinance. Such lighting shall be located at least 50 feet from any adjoining residential district or use and shall not be illuminated except during the activity and brief periods immediately before and after the event;
3. FAA-required lighting on buildings, towers, or other structures;
4. Interior lighting for stadiums, arenas, and similar facilities;
5. Security lighting controlled and activated by motion sensor devices that is shielded or aimed towards the ground and that remains lit for a duration of 10 minutes or less;
6. Public street lighting;
7. Lighting of flags;
8. Temporary lighting necessary for construction or emergencies, used by construction workers or emergency personnel; and
9. Exterior lighting associated with single-family detached and duplex dwellings, except that these forms of development shall be subject to Section 5.7.E, Prohibited Lighting.

D. TIMING OF REVIEW

Review for compliance with the standards of this section shall occur as part of the review of an application for a site plan or building permit, as appropriate.

E. PROHIBITED LIGHTING

The following forms of exterior lighting shall be prohibited:

1. Traffic Control Signals

a. Lighting that imitates an official highway or traffic control light or sign;
b. Lighting in the direct line of sight with any traffic control light or sign;

2. Flashing or Revolving

Flashing, revolving, or intermittent exterior lighting visible from any lot line or street;

3. High Intensity Lighting

a. High intensity light beams, such as searchlights or laser lights, except when used by federal, State, or local authorities;
b. High intensity LED or neon lighting fixtures mounted around the interior or exterior of a window, door, or other architectural feature on a structure; or

4. Luminous Tube Lighting

Luminous tube lighting (e.g., neon, rope lighting, etc.) is prohibited on building exteriors and in configurations where it outlines a window or glass door from the inside of a structure.

F. LIGHTING PLAN

1. Applicability

a. An exterior lighting plan shall be required for all areas proposed for illumination that exceed 10,000 square feet in area.

b. Projects with multiple areas proposed to be illuminated (such as separate parking lots) shall submit a site lighting plan if the sum of the multiple areas exceed 10,000 square feet.

2. Elements to Include

Regardless of whether an exterior lighting plan is prepared, a site plan, or building permit application, as appropriate, shall indicate the following:

a. Exterior lighting fixture type;

b. Exterior lighting pole height;

c. Exterior lighting fixture shielding; and

d. A statement by the applicant that any proposed exterior lighting complies with the applicable requirements in this section.

3. Certification Required

Certification must be provided by the person preparing a lighting plan that the proposed development complies with the exterior lighting standards of this section.

G. EXTERIOR LIGHTING STANDARDS

All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

1. Shielding

a. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.

b. Under canopy lighting fixtures should be completely recessed within the canopy.

c. Wall packs shall be cut-off and wall-mounted floodlights shall be shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct light downward.

d. Exterior lighting fixtures located on private property and visible from a residential land use shall be configured so that the source of illumination (the bulb) is not visible from the residential land use (see Figure 5.7.G.1: Light Shielding).

FIGURE 5.7.G.1: LIGHT SHIELDING

LEGEND

- A Overhead Lighting Designed to Direct Light Downward
- B Under Canopy Fixture Completely Recessed
- C Wall Packs Cut-Off
- D Flood Lights Directed Downward
- E Light Source Not Visible From Residential Uses

2. Fixture Height

a. Lighting fixtures shall be a maximum of 30 feet in height within the parking lot and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas.

b. All light fixtures located within 50 feet of any single-family detached or duplex dwelling shall not exceed 15 feet in height.

3. Lamp Type

a. Incandescent, florescent, metal halide, light-emitting diode (LED), or color corrected high-pressure sodium lamps are permitted.

b. Non-color-corrected high pressure sodium lamps are prohibited.

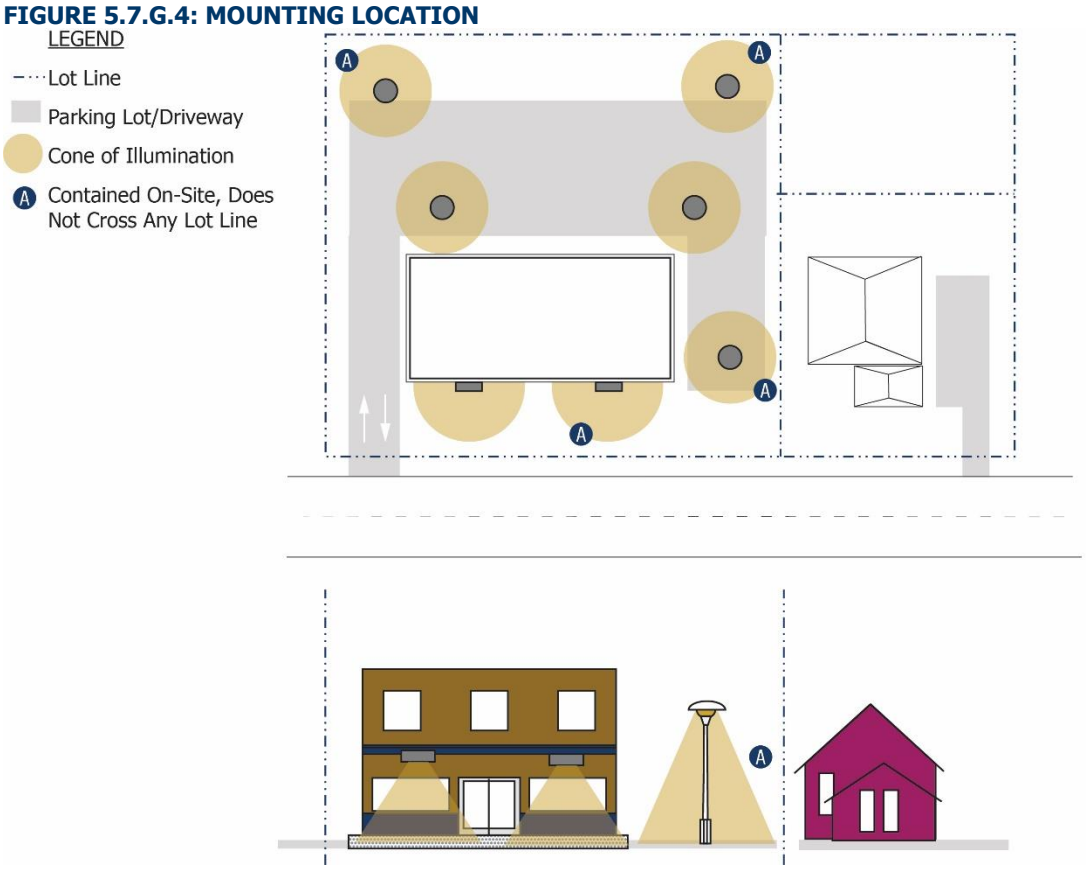
c. Other lamp types are allowed when the color emitted is similar to the permitted lamp types.

d. The same lamp type must be used for the same or similar types of lighting throughout a development.

4. Mounting Location

Exterior lighting shall be mounted and configured in such a manner so that the cone of illumination is contained on-site and does not cross any lot line around the perimeter of the site (see Figure 5.7.G.4: Mounting Location).

FIGURE 5.7.G.4: MOUNTING LOCATION



5. Appearance

a. Exterior lighting fixtures shall be designed as an integral element that complements the design of the project through compatible style, material, and color.

b. Exterior lighting fixtures shall be designed in a consistent and coordinated manner for the entire site.

H. MAXIMUM ILLUMINATION LEVELS

(AMENDED 1.4.22 UDOTA-1-22)

Exterior lighting shall be designed and located such that the maximum illumination measured in footcandles at ground level at any lot line shall not exceed the standards in Table 5.7.H, Maximum Illumination Levels.

TABLE 5.7.H: MAXIMUM ILLUMINATION LEVELS	
TYPE OF ABUTTING USE OR ZONING DISTRICT [1]	**MAXIMUM ILLUMINATION LEVEL AT THE LOT LINE (FOOTCANDLES) [2]**
Single-family residential or duplex use or land zoned for single-family development	1.0
Multi-family, single-family attached residential, or mixed-use development or land zoned for multi-family or mixed-use development	1.5
Institutional use [3]	2.0
Commercial or industrial use or land zoned for uses other than residential	2.5
NOTES: [1] These are the kinds of uses or zoning districts that abut the development. The maximum allowable illumination along any lot line shared with a single-family residential use is 1.0 footcandles, regardless of the type of use deploying the exterior lighting. [2] In cases where a single development occupies multiple lots, the lot line shall be the lot line(s) around the perimeter of the project. [3] Use types are organized by use classification in Table 4.2.C, Principal Use Table.	

I. NONCONFORMING LIGHTING

1. Lighting fixtures that do not comply with these standards that were lawfully established as of November 1, 2019, may remain, and shall be considered nonconforming structures.
2. Any modifications, replacement, or expansions to the exterior lighting facilities serving a development shall conform to the standards of this Ordinance.

CHAPTER 6. SUBDIVISIONS

6.1. Introductory Provisions **6-3**
A. How to Use These Standards 6-3
B. Purpose and Intent 6-3
C. Applicability 6-3
D. Exemptions 6-3
E. Compliance with Other Standards 6-3
F. Approval of Subdivision Plats Required 6-4
G. Recordation of Subdivision Plats Required 6-4
H. Issuance of Permits Following Plat Approval 6-4
I. Subdividing in Violation 6-4

6.2. Subdivision Design Standards **6-5**
A. Subdivision Name 6-5
B. Reasonable Relationship 6-5
C. Lot Configuration 6-5
D. Access to Lots 6-6
E. Monuments 6-6
F. Easements 6-6
G. Landscaping 6-7
H. Cluster Mailboxes 6-7

6.3. Streets **6-8**
A. Compliance with Guiding Documents 6-8
B. Street Classification 6-8
C. Street Rights-of-Way 6-9
D. Dedication and Construction 6-9
E. Payment in-Lieu of Providing Road Improvements 6-10
F. Private Streets 6-10
G. Street Design 6-10
H. Street Names 6-14
I. Street Drainage 6-14
J. Street Signs 6-14
K. Traffic Control Signs and Signals 6-15
L. Street Lights 6-15
M. Vehicular Gates 6-15
N. Bridges 6-15
O. Dams 6-15

6.4. Sidewalks **6-16**
A. Location 6-16
B. Configuration 6-16
C. Credit for Trails 6-16
D. Payment in-Lieu of Providing Sidewalks 6-16

6.5. Utilities and Infrastructure **6-17**
A. Potable Water Systems 6-17
B. Sewage Systems 6-18
C. Fire Protection 6-18
D. Underground Utilities 6-18

6.6. Greenways **6-19**
A. Required Greenway Dedication and Construction 6-19
B. Payment in-lieu of Providing Greenways 6-19
C. Greenway Configuration 6-19
D. Density Credits 6-19
E. Open Space Set-Aside Credits 6-19
F. Maintenance 6-19

6.7. Performance Guarantees **6-20**
A. Purpose and Intent 6-20
B. Eligible Facilities and Features 6-20
C. Ineligible Public Infrastructure 6-20
D. Maximum Term of Guarantee 6-20
E. Form of Guarantee 6-20
F. Administration of Guarantees 6-21
G. Amount of Guarantee 6-21
H. Expiration of Guarantee 6-22
I. Renewal of Guarantee 6-22
J. Release or Reduction of Guarantee 6-22
K. Improper Release of Performance Guarantees 6-22
L. Forfeiture of Guarantee 6-22
M. As-Built Plans Required 6-22

6.8. Fee-in-Lieu **6-24**
A. Fee in-Lieu of Required Sidewalk, Greenway, Bikeway, and Roadway Improvements 6-24

6.9. Owner Associations **6-25**
A. Purpose 6-25
B. Applicability 6-25
C. Creation Required 6-25
D. Responsibilities of Association 6-25
E. Procedure for Association Establishment 6-25
F. Documentation Requirements 6-26
G. Membership Requirements 6-26
H. Transfer of Maintenance Responsibility 6-26
I. Failure to Maintain Is a Violation 6-27

6.10. Conservation Subdivision **6-28**
A. Purpose and Intent 6-28
B. Applicability 6-28
C. Procedure 6-28
D. Conservation Subdivision Standards 6-29
E. Delineation of Conservation and Development Areas 6-30
F. Evaluation Criteria for Conservation Subdivision Layout 6-32

6.1. INTRODUCTORY PROVISIONS

A. HOW TO USE THESE STANDARDS

1. The standards in this section are applied to applications seeking to divide land into two or more lots. Some subdivisions of land are exempted from complying with these requirements (see Section 6.1.D, Exemptions), while others are subject to these standards.
2. Any activity, whether associated with a subdivision or a site plan application, shall be subject to applicable infrastructure standards in this Chapter.
3. Any applicant considering a subdivision of land should first determine if the subdivision is subject to or exempt from these standards. All subdivisions subject to these standards shall comply with the provisions in Section 6.2, Subdivision Design Standards, as well as any of the following applicable provisions.
4. Subdivisions (and site plans) that incorporate or rely on public infrastructure shall be subject to the various infrastructure-related provisions in this Chapter such as those in Section 6.3, Streets, Section 6.4, Sidewalks, Section 6.5, Utilities and Infrastructure, and Section 6.6, Greenways.
5. Lots within a proposed subdivision (or individual structures proposed as part of a site plan) may not be conveyed or occupied until all required public infrastructure is installed and accepted by the City or made subject to a performance guarantee posted by the applicant as a promise to complete all required public infrastructure in accordance with Section 6.7, Performance Guarantees.
6. Subdivisions (or individual developments established without a prior subdivision of land) that include land or infrastructure elements to be owned or operated in common by the owners of the development shall establish and operate an owners' association in accordance with the standards in Section 6.9, Owner Associations.
7. Where permitted in accordance with this chapter and CHAPTER 2. PROCEDURES, subdivisions may be configured as conservation subdivisions, which are intended to protect open space farmland, natural resources, and rural character in accordance with Section 6.10, Conservation Subdivision.

B. PURPOSE AND INTENT

The purpose of this section is to establish standards for the subdivision of land and extension of public infrastructure in the City's jurisdiction. More specifically, this section is intended to:

1. Provide for the orderly growth and development of the City;
2. Maintain conditions essential to the public's health, safety, and welfare;
3. Facilitate the further re-subdivision of larger tracts into smaller parcels of lands and individual lots, where appropriate;
4. Coordinate the provision of streets within and contiguous to proposed subdivisions;
5. Provide for the dedication or reservation of rights-of-way, and easements, in accordance with the City's adopted policy guidance; and
6. Ensure lots and public infrastructure are configured in ways that ensure public safety, easy maintenance, and good planning practice.

C. APPLICABILITY

Unless exempted in accordance with Section 6.1.D, Exemptions, any division of land consistent with the definition of a subdivision in Section 8.4, Definitions, that is located within the City's jurisdiction shall comply with the requirements of this section.

D. EXEMPTIONS

(AMENDED 10.20.20 UDOTA-03-20)

The following divisions of land shall be exempt from these subdivision standards:

1. Expedited subdivisions configured in accordance with Section 2.4.I, Expedited Subdivision;
2. Subdivisions exempted in accordance with Section 160D-802 of the North Carolina General Statutes; and
3. Court-ordered subdivisions that comply with Chapter 29 of the North Carolina General Statutes.

E. COMPLIANCE WITH OTHER STANDARDS

Subdivision subject to these standards in accordance with Section 6.1.C, Applicability, shall comply with the standards in this chapter as well as the applicable standards in:

1. CHAPTER 3. ZONING DISTRICTS;
2. CHAPTER 5. DEVELOPMENT STANDARDS; and

3. CHAPTER 7. ENVIRONMENT.

F. APPROVAL OF SUBDIVISION PLATS REQUIRED

No subdivision of land within the City's jurisdiction, as defined in Section 8.4, Definitions, shall occur, and no lot or parcel created by such division of land may be sold or developed unless the division complies with the standards of this Chapter as well as the applicable standards in Section 2.4.N, Preliminary Plat, or Section 2.4.K, Final Plat, as appropriate.

G. RECORDATION OF SUBDIVISION PLATS REQUIRED

1. Subdivisions of land subject to these standards shall be recorded in the office of the Register of Deeds for the county in which the development is located following approval of the plat by the City.
2. The owner of land or an authorized agent shall sign a statement on the plat prior to recordation that states whether or not all the land shown on the plat is within the City's jurisdiction.
3. No subdivision plat of land within the City's jurisdiction that is subject to these standards shall be filed or recorded until it has been approved by the City in accordance with Section 2.4.N, Preliminary Plat, or Section 2.4.K, Final Plat, as appropriate.
4. The Alamance County or Guilford County Register of Deeds shall not file or record a subdivision plat for land located within the City's jurisdiction without evidence that the division has been approved by the City, or is not subject to this Ordinance.

H. ISSUANCE OF PERMITS FOLLOWING PLAT APPROVAL

No street shall be accepted and maintained by the City, nor shall any water or sewer be extended or connected, nor shall any permit be issued for a building or other improvement, on land where a subdivision plat is required until the requirements set forth in this Chapter have been complied with.

I. SUBDIVIDING IN VIOLATION

(AMENDED 10.20.20 UDOTA-03-20)

1. Any owner of land (or their agent) who subdivides land in the City's jurisdiction, or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this Ordinance and recorded in the office of the Register of Deeds for Alamance or Guilford County shall be guilty of a Class I misdemeanor in accordance with Section 160D-807 of the North Carolina General Statutes.
2. The selling or transferring of land subject to these subdivision standards by any document other than a plat prepared subject to this Ordinance is a Class I misdemeanor in accordance with Section 160D-807 of the North Carolina General Statutes.
3. The City may enjoin any illegal subdivision, transfer, or sale of land by action for injunction in accordance with Section 2.5, Enforcement.

6.2. SUBDIVISION DESIGN STANDARDS

A. SUBDIVISION NAME

Every subdivision shall be given a name that shall not duplicate or be similar to that of any other subdivision existing or previously planned within the City's jurisdiction or the county in which the development is located.

B. REASONABLE RELATIONSHIP

All required improvements, easements, and rights-of-way (other than required reservations) shall substantially benefit the development or bear a reasonable relationship to the need for public facilities attributable to the new development.

C. LOT CONFIGURATION

1. Dimensional Requirements

(AMENDED 10.20.20 UDOTA-03-20)

a. The size, width, depth, shape, orientation, and minimum setback lines of lots shall be as required for the zoning district where located in accordance with the standards in CHAPTER 3. ZONING DISTRICTS.

b. All lots created after November 1, 2019, shall have sufficient area, dimensions, and access to allow a principal building to be erected on it in compliance with the requirements of this Ordinance.

c. Lots intended for non-residential development shall be of an adequate size and shape to accommodate required off-street parking, loading, landscaping, and on-site circulation features.

2. Side Lot Lines

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

3. Flag Lots

(AMENDED 10.20.20 UDOTA-03-20)

New flag lots may be established, subject to the following requirements:

a. No more than two flag lots may be created from a parent parcel after November 1, 2019;

b. New flag lots may only be established along existing streets;

c. The "pole," arm," or "pan handle" portion of a flag lot shall maintain a minimum width of at least 30 feet;

d. Use of a single driveway to serve an adjoining lot is encouraged. Wherever possible, the shared driveway shall be on the flag lot; and

e. In no case shall flag lots be configured to have two "poles," "arms," or "pan handles" on different lots adjacent to one another.

4. Double-Frontage Lots

a. Double frontage (or "through" lots) shall be prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific challenges of topography and orientation.

b. In cases where a double frontage lot abuts an arterial or collector street, access to the lot shall be provided from the street with the lowest average daily trips. This requirement may be waived by the Planning Director in cases where compliance with this standard will likely result in dramatic increases in traffic within residential areas.

c. A double frontage lot shall include an easement of at least ten feet in width across the rear of the lot which shall prohibit access to the abutting street.

5. Corner Lots

Corner lots shall be of sufficient size to ensure development may be configured in accordance with the standards in Section 5.2.G, Sight Distance Triangles.

6. Lots Served by Private Water or Wastewater Systems

(AMENDED 10.20.20 UDOTA-03-20)

The Alamance County or Guilford County Health Department shall evaluate proposed or existing sewer facilities on lots ten acres or less that are not served by governmental water and/or sewerage systems in accordance with the following:

a. New subdivision lots without existing sewer systems shall be evaluated by current state and Alamance or Guilford County Health Department regulations; and

b. New subdivision lots with existing sewer systems shall be evaluated for visual malfunctioning by the appropriate county health department. Malfunctioning systems shall be repaired prior to subdivision plat approval. New property lines shall meet current minimum setback requirements or an easement for the sewer facilities must be shown on the plat.

7. Lots Served by Private Water or Wastewater Systems in Watershed Areas

Lots in watershed areas that must have an individual (on-site) water supply and sewage disposal system shall be evaluated under current State and Alamance County or Guilford County Health Department regulations and/or other requirements governing the protection of public water supplies.

8. Drainage and Flood Prevention

New subdivisions shall comply with the applicable requirements for drainage in Section 7.5, Soil Erosion and Sedimentation, stormwater management in Section 7.4, Stormwater, and flood prevention in Section 3.20.C, Flood Hazard Overlay (FHO) District.

D. ACCESS TO LOTS

1. All lots subdivided after November 1, 2019, shall be provided with access to an existing street that has been accepted for maintenance by the State of North Carolina or the City of Burlington.

2. Streets providing access to lots shall be constructed in conformance with the standards and specifications of the City Engineering Department and/or the North Carolina Department of Transportation and dedicated in accordance with this Chapter.

E. MONUMENTS

Monuments shall be included as part of any subdivision, and shall be configured in accordance The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, and the following:

1. Markers shall be set at all lot corners, points of curvature, points of tangency, and at all points with a change in bearings; and

2. The location and type of all markers used shall be indicated on the final plat.

F. EASEMENTS

Easements for drainage or utilities may be required where necessary, and shall be provided in accordance with the following:

1. Locations

a. Such easements shall be placed along side or rear property lines where practicable.

b. Easements shall be centered along or be adjacent to a common property line, where practicable.

c. Redesign of the lot arrangements may be required to meet extreme conditions.

2. Utilities

a. Power or Communications

Where alleys are not provided, easements (of not less than ten feet in width) shall be provided adjacent to public rights-of-way or in such other locations as may be directed by the Planning Department or the City Engineer for poles, wires, or conduits for electrical utilities, natural gas service, or telephone services.

b. Potable Water

Easements of at least 20 feet in width, as centered on the pipe, shall be provided for public potable water supply systems in locations as may be directed by the Planning Department or the City Engineer for water distribution lines, water meters, and access points.

c. Sanitary Sewer

Easements of at least 30 feet in width, as centered on the pipe, shall be provided for public sanitary sewer systems in locations as may be directed by the Planning Department or the City Engineer for sewer collection lines and access points.

d. Easement Upsizing

The City Engineer may increase the easement widths for public water and sewer services based on the size of the line, the required depth of the line, or the need to remain clear of other utilities.

3. Drainage

a. Provision of drainage facilities to maintain the established flow of off-site water through any property to be subdivided shall be the responsibility of the subdivider.

b. No subdivision shall block or obstruct the natural drainage of an adjoining area.
c. Easements, when required for drainage of the area to be subdivided, shall be of such width as is necessary to permit proper construction and maintenance of the drainage facilities required to drain the area properly.
d. Open channel drainage easements shall be of a minimum width of 10 feet.
e. Drainage easements containing piped stormwater facilities shall be at least 20 feet in width.
f. The City Engineer may require drainage easements up to 50 feet in width as necessary in the public interest.
g. Easements of greater width may be required along the lines of or across lots where necessary for storm drainage, channels, surface overflow or for the extension of main sewers or similar utilities and when necessary for adequate separation of specific utilities.
h. Existing natural drainage shall be retained or adequately relocated.

4. Maintenance

a. All easements for drainage or utilities shall be cleared of undergrowth, trees, and other obstructions prior to approval of the final plat unless the City Engineer certifies in writing that such clearance is unnecessary.
b. Clearance is not required for easements that are provided for possible future use.
c. Easements for stormwater management facilities and stormwater drainage systems located outside the street right-of-way shall be maintained by an owner's association, and maintenance responsibility for these features shall be indicated on the final plat.

5. Identification

All easements shall be granted in favor of the City of Burlington, the State of North Carolina, the appropriate utility provider, an owners' association, as appropriate, and shall be shown and clearly labeled on the final plat.

G. LANDSCAPING

(AMENDED 3.17.20 UDOTA-02-20)

1. Subdivisions shall comply with the landscaping requirements in Section 5.3.J, Perimeter Buffers, as applicable.
2. Subdivisions that include new streets shall comply with the requirements in Section 5.3.K, Streetscape Buffers.

H. CLUSTER MAILBOXES

When cluster mailbox units are required by the US Postal Service, they shall be configured in accordance with the City of Burlington's Engineering Specifications and Standard Details Manual.

6.3. STREETS

A. COMPLIANCE WITH GUIDING DOCUMENTS

1. All streets and street-related infrastructure in the City's jurisdiction shall be installed and maintained in accordance with the City's adopted policy guidance, including, but not limited to the following:
   a. The Comprehensive Transportation Plan;
   b. The Functional Classification Map, as amended;
   c. The City of Burlington's Engineering Specifications and Standard Details Manual; and
   d. Any applicable North Carolina Department of Transportation requirements.
2. All streets and rights-of-way shall be constructed in accordance with the standards established for the particular type of street in question by the City of Burlington, unless a higher or more restrictive standard is established by NCDOT, in which case the street shall meet that higher or more restrictive standard.

B. STREET CLASSIFICATION

1. All streets dedicated to public use shall be classified in accordance with Table 6.3.B: Street Classification.

TABLE 6.3.B: STREET CLASSIFICATION

STREET TYPE [1] [2]	DESCRIPTION
Interstate	Interstates are the highest classification of arterials streets and are designed and are constructed with mobility and long-distance travel in mind. Access is controlled, intersections are grade-separated, and roadways are designed for high-speed travel. Roadways in this functional classification category connect the City to other destinations in the State and connect major activity centers in the City to one another. Interstates carry the highest traffic volumes.
Principal Arterial	These streets provide a high degree of mobility both within the City's urban areas as well as through neighboring rural areas. While principal arterials do provide direct access to adjacent land uses along their alignments, their primary function is to facilitate the movement of vehicles from one part of the City's jurisdiction to another. Principal arterials are found in the most urban or intense parts of the City and are generally not located within residential neighborhoods, office centers, or industrial parks. Vehicles move at moderate speeds and four-way intersections are often signal-controlled. These streets include at-grade intersections with other streets, but driveways to individual lots are kept to a minimum. The average number of vehicles trips can vary widely based on the urban or rural location of an arterial street.
Minor Arterial	Minor arterial streets connect principal arterial streets to one another and provide for vehicle trips of moderate length within geographic areas smaller than those served by principal arterials. Minor arterials help to distribute vehicle trips across the City and provide much more direct access to individual lots and land uses via driveways. Normally, the spacing of arterial streets should not exceed one mile in fully developed areas.
Major Collector	Major collector streets gather traffic from local streets and funnel it to the arterial street network. They serve as traffic circulators as well as facilitators of direct vehicular access to individual land uses such as multi-family residential, commercial, and industrial developments. Major collector streets may also serve larger single-family residential neighborhoods. Most vehicular trips on a major collector street are longer than three-quarters of a mile. Collector streets accommodate higher vehicle speeds than local streets and often have a blend of signalized and non-signalized intersections in addition to individual driveways for larger developments. In rural areas, major collectors often facilitate intra-county travel of distances shorter than those typical to an arterial street.
Minor Collector	Minor collectors also gather or collect traffic from local streets and connect it with the larger arterial street network. Most vehicular trips on minor collector streets are less than three-quarters of a mile. Typically, minor collector streets are

TABLE 6.3.B: STREET CLASSIFICATION	
STREET TYPE [1] [2]	**DESCRIPTION**
	shorter than major collectors, have fewer travel lanes, have a lower density of individual driveway access points, are designed for lower traffic speeds, and are spaced at greater intervals than major collectors. At the same time, the total lane mileage of minor collector streets in a community is typically greater than the total mileage of major collector streets.
Local	Local streets occupy the largest percentage of lane miles across all types of streets and primarily provide direct access to individual lots. Local streets are often configured to discourage through traffic, though local streets can also effectively disperse local traffic when configured as part of a highly-connected network offering multiple routes.
Cul-de-Sac	A dead-end local street that terminates in a vehicular turnaround.
Alley	A secondary street that provides direct access to a limited number of individual lots or land uses. In most cases, access is provided to the side or rear of the lot served by the alley.
NOTES: [1] The classification shall be based upon the function of the street and projected volume of traffic to be carried by the street, stated in terms of the number of trips per day. [2] The types of streets and their general locations are depicted on the Burlington-Graham Metropolitan Planning Organization's Functional Classification Map, as amended.	

2. New streets constructed in the City's jurisdiction shall be designated in accordance with Table 6.3.B: Street Classification.
3. Whenever a street within a new development continues an existing street that formerly terminated outside the development or it is expected that a new street will be continued beyond the development at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the development.

C. STREET RIGHTS-OF-WAY

All new streets established in the City's jurisdiction after November 1, 2019, shall include a minimum street right-of-way configured in accordance with the City of Burlington's Engineering Specifications and Standard Details Manual, and Table 6.3.C: Minimum Street Right-of-Way Requirements.

TABLE 6.3.C: MINIMUM STREET RIGHT-OF-WAY REQUIREMENTS	
TYPE OF STREET	**MINIMUM RIGHT-OF-WAY (FEET) [1] [2]**
Principal Arterial	80
Minor Arterial	70
Major Collector	60
Minor Collector	60
Local	50
Cul-de-Sac	50
Alley	20
NOTES: [1] The street right-of-way shall include curb and gutter, sidewalks, multi-use paths, bicycle lanes (where indicated), and associated utility strips. [2] Minimum rights-of-way may need to be wider to accommodate all forms of planned infrastructure in accordance with the City's adopted policy guidance.	

D. DEDICATION AND CONSTRUCTION

1. All lands associated with a street right-of-way shall be dedicated to the City or the State as a part of the development process in accordance with Section 136-66.10 of the North Carolina General Statutes.

2. The subdivider or developer shall be responsible for the construction and installation of all streets and infrastructure in accordance with the applicable development approval, NCDOT standards, the standards in this Ordinance, and any applicable State or federal requirements.
3. No road construction or improvements shall commence until a plan showing the proposed roadway improvements is approved by the Technical Review Committee in writing and an infrastructure permit is approved by the City Engineer.
4. All streets shall be improved to the full width, cross section, and profile, including paving, curb and gutter, and related improvements as specified in the development approval, this Ordinance, the City's adopted policy guidance, State or federal law, and any other applicable provisions.
5. Land associated with a street right-of-way shall not be credited towards allowable residential density in accordance with Section 8.3.F, Residential Density.

E. PAYMENT IN-LIEU OF PROVIDING ROAD IMPROVEMENTS

Only those proposed streets, bikeways, or other road improvements that may cause conflicts with other City, State, or federal infrastructure projects may be subject to the requirements for fee-in-lieu provision in accordance with Section 6.8, Fee-in-Lieu.

F. PRIVATE STREETS

(AMENDED 10.20.20 UDOTA-03-20)

1. New Private Streets Prohibited

All streets constructed, extended, or modified after November 1, 2019, shall be constructed, maintained, and operated in accordance with the standards for public streets. Private streets shall not be constructed as part of development within the City's jurisdiction.

2. Existing Private Streets

a. Neither the City of Burlington or NCDOT shall be responsible for maintenance of private streets existing on or after November 1, 2019.
b. Private streets may be marked with signage indicating where City or State maintenance responsibility stops.

G. STREET DESIGN

1. General Layout

a. The layout, arrangement, width, grade, character, and location of streets shall conform to the City's adopted policy guidance, topographic conditions, natural features, and drainage systems.
b. When a development abuts or contains an existing or proposed interstate or arterial, the Technical Review Committee may require frontage streets, reverse frontage lots with landscape plantings, or other treatment as may be necessary for adequate protection of residential properties and to ensure separation of through and local traffic.
c. Reserve strips or parcels controlling access to streets shall be prohibited, except where required as part of development on a double-frontage lot.

2. Compliance with Access and Circulation Standards

New streets and changes to existing streets located within a single lot or tract shall also be subject to the standards in Section 5.2, Access and Circulation.

3. Compliance with Transportation Impact Analysis Findings

In cases where new development is subject to a requirement to prepare a transportation impact analysis in accordance with Section 2.4.X, Transportation Impact Analysis, all streets and street-related infrastructure shall comply with the findings of the analysis.

4. Street Intersections

Street intersections shall be configured in accordance with the following standards (see Figure 6.3.G.4: Street Intersections):

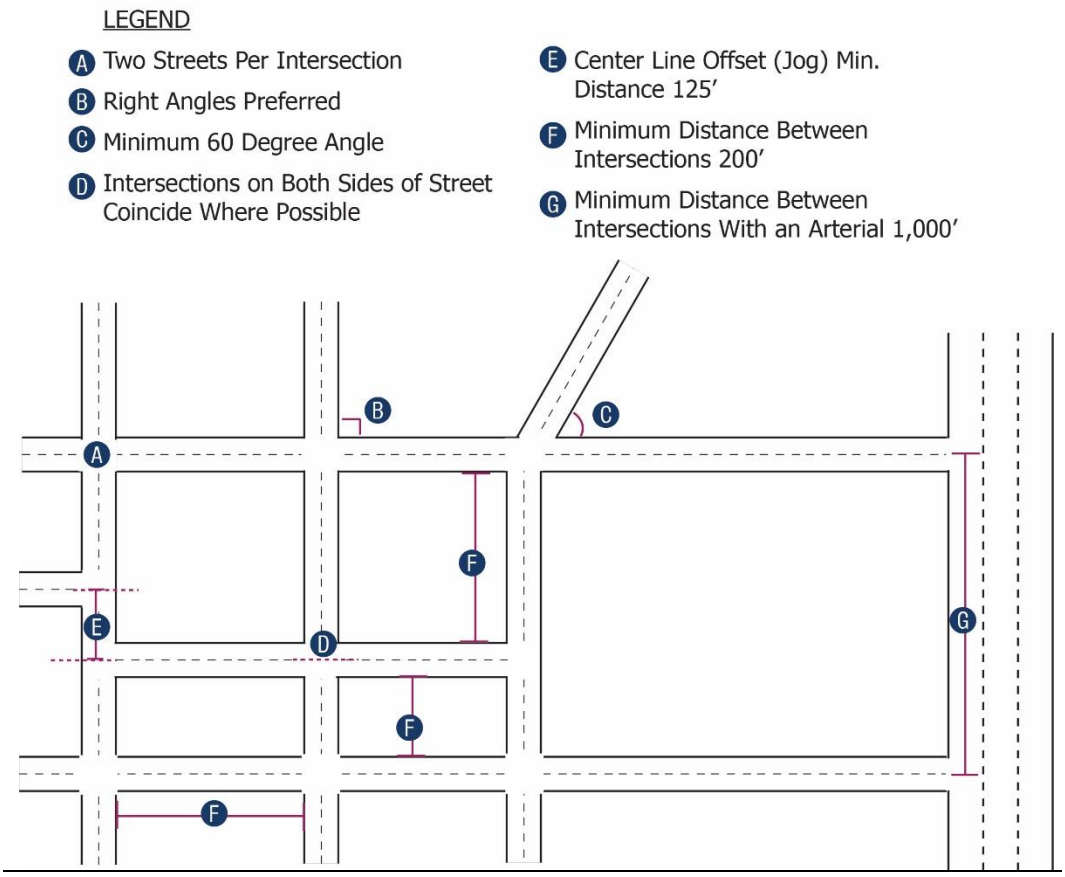
a. Not more than two streets shall intersect at any one point unless the City or NCDOT certifies that such an intersection can be constructed with no extraordinary danger to public safety;
b. Streets shall intersect at right angles to the maximum extent practicable, and no two streets shall intersect at less than 60 degrees;
c. Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of the street;
d. Where a street center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet;

e. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 200 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet, unless no other alternative is practicable;

f. Property lines at street intersections shall be shown as a chord connecting points not less than 15 feet back from the street intersection along each street right-of-way line. Longer setbacks for chord connections for property lines may be required by the Technical Review Committee as needed for public safety; and

g. In commercial developments, the City may assign traffic control to thru traffic within 500 feet of the point of access to the public right-of-way.

FIGURE 6.3.G.4: STREET INTERSECTIONS



5. Block Length and Width

a. Block Length

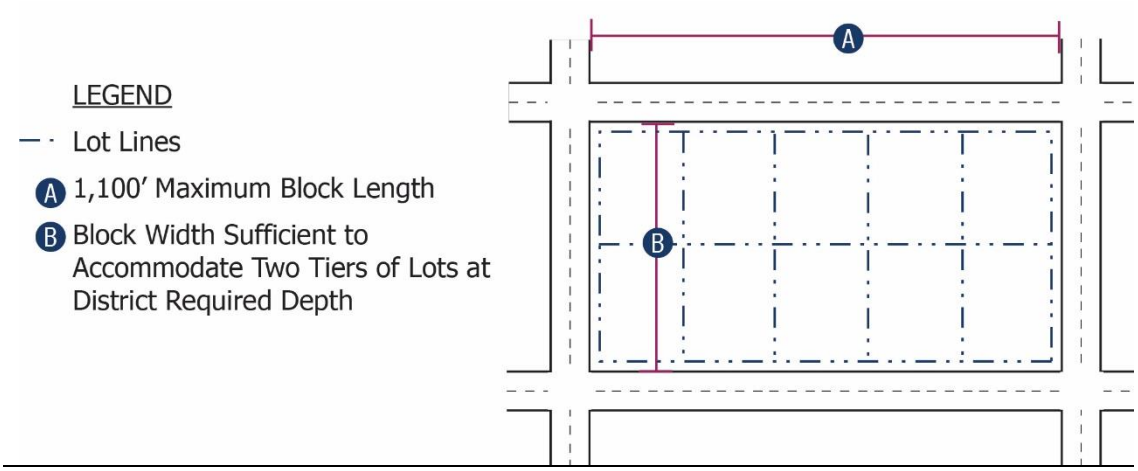
Except for arterial streets, or where otherwise required by the NCDOT, intersecting streets shall be laid out at such intervals that block lengths do not exceed 1,100 linear feet.

b. Block Width

i. The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth.

ii. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries (see Figure 6.3.G.5: Block Configuration).

FIGURE 6.3.G.5: BLOCK CONFIGURATION



6. Street Grade

Street grades shall comply with the following standards:

a. Streets and their associated gutters shall maintain grade levels in accordance with Table 6.3.G.6, Maximum and Minimum Street Grade;

TABLE 6.3.G.6: MAXIMUM AND MINIMUM STREET GRADE

Street Type	Maximum Grade	Minimum Grade
Principal and Minor Arterials	6%	Not less than 1%
Major and Minor Collectors	8%	
Local Streets	12%	Not less than 1%

b. Street and intersection approaches shall not have grades in excess of three percent for a distance of 100 feet from the intersection of center lines in all directions for all streets;

c. All changes in grades for local streets and collectors shall be connected by a vertical curve of a minimum length of 40 times the algebraic difference in the percents of grade ("K" value). Stop conditions shall have a minimum "K" value of 14 times the algebraic difference of the percents of grade. "K" values for arterials shall be per the AASHTO Geometric Design of Highways and Streets based on design speed; and

d. The City Engineer may consider deviations from these standards based on topographic conditions or public safety concerns.

7. Street Curves

Street curves shall maintain the minimum radii established in Table 6.3.G.7: Minimum Curve Radii and Tangents.

TABLE 6.3.G.7: MINIMUM CURVE RADII AND TANGENTS

Street Type	Minimum Radii (feet)	Minimum Tangent Distance Between Reverse Curves on the Same Street (feet)
Principal and Minor Arterials	600	150
Major and Minor Collectors	400	100
Local Streets	150	0

8. Street Connectivity

a. The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are

undeveloped and deemed appropriate by the Technical Review Committee for future development or in which the adjoining lands are developed and include opportunities for such connections.

b. Street rights-of-way shall be extended to or along adjoining property boundaries such that a roadway connection or street stub shall be provided for development where practicable and feasible in each direction (north, south, east, and west) for development which abuts vacant lands.

c. Arterial and collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations, as determined by the NCDOT and City Engineer.

d. At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" to inform property owners.

e. The final plat shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped or underdeveloped lands.

f. The use of residential strips of land in order to prevent the extension of proposed or existing streets or access thereto is prohibited.

g. Where access to a subdivision site is by a street that does not meet State standards, that street shall be improved by the developer in order to meet current State standards.

9. Development Entry Points

a. Unless exempted in accordance with subsection (d) below, all subdivisions shall provide streets from the development to the street system outside the development in accordance with Table 6.3.G.9, Required Points of Access.

TABLE 6.3.G.9: REQUIRED POINTS OF ACCESS [1]
(AMENDED 10.20.20 UDOTA-03-20)

Type of Development	Development Size	Minimum Number of Vehicular Access Points [2]
Residential and Mixed-Use Development	50 or fewer units	1
	51 or more units	2
Non-residential Development, other than Industrial [3]	Less than 5 acres or fewer than 10 units	1
	More than 5 acres	2

NOTE:
[1] Points of access shall refer to streets, not driveways.
[2] Additional vehicular access points may be required where determined necessary by the City.
[3] Industrial development is exempted from these standards.

b. Nothing in this section shall limit the total number of streets providing access to the street system outside a development, or exempt a development from meeting all applicable street connectivity standards.

c. Street stubs shall be credited as an access point when all ingress or egress to a development is only available from a single arterial or collector street.

d. Development shall be exempted from these standards if it is demonstrated the following conditions apply:

- **i.** A transportation impact analysis allows a deviation;
- **ii.** No other street access points can be located due to existing lot configurations, absence of connecting streets, environmental, or topographic constraints;
- **iii.** NCDOT will not authorize the required number of entrances; or
- **iv.** Alternative access can be provided in a manner acceptable to the City that is supported by a transportation impact analysis.

10. Cul-de-Sac Design

a. No permanently designed cul-de-sac or other dead-end street shall be longer than 800 linear feet, except where land cannot otherwise be subdivided practicably in the opinion of the Technical Review Committee.

b. In cases where one cul-de-sac is accessed from another cul-de-sac, the maximum length for all cul-de-sacs accessed from one another shall be 800 linear feet.

c. All permanent cul-de-sacs or other dead-end streets shall be provided at the closed end with a turn-around configured in accordance with the City of Burlington's Engineering Specifications and Standard Details Manual document.
d. Dead-end streets intended to be continued at a later time shall be provided with a turn-around as required for a dead-end street when required by the Technical Review Committee or the City Engineer.
e. Only that portion to be required as right-of-way when the street is continued shall be dedicated and made a public street.

11. Street Knuckles or Bulb-Outs

If knuckles or bulb outs are provided as a part of new development, they shall comply with all applicable City requirements.

12. Half Streets

Half streets along property lines shall be prohibited except that whenever a half street already exists adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract to be subdivided.

H. STREET NAMES

1. All new street names proposed in a subdivision plat shall require prior approval by the GIS Administrator.
2. Proposed streets which are obviously in alignment with existing streets shall be given the same name, to the maximum extent practicable.
3. Street names shall include a suffix, including:
   a. Avenue (Ave.);
   b. Boulevard (Blvd.);
   c. Circle (Cir.);
   d. Court (Ct.);
   e. Drive (Dr.);
   f. Highway (Hwy.);
   g. Lane (Ln.);
   h. Parkway (Pkwy.);
   i. Place (Pl.);
   j. Road (Rd.);
   k. Street (St.);
   l. Trail (Trl.); or
   m. Way (Way).
4. The GIS Administrator shall maintain an up-to-date database of existing street names.
5. Proposed street names that duplicate or that are deceptively similar to an existing street name shall not be approved or assigned to a new street.

I. STREET DRAINAGE

1. All required drainage facilities shall be constructed prior to consideration of a final plat.
2. Storm sewers, drains, and structures installed by the subdivider shall be installed of a size, type, and in locations as approved by the Technical Review Committee, City Engineer, or NCDOT, as appropriate.
3. Street drainage facilities located outside the street right-of-way shall be maintained by the developer, the landowner, or an owners' association, and maintenance responsibility shall be noted on the final plat.
4. The City shall not be responsible for any private or commonly-held subdivision drainage infrastructure connected to publicly-maintained drainage facilities, streams, or other outlets having constant flow.

J. STREET SIGNS

1. The City shall install standard street signs as part of new development.
2. In cases where decorative street signs are proposed, the developer or subdivider shall be responsible for the cost of the decorative street signs.
3. Decorative street signs shall be approved as to form and content by the City prior to installation.
4. Street name signs shall conform to City and NCDOT standards.
5. At least two street name signs shall be placed at each four-way street intersection and at least one at each "T" street intersection.

6. Street signs shall be installed on the northwest and southeast corners of every four-way intersection.
7. Signs shall be installed free of visual obstruction.

K. TRAFFIC CONTROL SIGNS AND SIGNALS

1. If deemed necessary by the City or by NCDOT, signals shall be installed by the developer at each street intersection within the subdivision and at each intersection of a subdivision street and a state-maintained road or access road.
2. Signs and signals shall comply with NCDOT regulations with regards to size, shape, color, location and information contained thereon.
3. At least two or more traffic-control signs shall be placed at each four-way street intersection and at least one at each "T" street intersection.
4. Signs and signals shall be installed free of visual obstruction.

L. STREET LIGHTS

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

1. Streets and sidewalks shall be illuminated with street lights or pedestrian lighting for security and safety, in accordance with City, utility company, and NCDOT standards.
2. Areas adjacent to the vehicular entrances for non-residential, mixed-use, single-family attached residential, and multi-family residential developments containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the buildings.
3. Exterior lighting located outside of a street right-of-way shall be configured in accordance with the standards in Section 5.7, Exterior Lighting.
4. Illumination requirements must be met prior to issuance of a final plat or occupancy permit.

M. VEHICULAR GATES

(AMENDED 10.20.20 UDOTA-03-20)

1. Gates to private property shall conform to City requirements for emergency access and be served by a vehicular turnaround.
2. Proposed gates shall be reviewed and decided by the Technical Review Committee.
3. In no instance shall vehicular gates be placed across public street rights-of-way.

N. BRIDGES

All bridges shall be designed by a professional engineer licensed by the State of North Carolina.

O. DAMS

(AMENDED 12.3.19 UDOTA-01-20)

1. Public streets that traverse a dam shall be approved by the Technical Review Committee and infrastructure permits for the street shall be approved by the City Engineer.
2. Maintenance of a dam structure shall be the responsibility of the developer or an owners' association.
3. The party responsible for dam maintenance shall provide a performance guarantee for the dam's maintenance in perpetuity in accordance with the standards in Section 6.7, Performance Guarantees.

6.4. SIDEWALKS

A. LOCATION

Sidewalks are required in accordance with the City's Pedestrian Plan and the following standards:

1. Both Sides of the Street

a. Sidewalks shall be provided along both sides of all streets in the CBD, HDR, MX, and PDD districts.

b. Sidewalks shall be provided along both sides of all principal or minor arterial streets, regardless of the zoning district where located.

2. One Side of the Street

a. Sidewalks, at a minimum, shall be required on one side of the street in the CR, COI, CB, GB, HI, LDR, MDR, MI, NB, PC, PD, and OI districts.

b. When sidewalks are required on one side of the street, they shall generally be located on the side of the street to best continue existing sidewalk networks, if present.

c. Where there is no clear preferable street side for the placement of a sidewalk, the sidewalk shall be placed on the street side where it is least likely to have a negative impact on stormwater management, in the opinion of the City Engineer.

3. In Accordance with Existing Conditions

a. Sidewalks shall be located in accordance with City policy or with existing conditions, as determined by the City Engineer, in the LI and RMH districts.

b. When City policy requires sidewalks to be installed, but there is no clear preferable street side for the placement of a sidewalk, the sidewalk shall be placed on the street side where it is least likely to have a negative impact on stormwater management, in the opinion of the City Engineer.

4. No Sidewalks Required

No sidewalks shall be required in the following locations:

a. Along alleys and accessways to individual lots not served by a street;

b. Where an existing or proposed all-weather surface trail or pedestrian pathway can provide an equivalent level of pedestrian circulation; and

c. In cases where environmental or topographic conditions make required sidewalk provision impossible, an alternative design shall be considered by the Technical Review Committee.

B. CONFIGURATION

(AMENDED 1.4.22 UDOTA-1-22)

1. Sidewalks shall be configured in accordance with the City of Burlington's Engineering Specifications and Standard Details Manual.

2. Sidewalks and pedestrian pathways shall connect with existing or planned sidewalks at property boundaries.

3. New non-residential, mixed-use, single-family attached residential, and multi-family development shall provide at least one on-site improved connection between the development and the adjacent public sidewalk system (planned or existing).

4. Whenever curb and gutter construction is used on public streets, wheelchair ramps for the disabled, configured in accordance with City or NCDOT standards, as applicable, shall be provided at intersections and other major points of pedestrian flow in accordance with Section 136-44.14 of the North Carolina General Statutes.

C. CREDIT FOR TRAILS

Hard-surfaced, ADA-accessible trails within open space set-asides shall be credited towards these sidewalk requirements when trails connect developments or connect open space set-asides to schools, shopping areas, or other recreation areas.

D. PAYMENT IN-LIEU OF PROVIDING SIDEWALKS

Only those proposed sidewalks that may cause conflicts with other City, State, or federal infrastructure projects may be subject to the requirements for fee-in-lieu provision in accordance with Section 6.8, Fee-in-Lieu.

6.5. UTILITIES AND INFRASTRUCTURE

A. POTABLE WATER SYSTEMS

1. Water Supply System Required

a. Every lot within a subdivision shall be served by a means of water supply that is adequate to accommodate the reasonable needs of the use or subdivision lot(s).

b. No on-site water supply system shall be allowed in cases where the public potable water supply system is adjacent to or within 1,000 linear feet of the lot being developed.

c. All materials and pipes shall meet or exceed the requirements established under State law and by the City for the potable water system.

d. The City may, before issuing any permit under this Ordinance, make the investigation and require the developer to submit the information as appears reasonably necessary to ensure that the developer or his or her successor will be able to comply with the water supply system requirements of this Ordinance.

2. Dedication and Acceptance

a. The subdivider or developer shall install all potable water supply lines and service connections in accordance with the standards in this Ordinance and other State or federal requirements.

b. The developer shall provide all the necessary pipes and accessories for installation of the required potable water lines.

c. Potable water supply lines, including water tanks, distribution lines, water mains, and laterals shall be dedicated to the City for maintenance and operation.

d. Supply lines serving individual lots or uses beyond the water meter shall not be the responsibility of the City.

3. Connection to City Water Supply System

(AMENDED 12.3.19 UDOTA-01-20);(AMENDED 3.17.20 UDOTA-02-20); (AMENDED 10.20.20 UDOTA-03-20)

a. The subdivider shall connect to the City's potable water supply system when new lots are created on existing streets and the water system is adjacent to the lot, or is within 1,000 linear feet of the lots being developed.

b. Subdivision of three or fewer lots on an existing street shall not be required to connect to the City's existing potable water supply system unless the system is located adjacent to one or more of the lots being subdivided.

c. In cases where new development is proposed on an existing lot that is not served by the City's potable water supply system, but the City's potable water supply system is adjacent to or on the lot in question, connection to the City's potable water supply system shall be required as part of development.

4. Oversizing of Water Supply System-Related Improvements

(AMENDED 10.20.20 UDOTA-03-20)

a. The water supply system where development is proposed may require installation of certain oversized facilities, such as water mains in excess of eight inches in diameter, when it is in the interest of future development, as determined by the City Engineer.

b. When oversizing is required, the developer shall pay for that portion of the improvement that exceeds the standards set forth in this Ordinance.

c. When oversizing is required, the developer shall enter into a development agreement (see Section 2.4.G, Development Agreement) with the City for reimbursement of the cost of the oversize lines.

5. On-Site Potable Water System

a. No preliminary plat for a subdivision proposing to use an on-site potable water system shall be approved until the appropriate county health department has certified that each lot shown on the preliminary plat has been inspected and found suitable for an on-site potable water system.

b. No final plat or other approval for a subdivision proposing to use an on-site potable water system shall be approved until the appropriate county health department has certified that each lot in the subdivision has been inspected and found suitable for an on-site potable water system capable of serving the intended or likely use of the lot.

c. Subdivisions already subject to preliminary plat approval including such certification shall be exempted from this requirement provided the ultimate use is consistent with the use anticipated during certification at preliminary plat stage.

B. SEWAGE SYSTEMS

1. Sewage System Required

a. Every lot within a subdivision intended to be developed shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of the use or subdivision lot and that complies with all applicable City and State requirements.

b. No on-site sewage system shall be allowed in cases where a gravity-fed public sewage system is adjacent to or within 1,000 linear feet of the lot being developed and the lots may be served by a gravity sewer.

2. Connection to Public Sewer

(AMENDED 10.20.20 UDOTA-03-20)

a. The subdivider shall connect to the City's sewage system when new lots are created on existing streets and a gravity-fed sewage system is adjacent to the lot, or is within 1,000 linear feet of the lots being developed and the lots may be adequately served by a gravity sewer.

b. Subdivision of three or fewer lots on an existing street shall not be required to connect to the City's existing sewage system unless the system is located adjacent to one or more of the lots being subdivided and service may be provided via gravity sewer.

c. In cases where new development is proposed on an existing lot that is not served by the City's sewage system, but the City's sewer system is adjacent to or on the lot in question, connection to the City's sewage system shall be required as part of development.

3. Dedication and Acceptance

a. In cases of development being served by a sewage system, the subdivider or developer shall install all sewer lines in accordance with the standards in this Ordinance and other State or federal requirements.

b. Sanitary sewage lines and treatment facilities shall be dedicated to the City for maintenance and operation. Sewer lines serving individual lots or uses prior to their connection to the public sewer system shall not be the responsibility of the City.

c. When installed, pump stations that do not serve an area larger than the development being proposed shall not be dedicated to the City and shall be maintained by the subdivider or an owners' association.

4. On-Site Sewage Disposal System

a. No preliminary plat for a subdivision proposing to use septic tanks or other on-site sewage disposal systems shall be approved until the appropriate county health department has certified that each lot shown on the preliminary plat has been inspected and found suitable for a septic tank or other on-site sewage disposal system.

b. No final plat or other approval for a subdivision proposing to use septic tanks or other on-site sewage disposal systems shall be approved until the appropriate county health department has certified that each lot in the subdivision has been inspected and found suitable for a septic tank or other on-site sewage disposal system capable of serving the intended or likely use of the lot.

c. Subdivisions already subject to preliminary plat approval including such certification shall be exempted from this requirement provided the ultimate use is consistent with the use anticipated during certification at preliminary plat stage.

C. FIRE PROTECTION

1. Fire hydrants shall be placed no further than 500 feet apart along the street.

2. Fire hydrants shall be located at street intersections where practical, near the turnaround of a dead-end street, and at property line intersections.

3. Hydrant type and supply line configuration shall be in accordance with the City of Burlington's Engineering Specifications and Standard Details Manual.

D. UNDERGROUND UTILITIES

(AMENDED 10.20.20 UDOTA-03-20)

1. All new electric, telephone, and other utilities serving development in a subdivision created after November 1, 2019 shall be placed underground.

2. All utilities located within a City-maintained right-of-way shall be subject to the requirements of the City's Public Rights-of-Way Management Ordinance on file in the office of the City Engineer.

6.6. GREENWAYS

A. REQUIRED GREENWAY DEDICATION AND CONSTRUCTION

(AMENDED 1.4.22 UDOTA-1-22)

1. Whenever a tract of land included within any proposed subdivision, site plan, or planned development master plan includes any part of a greenway designated in the City's adopted policy guidance, the greenway shall be platted and dedicated to the City.
2. Greenways shall be constructed as part of the required infrastructure serving a site or a subdivision.
3. In cases where a greenway extends between two or more phases of a development, only the portion of the greenway in the active phase of the development is required to be dedicated and constructed.

B. PAYMENT IN-LIEU OF PROVIDING GREENWAYS

Only development with proposed greenways that may cause conflicts with other City, State, or federal infrastructure projects may provide a fee-in-lieu of greenways in accordance with Section 6.8, Fee-in-Lieu.

C. GREENWAY CONFIGURATION

Greenways shall be configured in accordance with the Burlington Greenway and Bikeway Plan, the City of Burlington's Engineering Specifications and Standard Details Manual, and all applicable City standards.

D. DENSITY CREDITS

Land that is dedicated in fee-simple interest to and accepted by the City for the expressed purpose of establishing a public greenway shall be credited toward the donating parcel, lot, or tract area for the purpose of calculating the density of development and area coverage calculations though no longer part of the parcel.

E. OPEN SPACE SET-ASIDE CREDITS

Land area dedicated to the City for use as a greenway shall be credited towards applicable open space set-aside requirements in Section 7.1, Open Space Set-Aside.

F. MAINTENANCE

(AMENDED 1.4.22 UDOTA-1-22)

Maintenance and operation of a greenway following dedication and construction shall be the responsibility of the City.

6.7. PERFORMANCE GUARANTEES

A. PURPOSE AND INTENT

These standards create the additional flexibility necessary for development to be occupied or for lots in a subdivision to be conveyed prior to completion of all required infrastructure or site improvements, provided funds have been reserved for completion of these features in accordance with this section. These provisions ensure that funds are available for the City's use to complete required pubic infrastructure or private site features in the event an applicant or developer is unable to do so.

B. ELIGIBLE FACILITIES AND FEATURES

(AMENDED 10.20.20 UDOTA-03-20)

1. The following facilities and site features may be eligible for performance guarantees at the discretion of the City:
   a. **Public Infrastructure**
      The following forms of public infrastructure may be completed subject to a performance guarantee:
      i. Sidewalks;
      ii. Greenways;
      iii. Multi-use paths; or
      iv. The final lift of asphalt on a street.
   b. **Private Site Features**
      i. The following forms of private site features may be completed subject to a performance guarantee:
         a) Required landscaping;
         b) Private stormwater control mechanisms; and
         c) Reforestation activity (see Section 7.2, Reforestation).
      ii. All other required private site features shall be completed prior to issuance of a certificate of occupancy for the development.
2. Performance guarantees shall be configured and managed in accordance with the standards in this section.

C. INELIGIBLE PUBLIC INFRASTRUCTURE

(AMENDED 10.20.20 UDOTA-03-20)

The following forms of public infrastructure are not eligible for performance guarantees, and shall be completed and dedicated to the City prior to approval of a final plat or occupancy permit:

1. Potable water;
2. Sanitary sewer;
3. Public stormwater control mechanisms;
4. Curb and gutter;
5. Street signs, traffic control signals, and
6. Street lights.

D. MAXIMUM TERM OF GUARANTEE

(AMENDED 3.17.20 UDOTA-02-20)

Performance guarantees shall have a maximum term of one year, unless the developer determines a longer term is necessary to complete the public facilities or private site features. Acceptance of the proposed guarantee remains at the discretion of the City.

E. FORM OF GUARANTEE

1. The applicant shall determine the form(s) of the performance guarantee, which shall be provided in one or more of the following forms:
   a. **Cash or Irrevocable (Evergreen) Letter of Credit**
      i. The developer shall deposit cash or an irrevocable (or "evergreen") letter of credit, either with the City or in escrow with a North Carolina financial institution.

ii. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer shall be filed with the City guaranteeing the following:

a) That the escrow account shall be held in trust until released by the City and may not be used or pledged by the developer for any other matter during the term of the escrow; and

b) That in case of a failure on the part of the developer to complete or repair the improvements, the financial institution shall, upon notification by the City, immediately pay the funds deemed necessary by the City to complete or repair the improvements up to the full balance of the escrow account, or deliver to the City any other instruments fully endorsed or otherwise made payable in full to the City.

c) The financial institution holding the cash or other instrument shall indicate to the City its notification requirements for release or payment of funds.

b. Surety Bond

i. The developer shall obtain a surety bond from a surety bonding company authorized to issue surety bonds in North Carolina.

ii. The bond shall be payable to the City and shall be in an amount as required by this subsection.

c. Other Guarantee

(AMENDED 10.20.20 UDOTA-03-20)

The developer may provide another form of guarantee that provides equivalent security to a surety bond or letter of credit. Acceptance of the proposed guarantee remains at the discretion of the City.

2. The performance guarantee shall distinguish between the portion of the guarantee provided for public infrastructure improvements as well as the portion of the guarantee provided for private site improvements, if applicable.

3. The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the guarantee.

F. ADMINISTRATION OF GUARANTEES

1. Guarantees Associated with Reforestation or Landscaping

The Planning Director shall process, review, and decide performance guarantee requests associated with reforestation or landscaping.

2. Guarantees Associated with Public Infrastructure

The City Engineer shall process, review, and decide performance guarantee requests associated with public infrastructure.

3. Guarantees Associated with Stormwater

The Stormwater Administrator shall process, review, and decide performance guarantee requests associated with stormwater-related provisions.

G. AMOUNT OF GUARANTEE

1. Generally

Performance guarantees shall be in an amount equal to 125 percent of the estimated cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.

2. Estimated Costs

Estimated costs of completing installation of required public improvements, landscaping or reforestation, or stormwater measures shall be itemized by improvement type and certified by the developer's licensed professional engineer, and is subject to approval in accordance with Section 6.7.F, Administration of Guarantees.

3. Consolidation

(AMENDED 10.20.20 UDOTA-03-20)

a. In cases where multiple private site features or forms of public infrastructure are permitted to be the subject of a performance guarantee, the applicant may elect to post multiple separate guarantees or to post a single guarantee for all applicable private site features and public infrastructure.

b. The City may, in its sole discretion, require a separate performance guarantee for erosion control measures or for stormwater control measures.

H. EXPIRATION OF GUARANTEE

(AMENDED 10.20.20 UDOTA-03-20)

1. The applicant shall demonstrate good faith towards the completion of public infrastructure or private site features subject to a performance guarantee. In the event the features subject to a guarantee are not completed prior to the expiration of the guarantee, the applicant shall request a renewal of the performance guarantee in accordance with these standards.
2. In the event an application for renewal of a performance guarantee has been filed with the City prior to expiration of an existing guarantee, the City shall delay the provision of notice of failure to install or complete improvements in accordance with Section 6.7.L, Forfeiture of Guarantee.

I. RENEWAL OF GUARANTEE

(AMENDED 10.20.20 UDOTA-03-20)

If a performance guarantee is renewed, the appropriate City official (see Section 6.7.F, Administration of Guarantees) may require the amount of the performance guarantee be updated to reflect changes in cost over time.

J. RELEASE OR REDUCTION OF GUARANTEE

1. Release Requested

The appropriate City official (see Section 6.7.F, Administration of Guarantees) shall release or reduce a performance guarantee only after:

a. The owner or developer has submitted to the City a written request for a release or reduction of the performance guarantee that includes certification by the owner's or developer's engineer or contractor, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications, and as-builts (if applicable);

b. City staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements is completed in accordance with approved plans and specifications; and

c. No release or reduction in performance guarantee amounts will be considered until more than 25 percent of the work is in place and approved.

2. Acceptance Shall be Documented

The appropriate City official (see Section 6.7.F, Administration of Guarantees) shall provide written notice of the City's final acceptance of the improvements subject to performance guarantees.

K. IMPROPER RELEASE OF PERFORMANCE GUARANTEES

If the City releases a performance guarantee through error, the error shall not release the developer from responsibility for the completion of all improvements in accordance with this Ordinance.

L. FORFEITURE OF GUARANTEE

1. Notice of Failure to Install or Complete Improvements

If the owner or developer fails to complete installation of the guaranteed improvements within the term of the performance guarantee (as may be extended), the appropriate City official (see Section 6.7.F, Administration of Guarantees) shall give the owner or developer 30 day's written notice of the scope and degree of the default, by certified mail.

2. City Completion of Improvements

After the 30-day notice period expires, the City may draw on the guarantee and use the funds to perform the work necessary to complete installation of the guaranteed improvements. After completing such work, the City shall provide a complete accounting of the expenditures to the owner or developer. In the event of a default triggering the use of the performance guarantee, the City shall return any of the unused deposited cash funds or other security.

M. AS-BUILT PLANS REQUIRED

1. Public Improvements

Upon completion of a public infrastructure project, the developer shall certify to the City Engineer that the completed project has been constructed in accordance with the approved plans and shall submit actual "as built" plans for all public improvements after final construction is completed.

2. Stormwater Control Measures

Upon completion of a private stormwater control measure, the developer shall certify to the Stormwater Administrator that the completed project is in accordance with the approved plans and shall submit actual "as built" plans after final construction is completed. The plans shall show the final design specifications for all improvements and the field location, size, depth, and related measures, controls, and devices, as installed. The designer shall certify, under seal, that the as-built design, measures, controls, and devices are in compliance with the approved plans and with the requirements of this Ordinance.

3. Inspection Required

A final inspection and approval by the appropriate City official (see Section 6.7.F, Administration of Guarantees) shall occur before the release of the performance guarantee.

6.8. FEE-IN-LIEU

A. FEE IN-LIEU OF REQUIRED SIDEWALK, GREENWAY, BIKEWAY, AND ROADWAY IMPROVEMENTS

(AMENDED 10.20.20 UDOTA-03-20)

1. Where the installation of sidewalks, greenways, bikeways, or roadway improvements, is required by an ordinance or the City's adopted policy guidance, the Planning Director shall consult with the Transportation Director to determine if the installation of such improvements would conflict with a City, State, or federal roadway project that is planned or programmed to begin construction within five years of the proposed improvements.
2. If such a determination of conflict is made, the developer may be required to submit a fee in-lieu of such installation.
3. Fees submitted in-lieu of required sidewalks, greenways, bikeways, or roadway improvements shall be in the amount of the entire estimated cost including design, construction, and administration, based on current prices as determined by the City Engineer.
4. All fees collected by the City pursuant to this section shall be deposited in a City-restricted fund to be used for construction of sidewalks, greenways, bikeways, or roadway improvements, as appropriate and at the appropriate time as determined by the City.
5. Construction shall take place on the site, or in the street right-of-way in the vicinity of the site and is a continuous extension or augmentation of the infrastructure network represented by the site requirement for which the fee is collected.

6.9. OWNER ASSOCIATIONS

A. PURPOSE

The purpose of this section is to set out the requirements for establishment of a homeowners' or property owners' association (hereinafter "association") that shall be responsible for the long-term maintenance of common areas, common features, and private infrastructure in a subdivision. This section also sets out the requirements associated with transfer of subdivision control and maintenance responsibility from the subdivider to the association.

B. APPLICABILITY

The standards in this section shall apply to subdivisions with open space set-aside(s), lands held under common ownership, or with shared responsibility for common infrastructure including, but not limited to:

1. Stormwater control measures;
2. Private potable water systems;
3. Private sewage system features (such as pump stations serving only the development where located);
4. Cluster mailbox units;
5. Commonly-held off-street parking facilities; and
6. Open space set-asides.

C. CREATION REQUIRED

1. A homeowners' or property owners' association shall be established in areas that have private common open space or shared private infrastructure. Associations are required to accept ownership and maintenance responsibility of all open space set-aside(s), shared infrastructure, or common areas within a development.
2. Associations are also required in order to fulfill the requirements of Chapter 47C (the "Condominium Act") of the North Carolina General Statutes, or the requirements of Chapter 47F (the "Planned Community Act") of the North Carolina General Statutes.
3. The association shall be in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development, though maintenance responsibility shall only transfer from the developer to the association in accordance with Section 6.9.H, Transfer of Maintenance Responsibility.

D. RESPONSIBILITIES OF ASSOCIATION

Upon transfer of maintenance responsibility, the association shall be responsible for:

1. Liability insurance and payment of premiums for liability insurance and local taxes;
2. Maintenance of all common elements including, but not limited to, stormwater control measures in accordance with Section 7.4.K.2.b, Special Requirement for Homeowners' and Other Associations, private utilities, private drives, private sidewalks and trails, private streetlights, and private common recreation facilities shown on the preliminary and final plats;
3. Maintenance of public streets until such time as the City or NCDOT agrees to accept the responsibility for street maintenance;
4. Maintenance of an escrow account intended for the maintenance and repair of community facilities; and
5. Payment of system development fees for public and private improvements made to or for the benefit of the common elements.

E. PROCEDURE FOR ASSOCIATION ESTABLISHMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. Documents for the creation of the association shall be submitted to the City for review and approval prior to approval of the final plat (see Section 2.4.K, Final Plat). Documentation shall include, but not be limited to the information in Section 6.9.F, Documentation Requirements.
2. The association shall be established by the subdivider prior to the sale of the first lot in the subdivision.
3. The association documents shall establish that the subdivider shall maintain the common area, common facilities, and infrastructure at least until 75 percent of the lots are sold.
4. Responsibility for maintaining the subdivision's common areas, common facilities, and private infrastructure shall be transferred in accordance with the standards in Section 6.9.H, Transfer of Maintenance Responsibility.

5. Nothing shall prevent the subdivider from retaining maintenance responsibility after more than 75 percent of the lots are sold.

F. DOCUMENTATION REQUIREMENTS

(AMENDED 10.20.20 UDOTA-03-20)

1. The association documents submitted to the City for review and approval shall include, but not be limited to, the following:
   a. A declaration of all restrictive covenants;
   b. A declaration of all deed restrictions;
   c. A declaration that the association is responsible for liability insurance and all applicable taxes;
   d. A declaration of common ownership and maintenance responsibilities of all on-site improvements not dedicated to a local or state agency, including but not limited to drainage systems, wastewater systems, open space set-aside areas, recreational facilities, and private infrastructure;
   e. A description of the structural organization and operating procedures of the association;
   f. Association by-laws;
   g. A legal description of all open space set-asides and other lands owned in common;
   h. Provisions establishing the legal authority of the association to maintain control over all common areas, common features, and private infrastructure in the subdivision, following transfer of control by the subdivider;
   i. Provisions authorizing the association to compel contributions from owners in the development to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure;
   j. Provisions authorizing the association to increase the amount of mandatory fees or assessments, when necessary, for the continued maintenance of common areas, common features, or private infrastructure;
   k. Provisions authorizing the association to convert any member's unpaid assessments into a lien on real property; and
   l. Evidence related to the establishment of a reserve fund under the sole control of the association to support the continued maintenance and upkeep of common areas, common features, and private infrastructure.
2. Following approval of the required documentation by the City, the subdivider shall record all required documentation with the Alamance County or Guilford County Register of Deeds, as appropriate.

G. MEMBERSHIP REQUIREMENTS

1. Following establishment of the association by the subdivider, membership in the association shall be automatic and mandatory for all purchasers of land within the subdivision and their successors in title.
2. All members of an association shall be responsible for contributions to the association's reserve fund to cover their proportionate share of maintenance costs associated with common areas, common features, and private infrastructure.

H. TRANSFER OF MAINTENANCE RESPONSIBILITY

1. The subdivider shall be responsible for maintenance of all common areas, common features, and private infrastructure until maintenance responsibility is transferred to the association in accordance with the standards in this subsection.
2. Maintenance responsibility shall not be transferred from the subdivider to the association until all of the following occur:
   a. The subdivider commissions a report prepared by a professional engineer licensed in North Carolina indicating that all common areas, common features, and infrastructure elements comply with the minimum standards in this Ordinance and the City Code of Ordinances. The report shall also include verification of the reserve fund balance in accordance with the standards in this section; and
   b. City staff reviews and approves the report prepared by the professional engineer; and
   c. A reserve fund dedicated to the continued maintenance and upkeep of common areas, common features, and private infrastructure is established with a banking institution acceptable to the City in the name of the association that contains a minimum balance that includes the following:
      i. Except for sidewalks and street trees, ten percent of the construction costs of common features and private infrastructure;

ii. Liability insurance and taxes (if applicable) for two years; and
iii. Facilities, stormwater, and landscaping maintenance costs for two years.

d. In the event the association has not collected sufficient assessment funds from the lot owners in the subdivision to meet the minimum balance requirements of the reserve fund, the subdivider shall be responsible for the difference needed to meet the minimum balance requirements.

I. FAILURE TO MAINTAIN IS A VIOLATION

Failure to maintain common areas, common features, or infrastructure is a violation of this Ordinance and is subject to the penalties and remedies in Section 2.5, Enforcement.

6.10. CONSERVATION SUBDIVISION

A. PURPOSE AND INTENT

The purpose and intent of this section is to provide landowners in the rural and suburban portions of the City a development option that provides additional development flexibility to build on smaller lots when additional open space set-asides are provided, and the development is designed and located in a way that protects rural character, agricultural activities, or natural and historic features on the site. This is done in order to:

1. Conserve open land, including those areas containing productive agricultural soils, unique and sensitive natural features such as floodplains, wetlands, river and stream corridors, areas with mature deciduous trees, and watersheds;
2. Promote existing rural character particularly in areas visible from major roadways in the City;
3. Retain and protect existing environmental, natural, and cultural resources;
4. Create a linked network of open lands; and
5. Provide reasonable economic use of the land.

B. APPLICABILITY

1. Type of Development

This conservation subdivision option shall be limited to development of single-family detached residential dwellings on individual lots in subdivisions of more than five lots. The conservation subdivision option shall not be available for any other form of development or use type.

2. Where Allowed

Single-family detached residential subdivisions of more than five lots in the LDR, MDR, and PD districts may be developed as a conservation subdivision, in accordance with the standards in this section.

3. Where Prohibited

The conservation subdivision option is not available for use in the HDR, RMH, PDD or business, special, or other conditional districts.

C. PROCEDURE

Development utilizing the conservation subdivision option shall be approved as a preliminary plat in accordance with the procedures and standards in Section 2.4.N, Preliminary Plat, after approval of a conservation and development plan in accordance with this section.

1. Conservation and Development Plan

Prior to review of an application for preliminary plat for a conservation subdivision, an applicant shall have a conservation and development plan for the land reviewed and approved, or approved with conditions by the Planning Director in accordance with this section and the standards of Section 6.10.D, Conservation Subdivision Standards, and Section 6.10.E, Delineation of Conservation and Development Areas.

2. Conservation and Development Plan Requirements

a. Step 1—Site Analysis Map

The applicant shall prepare a site analysis map that provides information about existing site conditions and context, and that analyzes existing conditions both on the land proposed for the development site and on land within 500 feet of the site, and submit the site analysis map to the Planning Director. It is the intent of this section that the information required to be presented in the site analysis map be produced primarily from existing sources, maps, in order to ensure the process is economical for the applicant.

b. Step 2—Site Inspection

After receipt of the site analysis map, the Planning Director shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with a City staff member. The purpose of this site visit is to:

i. Familiarize the staff with the existing site conditions and natural and historic features of the site;
ii. Identify potential site development issues, including the best location for the development to ensure its visibility from surrounding residential areas and major roadways is minimized; and
iii. Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other

development features. Comments made by the staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation and development plan shall be made during the site inspection.

c. Step 3—Conservation and Development Areas Map

Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development areas map that depicts proposed primary conservation areas, secondary conservation areas, and development areas, in accordance with Section 6.10.E, Delineation of Conservation and Development Areas.

d. Step 4—Conservation and Development Plan

Based on the site analysis map, the information obtained during the site inspection, and the conservation and development areas map, the applicant shall prepare and submit to the Planning Director a conservation and development plan. The conservation and development plan shall include the following:

i. A site analysis map;
ii. A conservation and development areas map; and
iii. A preliminary site improvements plan, showing proposed site development, including utilities, streets, other development features, buffers (if applicable), and lot lines located in the proposed development area(s).

3. Review of Conservation and Development Plan

The Planning Director shall review the conservation and development plan in accordance with the procedures and requirements of Section 6.10.D, Conservation Subdivision Standards, and Section 6.10.E, Delineation of Conservation and Development Areas.

4. Review and Approval of Conservation Subdivision

(AMENDED 12.3.19 UDOTA-01-20)

Following review and approval or approval with conditions of the conservation and development plan by the Planning Director, a preliminary plat of the conservation subdivision shall be submitted and reviewed in accordance with Section 2.4.N, Preliminary Plat.

D. CONSERVATION SUBDIVISION STANDARDS

A conservation subdivision shall comply with the following standards:

1. Location

(AMENDED 10.20.20 UDOTA-03-20)

Conservation subdivisions shall be configured to minimize their visibility from adjacent lands under residential use and from major roadways abutting the development site.

2. Minimum Project Size

Conservation subdivisions shall be at least 10 acres in area.

3. Required Conservation Area

a. The required conservation area shall occupy at least 40 percent of the total acreage of the conservation subdivision site, but nothing shall limit it from occupying more than 40 percent of a conservation subdivision site.
b. The conservation area shall be considered open space set-aside subject to the applicable standards in Section 7.1, Open Space Set-Aside.

4. Maximum Residential Density

A conservation subdivision shall be limited to the maximum density for a conservation subdivision in the zoning district in which it is located. Nothing shall prevent a conservation subdivision from increasing the maximum allowable residential density in accordance with Section 7.6, Sustainability Incentives.

5. Dimensional Requirements

(AMENDED 10.20.20 UDOTA-03-20)

a. Conservation subdivision lots in the LDR and MDR districts shall comply with the dimensional standards for a conservation subdivision in the zoning district where located.
b. Conservation subdivisions in a PD district shall comply with the dimensional requirements specified in the PD Master Plan.

6. Setbacks

a. Conservation subdivision lots in the LDR and MDR zoning districts shall comply with the setback requirements for the zoning district where located.
b. Conservation subdivision lots in the PD district shall comply with the setback requirements specified in the PD Master Plan.
c. Lots in a conservation subdivision shall comply with required setbacks from streets, wetlands/surface waters, or other protected natural areas.

7. Maximum Lot Coverage

a. Conservation subdivision lots in the LDR and MDR zoning districts shall comply with the maximum lot coverage requirements for conservation subdivisions in the zoning district where located.
b. Conservation subdivision lots in the PD district shall comply with the maximum lot coverage requirements specified in the PD Master Plan.

8. On-Site Wastewater

With approval from the appropriate county health department, individual septic systems and drain lines may be located within the conservation area, provided:

a. Easements shall be recorded showing the location of systems within conservation area;
b. Restrictive covenants shall provide for access, maintenance, and upkeep of systems located in the conservation area; and
c. All septic systems shall be operated in compliance with State and local regulations.

E. DELINEATION OF CONSERVATION AND DEVELOPMENT AREAS

The conservation area(s) and development area(s) on the conservation and development areas map shall comply with the following standards:

1. Primary Conservation Areas

a. Features to be Preserved

The following features shall be located and delineated on the conservation and development areas map, and shall be preserved in the following priority order as primary conservation areas:

i. Areas with existing mature trees around the perimeter of the site;
ii. U.S. Army Corps of Engineers designated 404 wetlands;
iii. Riparian buffers and other lands within 50 feet of estuarine or other surface waters;
iv. Areas with impermeable soils; and
v. Habitat utilized by endangered or threatened species or designated Natural Heritage Areas.

b. Amount to be Preserved

All areas occupied by features comprising a primary conservation area shall be set aside and reserved for conservation purposes in accordance with the following standards:

i. Primary Conservation Area is Less than Minimum Required

In cases where the geographic area occupied by all features comprising the primary conservation area is less than the minimum required conservation area, then all lands comprising the primary conservation area shall be set aside.

ii. Primary Conservation Area Exceeds the Minimum Required

a) In the event the geographic area of all features identified and prioritized as the primary conservation area results in a primary conservation area exceeding the conservation area requirement, priority for retention shall be given to the highest quality portion of the features to be conserved. (For example, conservation of the first type of prioritized features constitute 47 percent of a site, and the next prioritized feature consists of five percent and the minimum required conservation area is 50 percent of the site area, the applicant may identify which portions of the features exceeding the 50 percent conservation area requirement will be designated for conversion to development area).
b) Development on lands made available for conversion to development area shall be in accordance with the standards in this Ordinance.

c. Allowable Uses

Uses located within a primary conservation area shall be limited to:

i. Pervious pedestrian trails, walkways, and boardwalks;
ii. Above ground and below ground public utilities and associated easements, provided no feasible alternative exists;

iii. Street or driveway crossings, provided such crossings do not violate this Ordinance, or other State or federal laws;
iv. Stormwater control measures, where no practicable alternative exists; and
v. Docks and other water-dependent features, as permitted by this Ordinance.

2. Secondary Conservation Areas

a. Features to be Preserved

In addition to primary conservation areas, the conservation and development areas map shall also identify secondary conservation areas, which shall be preserved in the following priority order:

i. Historic, archeological, and cultural resources;
ii. Prime agricultural lands, including existing pastures (whether in use or otherwise);
iii. Existing and mature woodland forests, natural fields, and meadows (especially those greater than five acres);
iv. Scenic corridors and views; and
v. Areas that could serve to extend existing greenways, trails, parks, or recreation areas.

b. Amount to be Preserved

All areas occupied by features comprising a secondary conservation area shall be set aside and reserved as a part of the conservation area in accordance with the following standards:

i. Primary Conservation Area Occupies More than that Required

In the event that the geographic area set aside as the primary conservation area is more of the required conservation area, no additional lands occupied by secondary conservation features shall be required to be included in the conservation area.

ii. Primary Conservation Area Occupies Less than that Required

In the event the geographic area set aside as the primary conservation area is less than the required conservation area, then lands containing secondary conservation features shall also be set aside as part of the conservation area, in priority order.

c. Allowable Uses

Uses located within a secondary conservation area shall be limited to:

i. All uses allowed in a primary conservation area;
ii. Uses allowed in the Agricultural Use classification in Table 4.2.C, Principal Use Table;
iii. Individual water supply and septic systems;
iv. Stormwater control measures;
v. Required drainage or other utility easements; and
vi. Mitigation of development activities, including restoration of disturbed or degraded areas to enhance habitat and scenic value.

3. Ownership of Conservation Areas

a. Landowner or Association

A conservation area shall be owned jointly or in common by the owners of the development or through a recognized homeowners' or property owners' association, which shall be established in accordance with Section 6.9, Owner Associations.

b. Nonprofit Organization

The landowners may decide to convey a conservation area to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the City is provided adequate assurance the area will be properly managed and maintained.

c. Dedicated to City or Other Public Agency

In some cases, certain lands designated as conservation areas, such as greenways, may be dedicated to the City, a nonprofit organization, or other public agency during the development review process, at the landowner's discretion. If offered by the landowner, the City Council shall determine whether that land is appropriate for dedication to the City or other public agency.

4. Development Areas

After identifying the primary and secondary conservation areas, the development area shall be identified. It is the area within which development may occur, and shall include the area within the site where:

a. Any clearing or grading activities will take place;
b. Ingress and egress will be located;

c. Individual or community wells and septic systems may be located (if not located within the secondary conservation area);
d. Streets, utilities, and other similar structures will be located; and
e. All allowable uses may be located.

F. EVALUATION CRITERIA FOR CONSERVATION SUBDIVISION LAYOUT

(AMENDED 10.20.20 UDOTA-03-20)

Conservation subdivisions shall be configured to:

1. Protect and preserve all floodways and wetlands;
2. Preserve and maintain mature woodlands, existing fields, pastures, meadows and orchards and creates sufficient buffer areas to minimize visibility of the conservation subdivision from existing residential development and adjacent major roadways;
3. Locate development outside of prime agricultural soils, to the maximum extent practicable;
4. Design around existing hedgerows and tree lines between fields or meadows;
5. Leave scenic views and vistas unblocked or uninterrupted, particularly as seen from streets;
6. Avoid siting new construction on prominent rises or highly visible areas by taking advantage of lower topographic features;
7. Protect wildlife habitat areas of species listed as endangered, threatened or of special concern by NCDEQ;
8. Preserve sites of historic, archaeological, or cultural value (including spring houses, barn foundations, cellar holes, earthworks, burial grounds and similar features);
9. Include a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system; and
10. Consolidate open space into areas that are contiguous, to the maximum extent practicable.

CHAPTER 7. ENVIRONMENT

7.1. Open Space Set-Aside **7-3**
A. How to Use These Standards 7-3
B. Purpose and Intent 7-3
C. Applicability 7-3
D. Minimum Open Space Set-Aside Requirements 7-3
E. Open Space Set-Aside Configuration 7-4
F. Ownership of Open Space Set-Asides 7-7
G. Maintenance of Open Space Set-Asides 7-7

7.2. Reforestation **7-8**
A. Purpose and Intent 7-8
B. Applicability 7-8
C. Exemptions 7-8
D. Requirements 7-8
E. Tree Protection Devices 7-11
F. Credit Towards Other Ordinance Requirements 7-12
G. Maintenance 7-12

7.3. Riparian Buffers **7-14**
A. Authority 7-14
B. Purpose and Intent 7-14
C. Jurisdiction 7-14
D. Exemptions 7-14
E. Relationship to Other Ordinances 7-14
F. Riparian Area Protection within the Jordan Reservoir Watershed 7-15
G. Potential Uses and Associated Requirements 7-17
H. Permits Procedures, Requirements, and Approvals 7-25
I. Compliance and Enforcement 7-29

7.4. Stormwater **7-32**
A. Authority 7-32
B. Findings 7-32
C. Purpose and Intent 7-32
D. Applicability 7-33
E. Exemptions 7-33
F. Effective Date 7-33
G. Pre-Existing Development and redevelopment 7-33
H. Determination 7-34
I. Stormwater Design Manual 7-34
J. Standards 7-34
K. Maintenance 7-38
L. Enforcement and Violations 7-42

7.5. Soil Erosion and Sedimentation **7-47**
A. Purpose 7-47
B. Scope and Exclusions 7-47
C. Mandatory Standards for Land-Disturbing Activity 7-48
D. Erosion and Sedimentation Control Plans 7-49
E. Basic Control Objectives 7-54
F. Design and Performance Standards 7-54
G. Storm Water Outlet Protection 7-55
H. Borrow and Waste Areas 7-56
I. Access and Haul Roads 7-56
J. Operations in Lakes or Natural Watercourses 7-56
K. Responsibility for Maintenance 7-56
L. Additional Measures 7-56

M. Existing Uncovered Areas 7-57
N. Fees 7-57
O. Performance Guarantees 7-57
P. Plan Appeals 7-57
Q. Inspections and Investigations 7-57
R. Penalties 7-58
S. Injunctive Relief 7-59
T. Restoration After Non-Compliance 7-60
U. Severability 7-60

7.6. Sustainability Incentives 7-61
A. How to Use These Incentives 7-61
B. Purpose and Intent 7-61
C. Applicability 7-61
D. Type of Incentives 7-61
E. Procedure 7-61
F. Menu of Sustainable Development Practices 7-62
G. Failure to Install or Maintain Sustainable Development Practices 7-65

7.1. OPEN SPACE SET-ASIDE

A. HOW TO USE THESE STANDARDS

1. Developments subject to these open space set-aside standards (see Section 7.1.C, Applicability) shall provide the minimum amount of open space set-aside required for the zoning district where located as identified in CHAPTER 3. ZONING DISTRICTS.
2. The physical amount of open space to be set aside within a particular development is a percentage of total development size. These percentage requirements in found in the dimensional standards tables for the zoning districts in CHAPTER 3. ZONING DISTRICTS. There is no limitation on the provision of additional open space set-aside beyond the minimum specified in CHAPTER 3. ZONING DISTRICTS.
3. Once the minimum amount of open space set-aside to be provided is determined, the type of open space set-aside, if specified, should also be determined.
4. Applicants should consult Section 7.1.E, Open Space Set-Aside Configuration, in order to understand any applicable design requirements or prohibited features.
5. The required amount of open space set-aside may be reduced based on the provision of sustainable development features in accordance with Section 7.6, Sustainability Incentives, or other aspects of this Ordinance.

B. PURPOSE AND INTENT

The purpose of this section is to help ensure the provision and maintenance of open space resources that encourage recreation and the gathering of City residents and visitors. These standards are further intended to:

1. Establish the standards under which residential, mixed-use, and non-residential development shall set aside a portion of the development area as open space;
2. Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides, based on the zoning district designation; and
3. Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

C. APPLICABILITY

1. Generally

a. Unless exempted in accordance with Section 7.1.C.3, Exemptions, the standards in this section shall apply to all new development and redevelopment in the City.
b. Redevelopment conducted after November 1, 2019, shall comply with the standards in this section, to the maximum extent practicable, and shall provide its pro rata share of open space set-aside.

2. Conservation Subdivisions

Open space set-asides associated with a conservation subdivision shall be subject to the standards in Section 6.10, Conservation Subdivision, in addition to these standards. In the event of a conflict, the standards in Section 6.10, Conservation Subdivision, shall control.

3. Exemptions

(AMENDED 1.4.22 UDOTA-1-22)

The following forms of development shall be exempted from the standards in this section:

a. Development of an individual single-family dwelling (including manufactured homes) on lots platted prior to November 1, 2019;
b. Subdivisions comprised solely of five or fewer lots where all lots intended for single-family detached residential dwellings; Subdivisions or other development with five or fewer residential dwellings; and
c. Development located within the PC, MI, and HI districts.

D. MINIMUM OPEN SPACE SET-ASIDE REQUIREMENTS

1. Amount

a. The minimum required amount of open-space set-aside, as a percentage of a development's size, shall be in accordance with the dimensional standards for the type of use in the zoning district where the development is located. CHAPTER 3. ZONING DISTRICTS, sets out the dimensional standards for each zoning district.
b. Nothing shall limit the provision of a greater minimum percentage or other type of open space set-aside, provided the minimum requirements in this section are met.

2. Type

a. Unless otherwise indicated in the appropriate dimensional standards table in CHAPTER 3. ZONING DISTRICTS, open space set-aside shall be configured in accordance with the standards in Section 7.1.E.1, Passive Open Space Set-Aside.

b. In cases where development must configure open space set-aside with active recreation features, it shall be configured in accordance with Section 7.1.E.2, Active Open Space Set-Aside.

c. In cases where open space set-aside shall be configured as urban, it shall be configured in accordance with Section 7.1.E.3, Urban Open Space Set-Aside.

d. Except in instances where open space set-aside must be configured for active recreation, nothing shall limit development from configuring required open space set-aside in accordance with the standards in Section 7.1.E.3, Urban Open Space Set-Aside.

E. OPEN SPACE SET-ASIDE CONFIGURATION

Open space set-asides shall be configured in accordance with the following standards.

1. Passive Open Space Set-Aside

Passive open space set-asides are intended to provide land area that is undeveloped, or that is developed with low-intensity recreational features (such as those for walking or sitting), landscaping, replacement trees, or stormwater control measures that are configured as a site amenity (see Figure 7.1.E.4, Types of Open Space).

a. Allowable Features

The land area occupied by any of the following types of features is credited towards required passive open space set-aside:

i. Walking, bicycling, and equestrian trails;
ii. Boardwalks;
iii. Gardens and greenway trails;
iv. Benches and seating areas;
v. Tables, shelters, grills, and related picnicking facilities;
vi. Lawn areas and community greens;
vii. Lakes, ponds, wetlands, swamps, canals, and streams;
viii. Piers and docks for fishing or viewing wildlife; and
ix. Undisturbed land subject to a deed restriction or conservation easement.

b. Site Features Credited Towards Passive Open Space Set-Aside Requirements

(AMENDED 10.20.20 UDOTA-03-20)

i. The following site features shall be credited towards passive open space set-aside requirements:

a) Lands dedicated for public parks or greenways, when not already credited towards active or urban open space set-asides;
b) Required landscaping areas;
c) Reforestation areas;
d) Tree protection areas;
e) U.S. Army Corps of Engineers designated 404 wetlands;
f) Riparian buffer areas;
g) Natural heritage areas; and
h) Land area occupied by stormwater control measures, including retention ponds, fully vegetated detention basins, and other bio-retention devices, provided these facilities are treated as a site amenity.

ii. In order to be considered a site amenity that is credited towards passive open space set-aside requirements, stormwater control measures shall include all the following:

a) Pedestrian access to the facility;
b) Gentle slopes of three-to-one (3:1) or less;
c) Pedestrian elements such as paths, benches, and similar aspects to and around the facility; and
d) Vegetation, whether planted or retained.

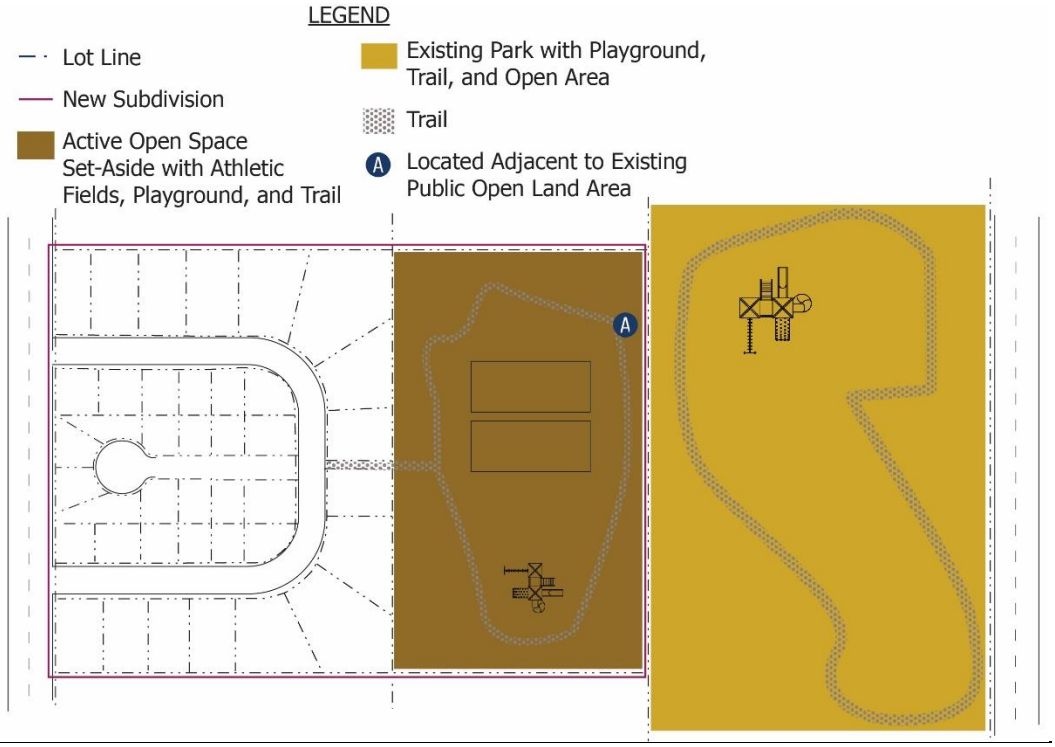
2. Active Open Space Set-Aside

Active open space set-asides provide for active recreational needs of the residents or visitors they serve. Active features include fields and courts as well as built structures (see Figure 7.1.E.4, Types of Open Space). Active open space set-asides shall meet the following standards:

a. Configuration

- **i.** Lands set aside as active open space set-aside shall be compact and contiguous unless the land is used as a continuation of an existing trail, or specific natural or topographic features require a different configuration.
- **ii.** Active open space set-aside areas shall be located so as to be readily accessible and useable by residents and users of the development.
- **iii.** Where possible, a portion of the open space set-aside should provide focal points for the development.
- **iv.** Where the development site is adjacent to existing or planned trails, parks, or other public open area land, the open space set-aside shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the trail, park, or other open area (see Figure 7.1.E.2, Open Space Continuation).

FIGURE 7.1.E.2: OPEN SPACE CONTINUATION



b. Allowable Features

(AMENDED 10.20.20 UDOTA-03-20)

The following types of features are allowable in and credited towards active open space set-asides:

- **i.** Lands dedicated for public parks or greenways when not already credited towards urban open space set-asides;
- **ii.** Swimming pools, splash pads, and areas devoted to water play for children;
- **iii.** Athletic fields and courts;
- **iv.** Boat launches and swimming platforms;
- **v.** Club houses;
- **vi.** Playgrounds and play structures for children; and
- **vii.** Obstacle courses and exercise trails.

3. Urban Open Space Set-Aside

Urban open space set-asides provide formal or informal gathering areas for people or locations for vegetation or stormwater uptake within urbanized portions of the City's jurisdiction. Urban open space

can include outdoor dining areas, building atriums with plants and seating, or green roofs (see Figure 7.1.E.4, Types of Open Space).

a. Allowable Features

(AMENDED 10.20.20 UDOTA-03-20)

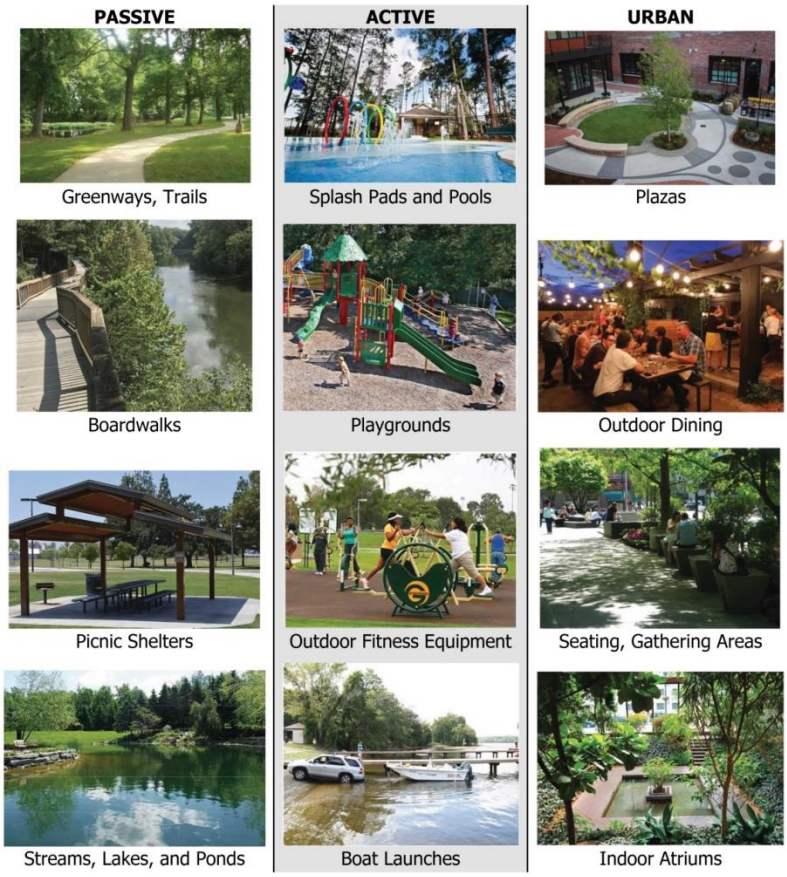
The following types of features are allowable in urban open space set-asides:

- **i.** Lands dedicated for public parks or greenways;
- **ii.** Plazas and courtyards;
- **iii.** Roof gardens;
- **iv.** Indoor atriums with plantings and seating that are open to the general public;
- **v.** Outdoor dining areas;
- **vi.** Fountains; and
- **vii.** Areas devoted to public gathering.

4. Within Conservation Subdivisions

Open space set-asides within conservation subdivisions may include any of the features allowed in active, passive, or urban open space set-aside areas in addition to farm fields, forestry lands, or lands used for agricultural purposes.

FIGURE 7.1.E.4: TYPES OF OPEN SPACE



5. Features Not Credited Towards Open Space Set-Aside

The following areas shall not be included in or credited towards any open space set-aside requirements:

- **a.** Private yards not subject to a deed restriction or conservation easement;
- **b.** Street rights-of-way;
- **c.** Parking areas and driveways for dwellings or other uses;
- **d.** Land covered by structures not designated for active recreational uses;
- **e.** On-site wastewater treatment facilities, including septic tank drain fields;
- **f.** Stormwater control measures not configured as a site amenity; and
- **g.** Designated outdoor storage areas.

F. OWNERSHIP OF OPEN SPACE SET-ASIDES

Open space set-asides are intended to remain under private ownership while being available for use to residents and visitors in the development where located. Ownership of open space set-asides shall remain with the owner of the land, except in the following circumstances.

1. Homeowners' or Property Owners' Association

All open space set-aside areas may be owned jointly or in common by the owners of the development through a recognized homeowners' or property owners' association, which shall be established in accordance with Section 6.9, Owner Associations.

2. Nonprofit Organization

The landowners may decide to convey an open space set-aside to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the City is provided adequate assurance the set-aside will be properly managed and maintained.

3. Dedicated to City or Other Public Agency

In some cases, certain lands designated as open space set-asides, such as wildlife habitat or greenways, may be dedicated to the City or other public agency during the development review process. The City Council shall determine which lands and under what conditions open space set-asides may be dedicated to the City or other public agency.

G. MAINTENANCE OF OPEN SPACE SET-ASIDES

1. The owner of the land shall be responsible for maintenance of all open space set-aside areas including land, vegetation, private infrastructure, greenways, and other features, in accordance with this Ordinance and any conditions of approval associated with the development.
2. Failure to maintain open space set-aside areas is a violation of this Ordinance subject to the remedies and penalties in Section 2.5, Enforcement.

7.2. REFORESTATION

A. PURPOSE AND INTENT

This section is proposed to ensure that the City's jurisdiction includes areas of mature tree canopy cover during and after development. These standards are further intended to:

1. Promote sequestration of carbon dioxide through the establishment of new trees or the retention of existing trees on lots following the development process;
2. Protect species diversity and habitat through the establishment of connected or linked areas of protected forest;
3. Encourage the retention of existing trees during the development process through accelerated credit towards landscaping requirements; and
4. Establish tree protection requirements for trees voluntarily proposed for retention during the development process.

B. APPLICABILITY

Unless exempted in accordance with Section 7.2.C, Exemptions, the standards in this section shall apply to all lands and development, including subdivisions of land for single-family detached residential dwellings, in the City's jurisdiction.

C. EXEMPTIONS

The following activities are exempt from the standards of this section:

1. Activity on a bona fide farm;
2. Tree removal associated with normal forestry activity that is conducted:
   a. On land taxed on the basis of its present-use value as forestland pursuant to Chapter 105, Article 12 of the North Carolina General Statutes; or
   b. In accordance with a forest management plan prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes;
3. Development or redevelopment within the CBD or PDD districts;
4. Development or redevelopment within the AHO or the LHO districts;
5. Construction of an individual single family detached home on its own lot; and
6. Construction of an individual duplex dwelling on one or two individual lots.

D. REQUIREMENTS

1. Generally

New development subject to these standards shall either reforest a portion of the development site after construction in accordance with the standards in Section 7.2.D.2, Reforestation Standards, or shall retain existing trees on the site in accordance with the standards in Section 7.2.D.3, Tree Retention Standards.

2. Reforestation Standards

a. Amount

Development seeking to meet the standards of this section through reforestation shall identify and reserve a portion of the development site corresponding to at least five percent of the site's total developable area.

b. Location

The preferred location(s) for reforestation areas on an individual development site are listed in the following priority order (see Figure 7.2.D.2.b: Reforestation Location):

i. Areas adjoining unbuildable lands such as riparian buffers, wetlands, steep slopes, or lands within a floodway;
ii. Areas that directly abut reforestation areas on adjoining lots;
iii. Areas adjacent to existing forest land on adjoining lots;
iv. Areas adjacent to parks or conservation lands on adjoining lots;
v. Areas within the flood fringe on the same lot; or
vi. Other areas as determined by the Planning Director.

c. Configuration

i. Species

a) Trees shall be native or endemic to Alamance County or Guilford County, as appropriate, and should be of a variety that can be expected to survive for at least 25 years under normal conditions.

b) Nuisance species, such as the Tree of Heaven, Mimosa, Bradford Pear, or Chinese Tallowtree shall not be included in reforestation areas.

ii. Species Diversity

(AMENDED 10.20.20 UDOTA-03-20)

Trees provided as part of reforestation activity shall be comprised of at least three different canopy tree and understory tree species, and differing species shall be interspersed throughout the reforestation planting area.

iii. Mature Heights

Trees proposed for planting in a reforestation area shall have a range of heights at maturity.

iv. Minimum Size at Time of Planting

Trees proposed for planting shall be from containerized stock. Bare-root stock is not recommended, and use of seeds or cuttings is prohibited.

v. Spacing

a) Newly planted trees shall be planted to follow contours of land and not planted in rows so as to avoid the appearance of being planted.

b) Trees shall be located at least six feet from one another and from the edge of the reforestation area boundary, but no greater than eight feet from one another or the reforestation area boundary.

vi. Minimum Number of Trees Required

Trees shall be planted at a rate to ensure uniform coverage throughout the reforestation area based on the maximum spacing requirements.

vii. Contiguity

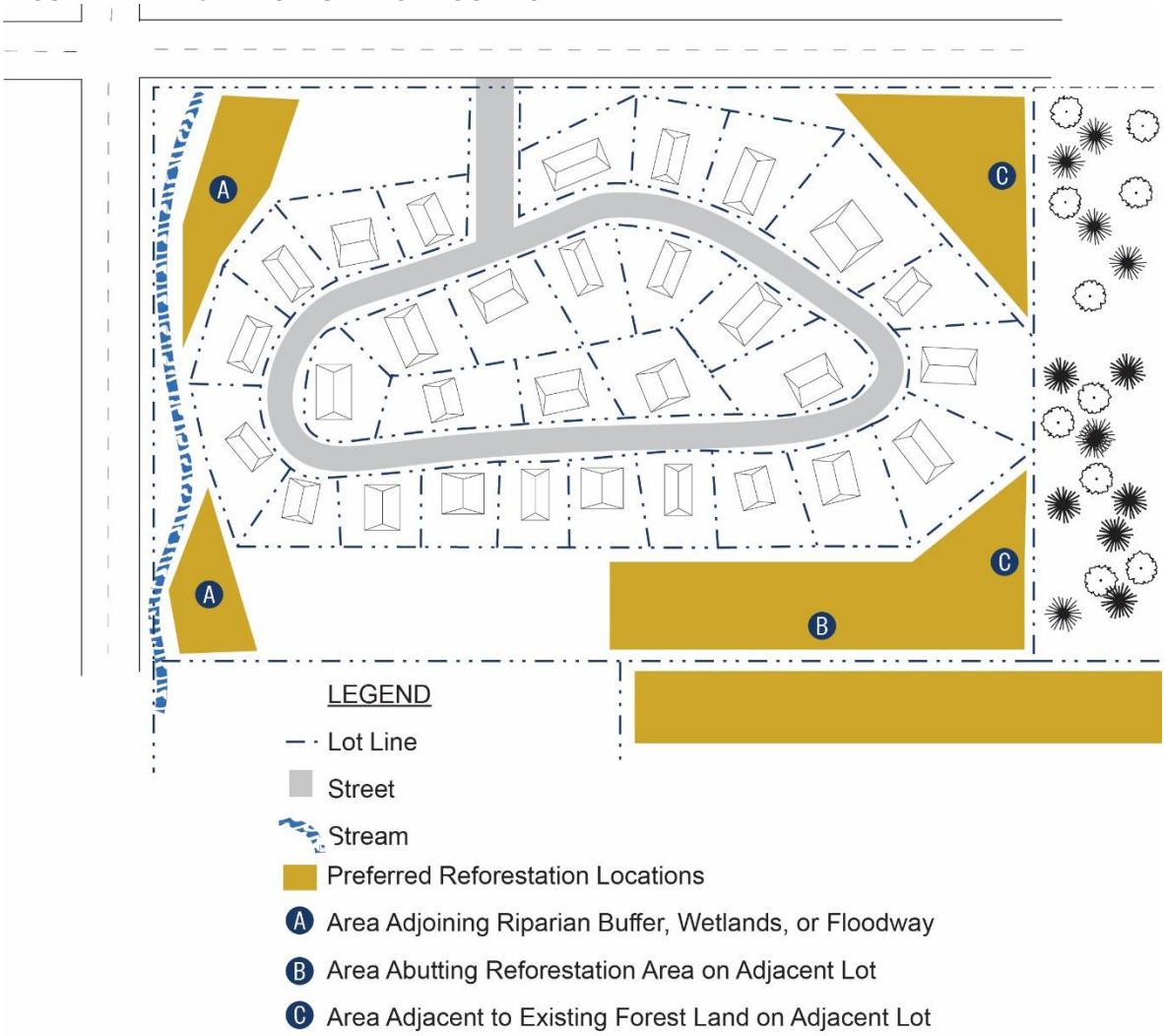
a) Reforestation areas shall be contiguous and shall not be separated from one another on a lot or development site of less than 30 acres in size.

b) In cases where reforestation is proposed on a lot or site of more than 30 acres in size, individual reforestation areas may occupy two or more separate locations, provided that each individual reforestation area is at least one-half acre in area.

viii. Within a Residential Subdivision

When required as part of a subdivision of land for residential purposes, a reforestation area shall be located outside the boundary of individual building lots.

FIGURE 7.2.D.2.b: REFORESTATION LOCATION



3. Tree Retention Standards

Retention of existing trees on a development site, in accordance with the following standards, may be proposed as an alternative to the reforestation requirements in Section 7.2.D.2, Reforestation Standards.

a. Amount

The number of existing trees to be retained during and after development shall be the minimum necessary to ensure that at least five percent of the total buildable area of the lot or site is located beneath existing tree canopy.

b. Configuration

The portion of the site to be retained under tree canopy shall be compact and contiguous, to the maximum extent practicable (see Figure 7.2.D.3.b, Tree Canopy Retention).

c. Location

The tree canopy retention area shall be located away from areas proposed for grading or the installation of impervious surface.

d. Within a Residential Subdivision

When required as part of a subdivision of land for residential purposes, a reforestation area shall be located outside the boundary of individual building lots.

e. Size of Retained Trees

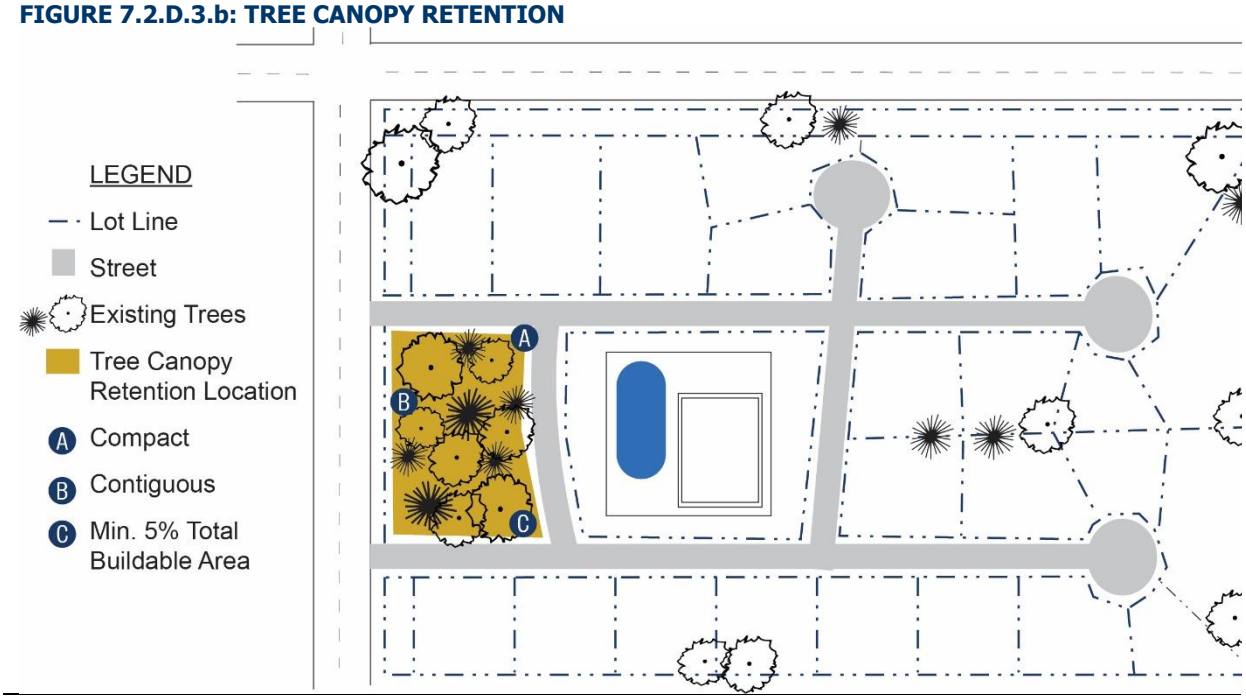
i. Only the tree canopy associated with trees of four inches in DBH or larger shall be credited towards the tree retention standards.

ii. An applicant shall not be required to submit a tree survey unless trees within the retention area are proposed for credit towards the requirements in Section 5.3, Landscaping.

f. Compliance with Tree Protection Device Standards

In cases where a development is proposing retention of existing trees as a means of compliance with these reforestation standards, the area of tree retention shall be surrounded by tree protection devices during the construction process in accordance with Section 7.2.E, Tree Protection Devices.

FIGURE 7.2.D.3.b: TREE CANOPY RETENTION



E. TREE PROTECTION DEVICES

1. Responsibility

During any development activity (including demolition activity) on a lot or site containing trees to be retained for credit towards reforestation requirements or to be credited towards requirements in Section 5.3, Landscaping, the landowner or developer shall be responsible for protecting existing trees to be retained in accordance with the standards in this section.

2. Protective Fencing and Signage

a. Protective Fencing

i. Continuous fencing consisting of a bright orange plastic mesh at least four feet high shall be provided along the driplines of trees to be retained for credit towards any Ordinance requirements (see Figure 7.2.E, Tree Protection Devices).

ii. Retained trees that are inaccessible to development activities or separated from all development activities by a distance of at least 300 linear feet are exempted from the requirement for tree protection fencing.

b. Warning Signage

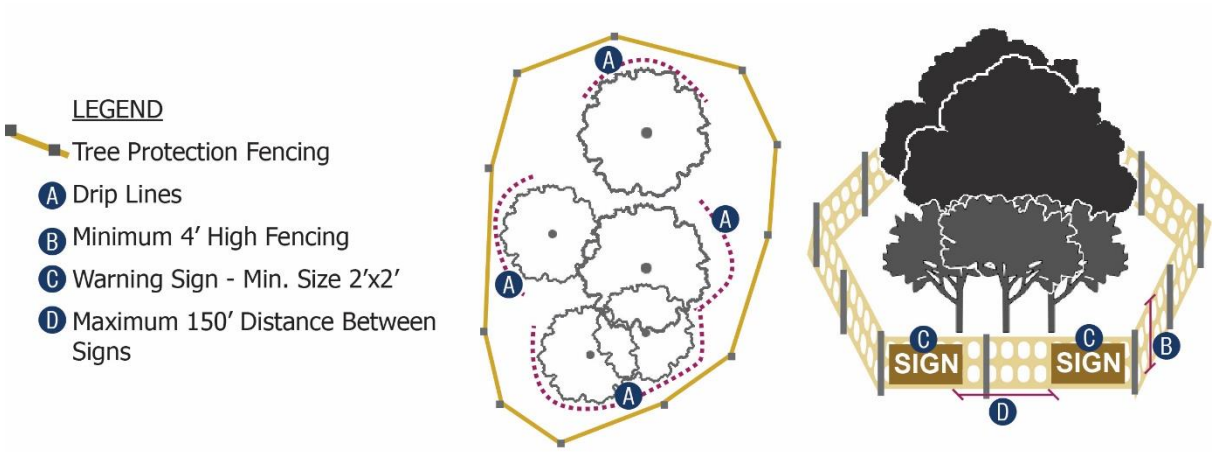
i. Warning signs shall be installed along any required tree protective fencing.

ii. The signs shall be clearly visible from all sides around the outside of the fenced-in area.

iii. The size of each sign must be a minimum of two feet by two feet.

iv. The sign message shall, in both English and Spanish, identify the fenced or marked area as a tree protection area and direct construction workers not to encroach into the area (e.g., "Tree Protection Area: Do Not Enter"). For the purposes of this Ordinance, these warning signs are considered government signs exempted from First Amendment protections regarding regulation of sign content.

FIGURE 7.2.E: TREE PROTECTION DEVICES



3. Duration of Protective Fencing and Signage

Required protective fencing and signage shall be erected before any grading or other development activity begins and shall be maintained until issuance of a certificate of occupancy following completion of all development in the immediate area of the fencing or signage.

4. Tree Protection Requirements

a. No development activity—including grade changes, the operation or parking of heavy equipment, or the washing down of concrete or cement handling equipment, or the storage of fuel, chemicals, materials, supplies, or construction waste and debris—shall be allowed within areas surrounded by tree protection fencing.

b. No structures or hard surfaces shall be located within areas surrounded by tree protection fencing.

c. Retaining walls and drywells may be used to protect trees to be preserved from severe grade changes if venting adequate to allow air and water to reach tree roots is provided through any fill.

5. Damage or Death of a Protected Tree

If a violation of this section occurs and a protected tree is removed or dies within two years after a certificate of occupancy is granted for that portion of a development where the tree is or was located, then the landowner, owners' association, or occupancy permit recipient, or their successor, as appropriate, shall be required to install replacement trees at the rate necessary to comply with the tree canopy coverage requirements.

F. CREDIT TOWARDS OTHER ORDINANCE REQUIREMENTS

1. Open Space Set-Aside

Land area devoted to reforestation or to the retention of existing trees during and after development activity shall be credited towards any passive open space set-aside requirements in Section 7.1, Open Space Set-Aside.

2. Required Landscaping

a. Existing healthy, well-formed canopy and understory trees that are retained on site during and after development shall be credited toward the minimum landscaping requirements in Section 7.2.F.2, Required Landscaping, provided:

- **i.** The vegetation to be credited shall meet the minimum size standards for required landscaping;
- **ii.** The vegetation to be credited conforms with all species requirements and does not include noxious weeds or other nuisance vegetation;
- **iii.** The vegetation to be credited is protected before and during development in accordance with Section 7.2.E, Tree Protection Devices, prior to the start of any land-disturbing activities; and
- **iv.** The location of the existing vegetation contributes to the screening or buffering functions of the landscaping.

b. As an incentive for retention of existing trees, existing trees meeting the standards in (a) above that are retained during and after development shall be credited towards the minimum landscaping requirements in this Ordinance at a rate of 1.25 times the tree's actual caliper or diameter at breast height.

G. MAINTENANCE

1. Reforestation and tree retention areas are intended to remain undisturbed by clearing or development. Any disturbance of these areas shall be a violation of this Ordinance in accordance with Section 2.5, Enforcement.
2. Trees located within reforestation or tree retention areas are intended to remain until their natural death. In the event of disease or the creation of an unsafe situation, the Planning Director may allow selective clearing or removal of trees subject to an approved replanting plan.

7.3. RIPARIAN BUFFERS

(AMENDED 10.20.20 UDOTA-03-20)

This section 7.3, Riparian Buffers, shall be known as the "City of Burlington Riparian Buffer Protection Ordinance." This ordinance may be referred to as "this section."

A. AUTHORITY

(AMENDED 10.20.20 UDOTA-03-20)

1. This section is adopted pursuant to the authority vested in City of Burlington by the Session Laws and the General Statutes of North Carolina, particularly:
   a. Session Law 2009-216 (House Bill 239);
   b. Session Law 2009-484 (Senate Bill 838);
   c. Sections 153A-121 and 153A-140 of the North Carolina General Statutes;
   d. Sections 160A-174 and 160A-193 of the North Carolina General Statutes;
   e. Chapter 160D of the North Carolina General Statutes; and
   f. Any special legislation enacted by the General Assembly for the City of Burlington.
2. The Stormwater Administrator shall interpret this section in accordance with Section 2.4.F, Determination. The Stormwater Administrator shall maintain a record of all written determinations of this section.

B. PURPOSE AND INTENT

This section is adopted to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions. Further, this section is intended to:

1. Help protect the water supply uses of Jordan Reservoir and designated water supplies throughout the Jordan Reservoir Watershed;
2. Enhance and protect the natural ecology of stream systems;
3. Protect water quality through bank stabilization, shading, and nutrient removal;
4. Minimize flood damage in flood prone areas;
5. Help to remove nitrogen from surface waters; and
6. Prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.

C. JURISDICTION

(AMENDED 10.20.20 UDOTA-03-20)

Except where exempted by Section 7.3.D, Exemptions, this section shall apply to all landowners and other persons conducting activities within the planning jurisdiction of the City that is located within the Jordan Reservoir Watershed.

D. EXEMPTIONS

1. This section shall apply to all landowners and other persons conducting activities within the Jordan Reservoir Watershed, with the exception of the following:
   a. Activities conducted under the authority of the State, the United States, multiple jurisdictions, or local units of government;
   b. Forest harvesting; and
   c. Agricultural activities.
2. The NC Department of Environmental Quality (NCDEQ) shall administer the requirements of Rule 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers) for these exempted activities.

E. RELATIONSHIP TO OTHER ORDINANCES

1. The requirements of this Ordinance shall supersede all locally-implemented buffer requirements stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan Reservoir Watershed.
2. If the provisions of this section conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control.
3. This section is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law.

F. RIPARIAN AREA PROTECTION WITHIN THE JORDAN RESERVOIR WATERSHED

1. Buffers Protected

(AMENDED 10.20.20 UDOTA-03-20)

The following minimum criteria shall be used for identifying regulated buffers:

a. This section shall apply to activities conducted within 50-foot-wide riparian buffers directly adjacent to surface waters in the Jordan Reservoir Watershed, including intermittent streams, perennial streams, lakes, reservoirs, and ponds, but excluding wetlands.

b. This section shall also apply to activities conducted outside of the 50-foot-wide riparian buffers that have hydrologic impacts in violation of the diffuse flow requirements set out in Section 7.3.F.5, Diffuse Flow Requirements.

c. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

d. For the purpose of this section, only one of the following types of maps shall be used for purposes of identifying a water body subject to this section:

i. The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture;

ii. The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey; or

iii. A map approved by the Geographic Information Coordinating Council and by the North Carolina Environmental Management Commission. Prior to approving a map under this Item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of Section 7.3.F.3, Exemption when Existing Uses are Present and Ongoing.

e. Where the specific origination point of a stream is in question, upon request of the North Carolina Department of Environmental Quality (NCDEQ) or another party, the Stormwater Administrator shall make an on-site determination. The Stormwater Administrator, or a designee, who has successfully completed the Division of Water Resources Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division's publication, *Identification Methods for the Origins of Intermittent and Perennial Streams*, or from the NCDEQ's - 401 Oversight Express Permitting Unit, or its successor. The Stormwater Administrator may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Resources, or its successor, in writing. The Director's determination is subject to review as provided in Articles 3 and 4 of Chapter 150B of the North Carolina General Statutes.

f. Riparian buffers protected by this section shall be measured pursuant to Section 7.3.F.4, Zones of the Riparian Buffer.

g. Parties subject to this section shall abide by all State rules and laws regarding waters of the State including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

h. No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this section.

2. Exemption Based on On-site Determination

(AMENDED 10.20.20 UDOTA-03-20)

a. When a landowner or other affected party, including the North Carolina Division of Water Resources, believes that the maps have inaccurately depicted surface waters, they shall consult the Stormwater Administrator. Upon request, the Stormwater Administrator, or a designee, who has successfully completed the North Carolina Division of Water Resources' Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The Stormwater Administrator may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Resources in care of the 401 Oversight Express Permitting Unit, or its successor,

in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in Articles 3 and 4 of Chapter 150B of the North Carolina General Statutes.

b. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

i. Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses (a pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream);

ii. Ephemeral streams;

iii. The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond; or

iv. Ditches or other man-made water conveyances, other than modified natural streams.

3. Exemption when Existing Uses are Present and Ongoing

(AMENDED 10.20.20 UDOTA-03-20)

a. This section shall not apply to uses that are existing and ongoing; however, this section shall apply at the time an existing, ongoing use is changed to another use.

b. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

i. It was present within the riparian buffer as of November 16, 2010 and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this section. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of November 16, 2010, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained;

ii. Projects or proposed development that are determined by the City to meet at least one of the following criteria:

a) Project requires a 401 Certification/404 Permit and these were issued prior to November 16, 2010;

b) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to November 16, 2010;

c) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with the NC Department of Environmental Quality on avoidance and minimization by November 16, 2010;

d) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the City prior to November 16, 2010; and

e) Projects that have a vested right per Section 160D-108 of the North Carolina General Statutes.

4. Zones of the Riparian Buffer

The protected riparian buffer shall have two zones as follows (see Figure 7.3.F.4, Riparian Buffer Zones):

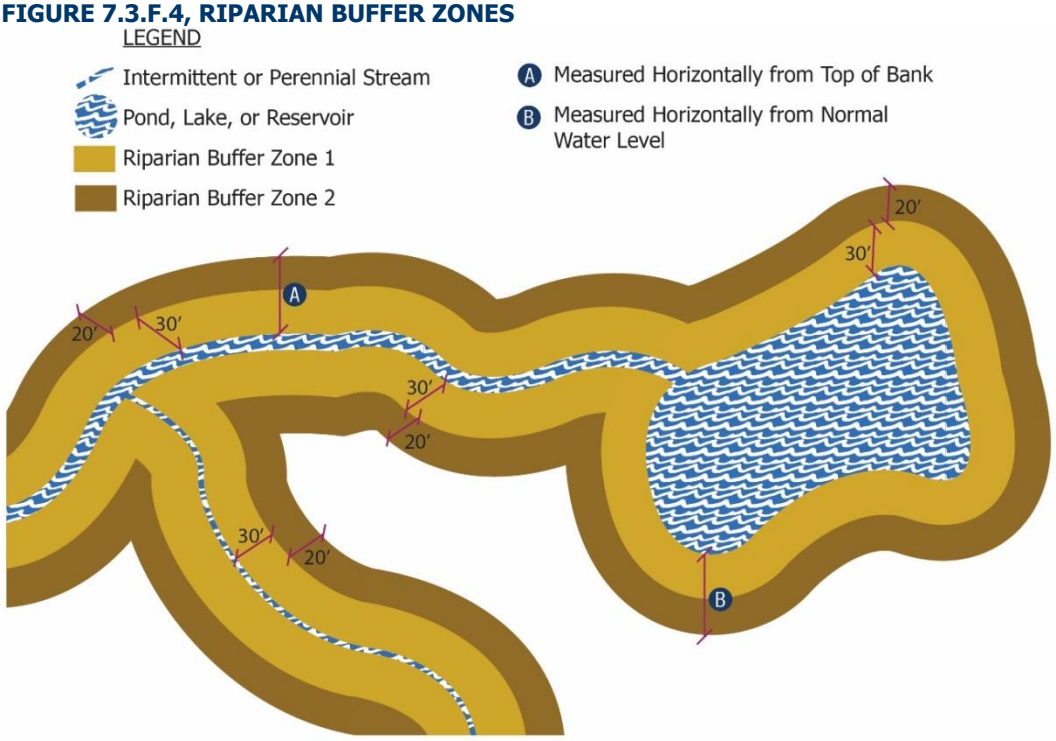
a. Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in Section 7.3.G.2, Table of Uses. The location of Zone One shall be as follows:

i. For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

ii. For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

b. Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in Section 7.3.G.2, Table of Uses. Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

FIGURE 7.3.F.4, RIPARIAN BUFFER ZONES



5. Diffuse Flow Requirements

Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

a. Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;

b. Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and

c. As set out in Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.G.2, Table of Uses, no new stormwater conveyances are allowed through the buffers except for those specified in Section 7.3.G.2, Table of Uses, addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.

G. POTENTIAL USES AND ASSOCIATED REQUIREMENTS

1. Approval for New Development

(AMENDED 10.20.20 UDOTA-03-20)

The Stormwater Administrator shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in Section 7.3.F.1, Buffers Protected, or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

a. Determined the activity is exempt from requirements of this section;
b. Received an authorization certificate from the Division of Water Resources pursuant to Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate;
c. Received approval of mitigation plan pursuant to Section 7.3.H.3, Mitigation, for uses designated as Allowable with Mitigation in Table 7.3.G.2, Table of Uses in Riparian Buffers; or
d. Received a variance pursuant to Section 7.3.H.2, Variances.

2. Table of Uses

The following table sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to Section 7.3.H.2, Variances. The requirements for each category are given in Section 7.3.G.3, Requirements for Categories of Uses.

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics	How Addressed		
		Exempt	Allowable	Allowable with Mitigation
Access Trails (pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities)	Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the riparian buffer	X		
	Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this Ordinance or impervious surface is added to the riparian buffer		X	
Airport Facilities	Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
	Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
	Activities necessary to comply with FAA requirements (e.g., radar uses or landing strips) **[1]**		X	
Archaeological Activities		X		
Bridges			X	
Canoe access provided that installation and use does not result in removal of trees as defined in this Ordinance and no impervious surface is added to the buffer		X		
Dam Maintenance Activities	Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit #3	X		
	Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit #3		X	
Drainage Ditches, Roadside Ditches and Stormwater Conveyances through Riparian Buffers	New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies	X		

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics	How Addressed		
		Exempt	Allowable	Allowable with Mitigation
	Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations		X	
	New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer		X	
	New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable SCMs are employed			X
Drainage of a pond in a natural drainage way provided that a new riparian buffer that meets the requirements of Section 7.3.F, Riparian Area Protection within the Jordan Reservoir Watershed, and Section 7.3.G, Potential Uses and Associated Requirements, is established adjacent to the new channel		X		
Driveway Crossings of Streams and Other Surface Waters Subject to these Standards	Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer	X		
	Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer		X	
	In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
	In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer			X
Driveway impacts other than crossing of a stream or other surface waters subject to this Ordinance				X
Fences	Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Ordinance	X		
	Fences provided that disturbance is minimized and installation results in removal of trees as defined in this Ordinance		X	
Fertilizer application; one-time application to establish vegetation		X		
Forest Harvesting		See the Jordan Lake Buffer Rules		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated		X		
Greenway/hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical			X	
Historic preservation		X		

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics		How Addressed		
			Exempt	Allowable	Allowable with Mitigation
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading				X	
Mining Activities	Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements, are established adjacent to the relocated channels			X	
	Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements, are not established adjacent to the relocated channels				X
	Wastewater or mining dewatering wells with approved NPDES permit		X		
Piping of a Stream in accordance with a USACOE Permit			X		
Playground Equipment	Playground equipment on single family lots provided that installation and use does not result in removal of vegetation		X		
	Playground equipment installed on lands other than single-family lots or that requires removal of vegetation			X	
Ponds Created by Impounding Streams and not Used as Stormwater SCMs	New ponds provided that a riparian buffer that meets the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements, is established adjacent to the pond			X	
	New ponds where a riparian buffer that meets the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements, is NOT established adjacent to the pond				X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel				X	
Railroad impacts other than crossings of streams and other surface waters subject to these standards					X
Railroad Crossings of Streams and Other Surface Waters Subject to this Section	Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer		X		
	Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer			X	
	Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer				X
Recreational and Accessory Structures in Zone Two	Sheds and gazebos in Zone Two, provided they are not prohibited in the WPO	Total footprint less than or equal to 150 square feet per lot		X	
		Total footprint greater than 150 square feet per lot			X
	Wooden slatted decks and associated steps, provided they meet the requirements of Section	Deck at least eight feet in height and no vegetation removed from Zone One		X	

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics		How Addressed		
			Exempt	Allowable	Allowable with Mitigation
	7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements	Deck less than eight feet in height or vegetation removed from Zone One			X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored			X		
Road impacts other than crossings of streams and other surface waters subject to this Ordinance					X
Road Crossings of Streams and Other Surface Waters Subject to this Section	Road crossings that impact equal to or less than 40 linear feet of riparian buffer		X		
	Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer			X	
	Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer				X
Road Relocation - Relocation of Existing Private Access Roads Associated with Public Road Projects Where Necessary for Public Safety	Less than or equal to 2,500 square feet of buffer impact			X	
	Greater than 2,500 square feet of buffer impact				X
Stormwater SCMs	Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow of discharge is provided into Zone One			X	
	Wet detention, bioretention, and constructed wetlands in Zone One				X
Scientific studies and stream gauging			X		
Streambank or shoreline stabilization				X	
Temporary Roads, Provided that the Disturbed Area is Restored to Pre-construction Topographic and Hydrologic Conditions Immediately After Construction is Complete and Replanted Immediately with Comparable Vegetation **[2]**	Less than or equal to 2,500 square feet of buffer disturbance		X		
	Greater than 2,500 square feet of buffer disturbance			X	
	Associated with culvert installation or bridge construction or replacement			X	
Temporary Sediment and Erosion Control Devices, Provided that the Disturbed Area is	In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with Section 7.3.F.5, Diffuse Flow Requirements		X		

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics	How Addressed		
		Exempt	Allowable	Allowable with Mitigation
Restored to Pre-construction Topographic and Hydrologic Conditions immediately after Construction is Complete and Replanted Immediately with Comparable Vegetation **[2]**	In Zones One and Two to control impacts associated with uses approved by City or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer		X	
	In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act	X		
	In-stream temporary erosion and sediment control measures for work within a stream channel		X	
Utility, Electric, Aerial, Perpendicular Crossings of Streams and Other Surface Waters Subject to this Section **[3], [4], [6]**	Disturb equal to or less than 150 linear feet of riparian buffer	X		
	Disturb greater than 150 linear feet of riparian buffer		X	
Utility, Electric, Aerial, Other than Perpendicular Crossings **[6]**	Impacts in Zone Two		X	
	Impacts in Zone One **[3], [4]**			X
Utility, Electric, Underground, Perpendicular Crossings **[4], [5], [6]**	Disturb less than or equal to 40 linear feet of riparian buffer	X		
	Disturb greater than 40 linear feet of riparian buffer		X	
Utility, Electric, Underground, Other than Perpendicular Crossings **[5]**	Impacts in Zone Two	X		
	Impacts in Zone One **[1]**	X		
Utility, Non-electric, Perpendicular Crossings of Streams and Other Surface Waters Subject to this Section **[4], [6]**	Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width	X		
	Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width		X	
	Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width		X	
	Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width			X
	Disturb greater than 150 linear feet of riparian buffer			X
Utility, Non-electric, Other than Perpendicular Crossings **[5], [6]**	Impacts in Zone Two	X		
	Impacts in Zone One **[1]**			X

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics	How Addressed		
		Exempt	Allowable	Allowable with Mitigation
Vegetation Management	Emergency fire control measures provided that topography is restored	X		
	Mowing or harvesting of plant products in Zone Two	X		
	Planting vegetation to enhance the riparian buffer	X		
	Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X		
	Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank	X		
	Removal of individual trees which are dead, diseased or damaged	X		
	Removal of poison ivy	X		
	Removal of invasive exotic vegetation as defined in Smith, Cherri L. 1998. *Exotic Plant Guidelines*. Dept. of Environment Quality. Division of Parks and Recreation. Raleigh, NC. Guideline #30	X		
Vehicular Access Roads Leading to Water-Dependent Structures as Defined in 15A NCAC 02B .0202, Provided they do not Cross the Surface Water and Have Minimum Practicable Width not Exceeding Ten Feet			X	
Water Dependent Structures as Defined In 15A NCAC 02B .0202 Where Installation and Use Result in Disturbance to Riparian Buffers			X	
Water Supply Reservoirs	New reservoirs where a riparian buffer that meets the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements, is established adjacent to the reservoir		X	
	New reservoirs where a riparian buffer that meets the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements, is not established adjacent to the reservoir			X
Water Wells	Single family residential water wells	X		
	All other water wells		X	
Wetland, Stream and Buffer Restoration that Results in Impacts to the Riparian Buffers	Wetland, stream and buffer restoration that requires NCDEQ approval for the use of a 401 Water Quality Certification	X		
	Wetland, stream and buffer restoration that does not require NCDEQ approval for the use of a 401 Water Quality Certification		X	
Wildlife passage structures			X	

TABLE 7.3.G.2: TABLE OF USES IN RIPARIAN BUFFERS

Type of Use or Activity	Characteristics	How Addressed		
		Exempt	Allowable	Allowable with Mitigation

NOTES:
(AMENDED 10.20.20 UDOTA-03-20)

[1] Provided that:
[a] No heavy equipment is used in Zone One;
[b] Vegetation in undisturbed portions of the buffer is not compromised;
[c] Felled trees are removed by chain;
[d] No permanent felling of trees occurs in protected buffers or streams;
[e] Stumps are removed only by grinding;
[f] At the completion of the project the disturbed area is stabilized with native vegetation; and
[g] Zones One and Two meet the requirements of Section 7.3.F.4, Zones of the Riparian Buffer, and Section 7.3.F.5, Diffuse Flow Requirements.

[2] Tree planting may occur during the dormant season, and a one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in Section 7.3.H.3.g, Riparian Buffer Restoration or Enhancement.

[3] Provided that, in Zone One, all of the following best management practices (BMPs) for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the City, as defined in Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate. Also provided that:
[a] A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed;
[b] Woody vegetation shall be cleared by hand;
[c] No land grubbing or grading is allowed;
[d] Vegetative root systems shall be left intact to maintain the integrity of the soil;
[e] Stumps shall remain where trees are cut;
[f] Riprap shall not be used unless it is necessary to stabilize a tower;
[g] No fertilizer shall be used other than a one-time application to re-establish vegetation;
[h] Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state;
[i] Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer; and
[J] In wetlands, mats shall be utilized to minimize soil disturbance.

[4] Provided that poles or aerial infrastructure shall not be installed within 10 feet of a water body unless the City completes a no practical alternative evaluation as defined in Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate.

[5] Provided that, in Zone One, all of the following SCMs for underground utility lines are used. If all of these SCMs are not used, then the underground utility line shall require a no practical alternative evaluation by the City, as defined in Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate. Also provided that:
[a] Woody vegetation shall be cleared by hand;
[b] No land grubbing or grading is allowed;
[c] Vegetative root systems shall be left intact to maintain the integrity of the soil;
[d] Stumps shall remain, except in the trench where trees are cut;
[e] Underground cables shall be installed by vibratory plow or trenching;
[f] The trench shall be backfilled with the excavated soil material immediately following cable installation;
[g] No fertilizer shall be used other than a one-time application to re-establish vegetation;
[h] Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state;
[i] Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer; and
[j] In wetlands, mats shall be utilized to minimize soil disturbance.

[6] Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

3. Requirements for Categories of Uses

Uses designated in Table 7.3.G.2: Table of Uses, as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

a. Exempt

i. Uses designated as exempt are permissible without authorization by the City provided that they adhere to the limitations of the activity as defined in Section 7.3.G.2, Table of Uses.

ii. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

b. Allowable

i. Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate.

ii. This includes construction, monitoring, and maintenance activities.

iii. These uses require written authorization from the City.

c. Allowable with Mitigation

i. Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate, and an appropriate mitigation strategy has been approved pursuant to Section 7.3.H.3, Mitigation.

ii. These uses require written authorization from the City.

H. PERMITS PROCEDURES, REQUIREMENTS, AND APPROVALS

1. Determination of No Practical Alternatives/Request for Authorization Certificate

(AMENDED 10.20.20 UDOTA-03-20)

a. Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Stormwater Administrator. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives:"

i. The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;

ii. The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and

iii. Best management practices shall be used if necessary, to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

b. The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives:"

i. The name, address, and phone number of the applicant;

ii. The nature of the activity to be conducted by the applicant;

iii. The location of the activity, including the jurisdiction;

iv. A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;

v. An explanation of why this plan for the activity cannot be practically accomplished, reduced, or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat, and protect water quality; and

vi. Plans for any best management practices proposed to be used to control the impacts associated with the activity.

c. Within 60 days of a submission that addresses subsection (b) above, the Stormwater Administrator shall review the entire project and make a finding of fact as to whether the criteria in subsection (a) above have been met. A finding of "no practical alternatives" shall result in issuance of an authorization certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an authorization certificate shall be issued to the applicant unless one of the following occurs:

i. The applicant agrees, in writing, to a longer period;

ii. The Stormwater Administrator determines that the applicant has failed to furnish requested information necessary to the Stormwater Administrator's decision;

iii. The final decision is to be made pursuant to a public hearing; or

iv. The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Stormwater Administrator's decision.

d. The Stormwater Administrator may attach conditions to the authorization certificate that support the purpose, spirit, and intent of this section.

e. Any appeals of determinations regarding authorization certificates shall be referred to the Director of the Division of Water Resources, or its successor. The Director's decision is subject to review as provided in Chapter 150B Articles 3 and 4 of the North Carolina General Statutes.

2. Variances

Applications for variances to this section shall be submitted and reviewed in accordance with the standards in Section 2.4.AA.7.b, Water-Related Variances from Riparian Buffer Standards.

3. Mitigation

a. Generally

This item shall apply to persons who wish to impact a riparian buffer in the Jordan Watershed when one of the following applies:

i. A person has received an authorization certificate pursuant to Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate, for a proposed use that is designated as "allowable with mitigation;" or

ii. A person has received a variance pursuant to Section 7.3.H.2, Variances, and is required to perform mitigation as a condition of a variance approval.

b. Issuance of the Mitigation Approval

The Stormwater Administrator shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this section. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or offset payment amount as applicable.

c. Options for Meeting the Mitigation Requirement

(AMENDED 10.20.20 UDOTA-03-20)

The mitigation requirement may be met through one of the following options:

i. Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02R .0601 contingent upon acceptance of payments by the NC Division of Mitigation Services, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, and the applicable trading criteria in Rule 15A NCAC 02B .0273;

ii. Donation of real property or of an interest in real property pursuant to Section 7.3.H.3.f, Donation of Property; or

iii. Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of Section 7.3.H.3.g, Riparian Buffer Restoration or Enhancement.

d. The Area of Mitigation

The Stormwater Administrator shall determine the required area of mitigation, which shall apply to all mitigation options identified in Section 7.3.H.3.c, Options for Meeting the Mitigation Requirement, and as further specified in the requirements for each option set out in this section, according to the following:

i. The impacts in square feet to each zone of the riparian buffer shall be determined by the Stormwater Administrator by adding the following:

a) The area of the footprint of the use causing the impact to the riparian buffer;

b) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and

c) The area of any ongoing maintenance corridors within the riparian buffer associated with the use.

ii. The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Section 7.3.H.3.d, The Area of Mitigation, to each zone of the riparian buffer:

a) Impacts to Zone One of the riparian buffer shall be multiplied by three;

b) Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and

c) Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

e. The Location of Mitigation

i. For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan Reservoir Watershed, as defined in 15A NCAC 02B.0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the reservoir than the impact, and as close to the location of the impact as feasible.

ii. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan Reservoir Watershed, as defined in 15A NCAC 02B.0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation.

iii. Additional location requirements for the property donation option are enumerated in Section 7.3.H.3.f, Donation of Property.

f. Donation of Property

Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

i. The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0273. The value of the property interest shall be determined by an appraisal performed in accordance with Section 7.3.H.3.f.iv.d) of this Ordinance. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0273, the applicant shall pay the remaining balance due.

ii. The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

iii. Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

a) In addition to the location requirements of Section 7.3.H.3.e, The Location of Mitigation, the property shall be located within an area that is identified as a priority for restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NCDEQ pursuant to Section 143-214.10 of the North Carolina General Statutes;

b) The property shall contain riparian buffers not currently protected by the State's riparian buffer protection program that are in need of restoration as defined in Section 7.3.H.3.g, Riparian Buffer Restoration or Enhancement;

c) The restorable riparian buffer on the property shall have a minimum length of 1,000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

d) The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to Section 7.3.H.3.d, The Area of Mitigation;

e) Restoration shall not require removal of man-made structures or infrastructure;

f) The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

g) The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

h) The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

i) The property shall not contain any hazardous substance or solid waste;

j) The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they

shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

k) The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

l) The property shall not have any encumbrances or conditions on the transfer of the property interests.

iv. At the expense of the applicant or donor, the following information shall be submitted to the City with any proposal for donations or dedications of interest in real property:

a) Documentation that the property meets the requirements laid out in Section 7.3.H.3.f, Donation of Property;

b) US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

c) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in *Standards of Practice for Land Surveying in North Carolina*;

d) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the *Uniform Standards of Professional North Carolina Appraisal Practice*; and

e) A title certificate.

g. Riparian Buffer Restoration or Enhancement

(AMENDED 10.20.20 UDOTA-03-20)

Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

i. The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

a) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Section 7.3.H.3.d, The Area of Mitigation; or

b) The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Section 7.3.H.3.d, The Area of Mitigation;

ii. The location of the riparian buffer restoration or enhancement shall comply with the requirements in Section 7.3.H.3.e, The Location of Mitigation;

iii. The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

iv. Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this section. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;

v. The applicant shall first receive an authorization certificate for the proposed use according to the requirements of Section 7.3.H.1, Determination of No Practical Alternatives/Request for Authorization Certificate. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Stormwater Administrator. The restoration or enhancement plan shall contain the following:

a) A map of the proposed restoration or enhancement site;

b) A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;

c) A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;

d) A fertilization plan;

e) A schedule for implementation;

f) A monitoring plan to document whether the site is expected to meet the final performance standards as defined in Section 7.3.H.3.g, Riparian Buffer Restoration or Enhancement, and other anticipated benefits to the adjacent water. The plan shall include a proposed schedule and method for monitoring the vegetative status of the restoration or enhancement site for five years, including the health and average stem densities of native hardwood tree or tree and shrub species that are to be counted toward the final performance standard;

vi. Within one year after the Stormwater Administrator has approved the restoration or enhancement plan, the applicant shall present proof to the Stormwater Administrator that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the State's and the City's riparian buffer protection program;

vii. The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and

viii. The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

I. COMPLIANCE AND ENFORCEMENT

1. Site Inspections

a. Generally

i. Agents, officials, or other qualified persons authorized by the City may periodically inspect riparian buffers to ensure compliance with this section.

ii. Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.

b. Authority to Enter Property and Conduct Investigations and Inspections

i. Authorized agents, officials, or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any property, public or private, for the purpose of investigating and inspecting the site of any riparian buffer.

ii. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the City, including the Stormwater Administrator, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties.

iii. The Stormwater Administrator shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this Ordinance.

c. Notice of Violation

i. If it is determined that a person has failed to comply with the requirements of this section, or rules, or orders adopted or issued pursuant to this Ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under Section 1A-1, rule 4 of the North Carolina General Statutes. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4)j of the North Carolina Rules of Civil Procedure.

ii. The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this Ordinance, or rules or orders adopted pursuant to this Ordinance. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance is subject to the civil and criminal penalties and other enforcement actions as provided in this Ordinance.

d. Power to Require Statements

The City shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

2. Civil Penalties

a. Assessment of Penalties

i. Any person who violates or fails to act in accordance with any of the provisions of this section or rules or orders adopted or issued pursuant to these standards shall be subject to a civil penalty.
ii. A civil penalty for a violation may be assessed in an amount not to exceed $10,000 per day.
iii. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed $25,000 per day for as long as the violation occurs.
iv. Each day of a continuing violation shall constitute a separate violation under Section 7.3.I.2.a, Assessment of Penalties.

b. Notice of Civil Penalty Assessment

i. The Stormwater Administrator shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed.
ii. The notice of civil penalty assessment shall be served by any means authorized under Section 1A-1, Rule 4, of the North Carolina General Statutes and shall direct the violator to either pay the assessment or contest the assessment, within 30 days after receipt of the notice of assessment by written demand for a hearing.

c. Hearing

A hearing on the civil penalty shall be conducted by the City Council within 45 days after the date the written demand for the hearing is received by the City.

d. Final Decision

i. The City Council shall issue a final decision on the civil penalty within 20 days of the recommended decision.
ii. A copy of the final decision shall be served on the violator by hand, or first class mail and certified mail, return receipt requested.

e. Appeal of Final Decision

(AMENDED 10.20.20 UDOTA-03-20)

i. The decision of the City Council with regard to a civil penalty assessment may be challenged by the filing of a declaratory judgement action in the Superior Court of the county where located.
ii. An appellant shall file a petition for review with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.
iii. Receipt of written notice provided via first class mail in accordance with Section 160D-403(b) of the North Carolina General Statutes shall be deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

f. Demand for Payment of Penalty

An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days or the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the City may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three years of the date the assessment was due.

g. Use of Penalties

Civil penalties collected pursuant to this section shall be credited to the general fund of the City as non-tax revenue.

3. Criminal Penalties

Any person who negligently, knowingly, or willingly violates any provision of this section or a rule or an order adopted pursuant to this section, shall be subject to the provisions of Section 14-4 of the North Carolina General Statutes.

4. Injunctive Relief

a. Civil Action in Superior Court

(AMENDED 10.20.20 UDOTA-03-20)

Whenever the governing body of the City has reasonable cause to believe that any person is violating or threatening to violate this section or any rule or order adopted or issued pursuant to this Ordinance, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of the county where the violation occurred.

b. Order to Cease Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

5. Compliance with Requirements

Any person engaged in new activities as defined by this section who fails to meet the requirements of this section shall be deemed in violation of this Ordinance.

6. Revisions to State Model Riparian Buffer Protection Ordinance

(AMENDED 10.20.20 UDOTA-03-20)

The City shall review any revisions to the Model Local Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Within 90 days after receipt of the Commissions' comments, the City will incorporate amendments into this Ordinance.

7.4. STORMWATER

(AMENDED 10.20.20 UDOTA-03-20)

This section 7.4, Stormwater, shall be known as the "City of Burlington Stormwater Management Ordinance." This ordinance may be referred to as "this section."

A. AUTHORITY

1. This section is adopted pursuant to the authority vested in City of Burlington by the North Carolina law, including, but not limited to:
   a. Article 14, Section 5 of the Constitution of North Carolina;
   b. The Charter of the City of Burlington;
   c. Section 143-214.7 of the North Carolina General Statutes;
   d. All applicable rules promulgated by the Environmental Management Commission in accordance with the North Carolina General Statutes;
   e. Session Law 2004-163;
   f. Session Law 2006-246; and
   g. Sections 160A-174 and 160A-185 of the North Carolina General Statutes.
2. The Stormwater Administrator shall interpret these standards in accordance with Section 2.4.F, Determination. The Stormwater Administrator shall maintain a record of all written determinations of these standards.

B. FINDINGS

(AMENDED 10.20.20 UDOTA-03-20)

The City Council establishes this set of stormwater quality and quantity regulations to meet the requirements of State and federal law regarding control of stormwater runoff and discharge based on the determination that:

1. Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;
2. These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment;
3. These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites; and
4. The Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum stormwater controls such as those included in this ordinance.

C. PURPOSE AND INTENT

(AMENDED 10.20.20 UDOTA-03-20)

The purpose of this section is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment as well as illicit discharges into municipal separate stormwater systems. It has been determined that proper management of construction related stormwater and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water resources and the aquatic environment. These standards seek to meet the general purpose through the following specific objectives and means:

1. Establish decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;
2. Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
4. Establish design and review criteria for the construction, function, and use of structural stormwater control measures (SCMs) that may be used to meet the minimum post-development stormwater management standards;
5. Encourage the use of best management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers, and other conservation areas, to the maximum extent practicable;
6. Establish provisions for the long-term responsibility for and maintenance of structural and nonstructural SCMs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;
7. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance;
8. Require site design plans that include open space and natural areas in accordance with this section and the City's adopted policy guidance;
9. Control illicit discharges into the City's stormwater system;
10. Control erosion and sedimentation from construction activities per Section 7.5, Soil Erosion and Sedimentation; and
11. Assign responsibility and processes for approving the creation and maintenance of adequate drainage and flood damage prevention measures per the City's adopted policy guidance and floodplain management program.

D. APPLICABILITY

(AMENDED 10.20.20 UDOTA-03-20)

1. Unless exempted in accordance with Section 7.4.E, Exemptions, the standards in this section and Section 2.4.U, Stormwater Permit, shall be applicable to all development and redevelopment, including, but not limited to site plans, subdivisions, and land disturbing activities located in the City's jurisdiction.
2. No development or redevelopment shall occur except in compliance with the provisions of this section, unless exempted.
3. No development for which a permit is required pursuant to this section shall occur except in compliance with the provisions, conditions, and limitations of the permit and this section.

E. EXEMPTIONS

(AMENDED 10.20.20 UDOTA-03-20)

The following activities shall be exempt from this section:

1. Development or redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from these standards. Development and redevelopment that cumulatively disturbs less than one acre are not exempt from these standards if such activities are part of a larger common plan of development or sale, even though multiple, separate, or distinct activities take place at different times on different schedules; and
2. Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act as specified in 40 CFR 232 (e.g., ongoing farming and forestry activities).

F. EFFECTIVE DATE

(AMENDED 10.20.20 UDOTA-03-20)

The stormwater standards in this section shall take effect on July 1, 2007.

G. PRE-EXISTING DEVELOPMENT AND REDEVELOPMENT

(AMENDED 10.20.20 UDOTA-03-20)

1. This section shall not require private property owners to install new or increased stormwater controls for:
   a. Pre-existing development; or
   b. Redevelopment activities that do not remove or decrease existing stormwater controls and do not increase impervious surface.

2. When a pre-existing development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment.

H. DETERMINATION

(AMENDED 10.20.20 UDOTA-03-20)

1. Generally

The Stormwater Administrator has authority to determine these standards. Any person may request a determination by submitting a written request in accordance with Section 2.4.F, Determination. The Stormwater Administrator shall respond to an application for a formal determination of these standards in writing within 30 days.

2. Meaning and Intent

All provisions, terms, phrases, and expressions contained in this section shall be construed according to the general and specific purposes set forth in Section 7.4.C, Purpose and Intent. If a different meaning is given for a term defined elsewhere in this Ordinance, the meaning and application of the term in Section 7.4, Stormwater, shall control for the purposes of application of these standards.

I. STORMWATER DESIGN MANUAL

(AMENDED 10.20.20 UDOTA-03-20)

1. Reference to Stormwater Design Manual

a. The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Stormwater Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural SCMs.

b. The Stormwater Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

2. Relationship of Stormwater Design Manual to Other Laws and Regulations

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

3. Changes to Standards and Specification

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

4. Amendments to Stormwater Design Manual

a. The Stormwater Design Manual may be updated and expanded from time to time, based on advancements in technology and engineering, improved knowledge of local conditions, or local monitoring or maintenance experience.

b. Prior to amending or updating the Stormwater Design Manual, proposed changes shall be generally publicized and made available for review, and an opportunity for comment by interested persons shall be provided.

J. STANDARDS

All development and redevelopment subject to this section shall comply with the following:

1. Development Standards for Low-Density Projects

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 10.20.20 UDOTA-03-20)

Low-density projects are defined as projects that have no more than 24 percent built-upon area for all residential and non-residential development and shall comply with each of the following standards.

a. Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable. Green infrastructure and on-site stormwater treatment devices in particular, those promoting infiltration, may also be used as added controls for stormwater runoff.

b. All built-upon area shall be at least 50 feet landward of all perennial and intermittent surface waters in accordance with Section 7.3, Riparian Buffers, and Section 7.4.J.3, Undisturbed Buffer.

c. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

2. Development Standards for High-Density Projects

(AMENDED 10.20.20 UDOTA-03-20)

a. High-density projects, defined as, any project that exceeds the low-density threshold for built-upon area, shall implement stormwater control measures that comply with each of the following standards:

i. The measures shall be designed to control and treat the stormwater runoff generated from all surfaces by the first one inch of rain;

ii. Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours;

iii. Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm;

iv. All structural SCMs used to meet these requirements shall be designed to have a minimum of 85 percent average annual removal for Total Suspended Solids (TSS);

v. General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Stormwater Design Manual; and

vi. All built-upon area shall be at least 50 feet landward of all perennial and intermittent surface waters in accordance with Section 7.3, Riparian Buffers, and Section 7.4.J.3, Undisturbed Buffer.

b. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

3. Undisturbed Buffer

a. Buffer Width, Generally

(AMENDED 10.20.20 UDOTA-03-20)

i. A minimum 30-foot wide undisturbed buffer measured horizontally on a line perpendicular to a vertical line marking the edge of the top of the bank shall be provided directly adjacent to surface waters, including intermittent streams, perennial streams, lakes, reservoirs, and ponds.

ii. All built-upon area shall be at least 50 feet landward of surface waters, including intermittent streams, perennial streams, lakes, reservoirs, and ponds.

iii. A surface water shall be deemed present if the feature is approximately shown on either the most recent published version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using NC Department of Environmental Quality-approved methodology.

4. Standards for Stormwater Control Measures

a. Evaluation According to Contents of Design Manual

All stormwater control measures (SCMs) and stormwater treatment practices required under this section shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Stormwater Design Manual. The Stormwater Administrator shall determine whether proposed SCMs will be adequate to meet the requirements of this section.

b. Determination of Adequacy; Presumptions and Alternatives

Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Stormwater Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this section. Whenever an applicant

proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Stormwater Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this section. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

c. Separation from Seasonal High Water Table

(AMENDED 10.20.20 UDOTA-03-20)

For SCMs that require a separation from the seasonal high-water table, the separation shall be provided by naturally occurring soil above the seasonal high water table at a depth that meets the applicable standards in the Stormwater Design Manual for that SCM.

5. Dedication of SCMs, Facilities & Improvements

Unless otherwise approved by City Council, ownership and maintenance responsibility of any existing or future stormwater management facilities shall remain with the owner of the property or a legally established property owners' association. Such facilities shall meet all the requirements of this section and include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

6. Animal Waste

(AMENDED 10.20.20 UDOTA-03-20)

a. It shall be unlawful for the owner or custodian of any animal to take it off the owner's own property limits without the means to properly remove and dispose of the animal's feces from any public property.

b. It is the responsibility of the animal's owner or custodian to clean up the animal's feces from any public property outside of the animal owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.

c. "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable container that can be used to clean up and contain animal waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these standards.

d. This provision shall not apply to persons with disabilities who are assisted by trained guide or assistant dogs, or other service animals trained to assist persons with disabilities.

e. Violations of these animal waste standards are determined to be dangerous to the public health or safety and declared to be a public nuisance and shall be addressed in accordance with Section 2.5, Enforcement, and Chapter 22 of the City Code of Ordinances.

7. Nutrient Sensitive Waters

In addition to the standards for stormwater handling set out in the Stormwater Design Manual, development and redevelopment that drains in whole or part to class NSW waters shall design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of these standards.

8. Nutrient Application Management Program

a. Generally

The purpose of this provision is to protect water quality by managing the application of nutrients, both inorganic fertilizer and organic nutrients, to lands in the region. This provision requires nutrient application in keeping with the most current state-recognized technical guidance on proper nutrient management in order to help protect water quality in the region.

b. Applicability

(AMENDED 10.20.20 UDOTA-03-20)

These standards shall apply to the following persons within the City's jurisdiction :

i. Persons who own or manage cropland areas for commercial purposes;

ii. Persons who own or manage commercial ornamental and floriculture areas and greenhouse production areas;

iii. Persons who own or manage golf courses, grassed public recreational lands, grassed road or utility rights-of-way, or other institutional lands totaling at least five acres in size;

iv. Persons hired to apply nutrients to the lands described in items (i) through (iii) above or to residential, commercial, industrial, or institutional properties, if the total area of the properties

served exceeds ten acres. This shall not apply to residential, commercial, or industrial landowners who apply nutrients to their own property.

v. Nutrient management consultants hired by any of the persons listed above to provide nutrient management advice for lands in the City's jurisdiction.

c. Standards

Persons subject to the standards in this section shall comply with the following requirements:

i. Any person subject to this rule who applies nutrients to, or who is hired to provide nutrient management advice for, land within the City's jurisdiction shall either:

a) Attend and complete nutrient management training pursuant to Section 7.4.J.9, Nutrient Management Training; or

b) Complete and properly implement a nutrient management plan for all lands to which they apply or manage the application of nutrients, or for which they provide nutrient management advice in accordance with Section 7.4.J.10, Nutrient Management Plans.

ii. Persons who hire an applicator to apply nutrients to the land that they own or manage shall either:

a) Ensure that the applicator they hire has attended and completed nutrient management training pursuant to Section 7.4.J.9, Nutrient Management Training;

b) Ensure that the applicator they hire has completed a nutrient management plan for the land that they own or manage pursuant to Section 7.4.J.10, Nutrient Management Plans; or

c) Complete a nutrient management plan for the land that they own or manage pursuant to Section 7.4.J.10, Nutrient Management Plans, and ensure that the applicator they hire follows this plan.

9. Nutrient Management Training

(AMENDED 10.20.20 UDOTA-03-20)

Persons who choose to meet this requirement by completing nutrient management training shall comply with the following requirements:

a. Persons subject to this section shall complete training provided by either the Cooperative Extension Service or the North Carolina Department of Environmental Quality's Division of Water Resources and obtain a certificate from the training entity to that effect within one year from the date that they became subject to these requirements. Training shall be sufficient to provide participants with an understanding of the value and importance of proper management of nitrogen and phosphorus, and the water quality impacts of poor nutrient management, and the ability to understand and properly carry out a nutrient management plan;

b. Persons who fail to obtain the nutrient management certificate within the required timeframes or who are found by the Stormwater Administrator to have knowingly failed to follow nutrient management requirements in this subsection shall develop and properly implement nutrient management plans pursuant to Section 7.4.J.10, Nutrient Management Plans; and

c. Training certificates shall be kept on-site, at the job site, or be produced within 24 hours of a request by the City.

10. Nutrient Management Plans

(AMENDED 10.20.20 UDOTA-03-20)

Persons who choose to meet this requirement by completing and implementing a nutrient management plan shall meet the following requirements:

a. Nutrient management plans shall be developed and implemented within six months from the date they became subject to these requirements, and shall meet the following standards:

i. Nutrient management plans for cropland shall meet the standards and specifications adopted by the NC Soil and Water Conservation Commission, including those found in 15A NCAC 06E .0104 and 15A NCAC 06F .0104, which are incorporated herein by reference, including any subsequent amendments and additions to such rules that are in place at the time that plans are approved by a technical specialist as required under Section (b) below;

ii. Nutrient management plans for turfgrass shall follow the North Carolina Cooperative Extension Service guidelines in "Water Quality and Professional Lawn Care" (NCCES publication number WQMM-155), "Water Quality and Home Lawn Care" (NCCES publication number WQMM-151),

or other equivalent or more stringent guidance distributed by land-grant universities for turfgrass management; and

iii. Nutrient management plans for nursery crops and greenhouse production shall follow the Southern Nurserymen's Association guidelines promulgated in "Best Management Practices Guide For Producing Container-Grown Plants" or other equivalent or more stringent guidelines distributed by land-grant universities. The materials related to nutrient management plans for turfgrass, nursery crops and greenhouse production are hereby incorporated by reference including any subsequent amendments and editions and are available for inspection at the Department of Environmental Quality's offices.

b. Nutrient management plans shall be approved by a technical specialist in accordance with the following:

i. Nutrient management plans for cropland using either inorganic fertilizer or organic nutrients shall be approved by a technical specialist designated pursuant to the process and criteria specified in rules adopted by the Soil and Water Conservation Commission for nutrient management planning, including 15A NCAC 06F .0105, excepting Sub-Item (a)(2) of that rule; and

ii. Nutrient management plans for turfgrass and nursery crops and greenhouse production shall be approved by a technical specialist designated by the Soil and Water Conservation Commission pursuant to the process and criteria specified in 15A NCAC 06F .0105, excepting Sub-Item (a)(2) of that rule. If the Soil and Water Conservation Commission does not designate such specialists, then the Environmental Management Commission shall do so using the same process and criteria.

c. Nutrient management plans and supporting documents shall be kept on-site or be produced within 24 hours of a request by the City.

11. On-Site Wastewater

a. On-Site Wastewater System Permit

For new development and redevelopment that utilize on-site wastewater treatment systems, a copy of the approved on-site wastewater system permit issued by the Alamance County or Guilford County Health Department, as appropriate, shall be provided to the Stormwater Administrator as part of the stormwater permit application.

b. Standards for Operation and Maintenance

On-site treatment systems for domestic wastewater shall be operated and maintained so as to avoid adverse effects on surface water and groundwater, including eutrophication of surface water and microbial or nitrate contamination of groundwater. Septic tank residuals shall be pumped whenever necessary to assure the proper operation of the system to meet these standards, and the septage shall be reused or disposed of in a manner that does not present significant risks to human health, surface water, or groundwater.

12. Stormwater Impact Analysis

a. The City may require a stormwater impact analysis prior to the issuance of a stormwater permit.

b. The purpose of the stormwater impact analysis is to access, prior to development, potential flooding, erosion, and water pollution impacts on existing downstream areas as a result of a proposed development.

c. Compliance with recommendations in a stormwater impact analysis may be required.

K. MAINTENANCE

1. General Standards for Maintenance

a. Function of SCMs as Intended

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

b. Annual Maintenance Inspection and Report

(AMENDED 10.20.20 UDOTA-03-20)

i. The person responsible for maintenance of any structural SCM installed pursuant to this section shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified licensed

North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance.

ii. The inspection report shall contain all of the following:

a) The project name;
b) The name, address, and contact information of the landowner;
c) The recorded book and page number and the Parcel Identification Number (PIN) or Parcel Number as assigned by Alamance County or Guilford County respectively of the lot of each structural SCM;
d) The name, address, and contact information of the inspector;
e) A statement that an inspection was made of all structural SCMs;
f) The date the inspection was made;
g) The date and depth of the last recorded rainfall;
h) A statement that an inspection was made of all structural SCMs;
i) A statement that all inspected structural SCMs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this ordinance;
j) The original signature and seal of the engineer, surveyor, or landscape architect; and
k) Photographs of each SCM.

iii. All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before May 31.

2. Operation and Maintenance Agreement

a. In General

i. Prior to the conveyance or transfer of any lot or building site to be served by a structural SCM pursuant to this section, and prior to issuance of any permit for development or redevelopment requiring a structural SCM pursuant to these standards, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural SCM. Until the transference of all property, sites, or lots served by the structural SCM, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

ii. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural SCM, and shall state the terms, conditions, and schedule of maintenance for the structural SCM. In addition, it shall grant to the City a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural SCM; however, in no case shall the right of entry, of itself, confer an obligation on the City to assume responsibility for the structural SCM.

iii. The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

b. Special Requirement for Homeowners' and Other Associations

For all structural SCMs required pursuant to this section and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

i. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities;

ii. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural SCMs. If structural SCMs are not performing adequately or as intended or are not properly maintained, the City, in its sole discretion, may remedy the situation, and in such instances the City shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative

replacement, major repair, and reconstruction of the structural SCMs, provided that the City shall first consent to the expenditure;

iii. The escrow account shall be funded to a level suitable to conduct the activities listed in Section (ii) above, which shall be based upon a submittal of construction costs and anticipated maintenance costs prepared and sealed by the design professional, and approved by the Stormwater Administrator. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of infrastructure permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15 percent of the initial construction cost of the structural SCMs. Two-thirds (2/3) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the structural SCMs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget;

iv. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the City depending on the design and materials of the stormwater control and management facility;

v. Granting to the City a right of entry to inspect, monitor, maintain, repair, and reconstruct structural SCMs;

vi. Allowing the City to recover from the association and its member's any and all costs the City expends to maintain or repair the structural SCMs or to correct any operational deficiencies. Failure to pay the City all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. In case of a deficiency, the City shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery;

vii. A statement that this agreement shall not obligate the City to maintain or repair any structural SCMs, and the City shall not be liable to any person for the condition or operation of structural SCMs;

viii. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law; and

ix. A provision indemnifying and holding harmless the City for any costs and injuries arising from or related to the structural SCM, unless the City has agreed in writing to assume the maintenance responsibility for the SCM and has accepted dedication of any and all rights necessary to carry out that maintenance.

3. Inspection Program

a. Inspections and inspection programs by the City may be conducted or established on any reasonable basis, including but not limited to:

i. Routine inspections;
ii. Random inspections;
iii. Inspections based upon complaints or other notice of possible violations; and
iv. Joint inspections with other agencies inspecting under environmental or safety laws.

b. Inspections may include, but are not limited to:

i. Reviewing maintenance and repair records;
ii. Sampling discharges, surface water, groundwater, and material or water in SCMs; and
iii. Evaluating the condition of SCMs.

c. If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to Section 15-27.2 of the North Carolina General Statutes or its successor.

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

4. Performance Guarantee for Installation and Maintenance

(AMENDED 10.20.20 UDOTA-03-20)

a. May Be Required

The City may, at its discretion, require the submittal of a performance guarantee or bond with surety, cash escrow, irrevocable letter of credit or other acceptable legal arrangement prior to issuance of a stormwater permit, or prior to plat recordation in order to ensure that the structural SCMs are:

i. Installed by the permit holder as required by the approved stormwater management plan; and

ii. Maintained by the owner as required by the operation and maintenance agreement.

b. Amount

i. Installation

The amount of an installation performance guarantee shall be the total estimated construction cost of the SCMs approved under the permit, plus 25 percent. The estimate of construction cost shall be prepared by a qualified licensed North Carolina professional engineer, surveyor, soil scientist, or landscape architect.

ii. Maintenance

The amount of a maintenance performance guarantee shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation, and maintenance of the SCMs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long term inflation.

c. Uses of Performance Guarantee

i. Forfeiture Provisions

The performance guarantee shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this section, approvals issued pursuant to this section, or an operation and maintenance agreement established pursuant to this section.

ii. Default

Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural SCM in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the guarantee to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of the installation performance guarantee, the City shall not return any of the unused deposited cash funds or other guarantee, which shall be retained for maintenance.

iii. Costs in Excess of Performance Guarantee

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

iv. Refund

Within 60 days of the final approval, the installation performance guarantee shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25 percent) of landscaping installation and ongoing maintenance associated with the SCMs covered by the guarantee. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the performance guarantee attributable to landscaping shall be released.

5. Notice to Owners

a. Deed Recordation and Indications on Plat

The applicable operations and maintenance agreement pertaining to every structural SCM shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement, shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

b. Signage

Where appropriate in the determination of the Stormwater Administrator to assure compliance with this section, structural SCMs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.

6. Records of Installation and Maintenance Activities

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

7. Nuisance

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

8. Maintenance Easement

(AMENDED 10.20.20 UDOTA-03-20)

Every structural SCM installed pursuant to this section shall be made accessible for adequate maintenance and repair by a maintenance easement. The access maintenance easement shall have a minimum width of 20 feet, a maximum slope of 15 percent, be connected to public right-of-way, be cleared, and be traversable by construction equipment. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes, including the City. Dedicated access and/or maintenance easements for structural SCMs on private property are for the use of the owner of the structural SCM(s). Dedication of access and/or maintenance easements for structural SCMs in no way binds or requires the City to perform maintenance on structural SCMs on private property.

9. Existing Structural SCMs

a. Sections 7.4.K.1, General Standards for Maintenance, 7.4.K.3, Inspection Program, 7.4.K.4, Performance Guarantee for Installation and Maintenance, 7.4.K.5.b, Signage, 7.4.K.6, Records of Installation and Maintenance Activities, and 7.4.K.7, Nuisance, shall also apply to structural SCMs that were installed prior to July 1, 2007.

b. At the time of subdivision, recombination, development or redevelopment of property having structural SCMs installed prior to July 1, 2007, Sections 7.4.K.2, Operation and Maintenance Agreement, 7.4.K.5.a, Deed Recordation and Indications on Plat, and 7.4.K.8, Maintenance Easement, shall also apply.

L. ENFORCEMENT AND VIOLATIONS

1. General

a. Authority to Enforce

The provisions of this section shall be enforced by the Stormwater Administrator, their designee, or any authorized agent of the City.

b. Violation Unlawful

i. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this section, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this section, is unlawful and shall constitute a violation of this Ordinance.

ii. Enforcement actions against violations shall comply with the standards in Section 2.5.C, Statute of Limitations.

c. Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

d. Responsible Persons/Entities

i. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, SCM, practice, or condition in violation of this section shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, landscape architect, soil scientist, surveyor, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this section, or fails to take appropriate action, so that a violation of

this section results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

ii. For the purposes of this section, responsible person(s) shall include but not be limited to:

a) Person Maintaining Condition Resulting in or Constituting Violation
An architect, engineer, landscape architect, soil scientist, surveyor, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this section, or fails to take appropriate action, so that a violation of this section results or persists.

b) Responsibility for Land or Use of Land
The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

2. Remedies and Penalties

The remedies and penalties provided for violations of this section, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

a. Remedies

i. Withholding of Certificate of Occupancy
The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

ii. Disapproval of Subsequent Permits and Development Approvals
As long as a violation of this section continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning and Zoning Commission or City Council may disapprove, any request for permit or development approval or authorization provided for by this Ordinance or the zoning, subdivision, and/or building regulations, as appropriate for the land on which the violation occurs.

iii. Injunction and Abatements
The Stormwater Administrator, with the written authorization of the City Manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of these standards. Any person violating these standards shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

iv. Correction as Public Health Nuisance, Costs as Lien
If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by Section 160A-193 of the North Carolina General Statutes, the Stormwater Administrator, with the written authorization of the City Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

v. Stop Work Order
The Stormwater Administrator may issue a stop work order to the person(s) violating these standards. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

b. Civil Penalties

(AMENDED 10.20.20 UDOTA-03-20)

In addition to other remedies cited in this Ordinance for the enforcement of its provisions, the regulations and standards of this section may be enforced through the issuance of civil penalties by the Stormwater Administrator. Civil penalties may be recovered in a civil action in the nature of a debt if the offender does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of

penalty to which the City is subject for violations of its Phase II Stormwater permit or if no Phase II Stormwater permit violation exists for the jurisdiction, civil penalties may be assessed up to the full amount allowed by law.

c. Criminal Penalties

Violation of this section may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law.

3. Procedures

a. Initiation/Complaint

Whenever a violation of this section occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

b. Inspection

The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this section.

c. Notice of Violation and Order to Correct

i. When the Stormwater Administrator finds that any building, structure, or land is in violation of this section, the Stormwater Administrator shall notify, in writing, the property owner or other person violating these provisions. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

ii. The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Burlington Police Department, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

iii. If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this Ordinance to correct and abate the violation and to ensure compliance with this section.

d. Extension of Time

A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 14 days. The Stormwater Administrator may grant seven-day extensions in addition to the initial extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this section. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

e. Enforcement After Time to Correct

After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by this section.

f. Emergency Enforcement

If delay in correcting a violation would seriously threaten the effective enforcement of this section or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease

any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this section.

4. Illicit Discharges and Connections

a. Illicit Discharges

i. No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

a) Water line flushing;
b) Landscape irrigation;
c) Diverted stream flows;
d) Rising ground waters;
e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
f) Uncontaminated pumped ground water;
g) Discharges from potable water sources;
h) Foundation drains;
i) Air conditioning condensation;
j) Irrigation water;
k) Springs;
l) Water from crawl space pumps;
m) Footing drains;
n) Lawn watering;
o) Individual residential car washing;
p) Flows from riparian habitats and wetlands;
q) Dechlorinated swimming pool discharges;
r) Street wash water; and
s) Flows from emergency firefighting.

ii. Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City.

iii. Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, saltwater swimming pool water discharge, animal waste, paints, garbage, and litter.

b. Illicit Connections

(AMENDED 10.20.20 UDOTA-03-20)

i. Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in sub-sections (a)(i) and (a)(ii) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

ii. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

iii. The Stormwater Administrator shall designate the time within which the connection shall be removed where it is determined that said connection:

a) May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or
b) Was made in violation of any applicable regulation or ordinance, other than this section.

iv. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

a) The quantity and complexity of the work;
b) The consequences of delay;

c) The potential harm to the environment, to the public health, and to public and private property; and
d) The cost of remedying the damage.

c. Spills

Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Emergency Management Coordinator or the Fire Chief of the release or discharge, as well as making any required notifications under State and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

d. Industrial or Construction Activity Discharges

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to authorization of discharges to the municipal separate storm sewer system.

e. Right of Entry, Inspection, Sampling, and Testing

i. Authority to Inspect

Whenever necessary to make an inspection to enforce any provision of this Ordinance, or whenever the Stormwater Administrator has cause to believe that there exists, or potentially exists, in or upon any premise any condition which constitutes a violation of this section, the Stormwater Administrator may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

ii. Authority to Sample, Establish Sampling Devices, and Test

During any inspection as provided herein, the Stormwater Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

f. Enforcement

i. Whenever the Stormwater Administrator finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Stormwater Administrator may order compliance by written notice of violation to the responsible person and/or the property owner. Such notice may require without limitation:

a) The performance of monitoring, analysis, and reporting;
b) The elimination of illicit connections or discharges;
c) That violating discharges, practices, or operations shall cease and desist;
d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
e) Payment of a fine to cover administrative and remediation costs; and
f) The implementation of source control SCMs.

ii. If abatement of a violation or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the City or a contractor designated by the Stormwater Administrator, and the expense shall be charged to the violator.

g. Violations Deemed a Public Nuisance

Illicit discharges and illicit connections which exist within the City's jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in

accordance with the procedures set forth in Chapter 22 of the City of Burlington Code of Ordinances, this section, and Section 2.5, Enforcement.

7.5. SOIL EROSION AND SEDIMENTATION

A. PURPOSE

These standards are adopted for the purposes of:

1. Regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damage to lakes, watercourses, and other public and private property by sedimentation; and
2. Establishing procedures through which these purposes can be fulfilled.

B. SCOPE AND EXCLUSIONS

1. Geographical Scope of Regulated Land-Disturbing Activity

These standards shall apply to land-disturbing activity within the territorial jurisdiction of the City of Burlington, and to the extraterritorial jurisdiction of the City of Burlington as allowed by agreement between local governments, the extent of annexation, or other appropriate legal instrument or law.

2. Exclusions from Regulated Land-Disturbing Activity

Notwithstanding the general applicability of these standards to all land-disturbing activity, these standards shall not apply to the following types of land-disturbing activity:

a. Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

   i. Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts;
   ii. Dairy animals and dairy products;
   iii. Poultry and poultry products;
   iv. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats;
   v. Bees and apiary products;
   vi. Fur producing animals; and
   vii. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

b. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of these standards shall apply to such activity and any related land-disturbing activity on the tract.

c. An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the North Carolina General Statutes.

d. A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in Section 113A-56(a) of the North Carolina General Statutes.

e. An activity which is essential to protect human life during an emergency.

f. Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

g. Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations Section 12.2.

3. Plan Approval Requirement for Land-Disturbing Activity

No person shall undertake any land-disturbing activity subject to these standards without first obtaining a Plan approval therefor from the City of Burlington.

4. Protection of Property

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

5. More Restrictive Rules Shall Apply

Whenever conflicts exists between federal, state, or local laws, ordinances, or rules, the more restrictive provision shall apply.

6. Plan Approval Exceptions

Notwithstanding the general requirement to obtain a Plan approval prior to undertaking land-disturbing activity, a Plan approval shall not be required for land-disturbing activity that does not exceed 43,560 square feet (one acre) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

C. MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

No land-disturbing activity subject to these standards shall be undertaken except in accordance with the standards in Section 7.3, Riparian Buffers, and the following:

1. Buffer Zone

a. Standard Buffer

No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land-disturbing activity.

i. Projects On, Over, or Under Water

This section shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

ii. Buffer Measurement

Unless otherwise provided, the width of a buffer zone is measured horizontally from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

2. Graded Slopes and Fills

a. The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion control devices or structures.

b. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.

c. The angle for graded slopes and fills must be demonstrated to be stable.

d. Stable is the condition where the soil remains in its original configuration, with or without mechanical constraints.

3. Fill Material

Unless a permit from the Department's Division of Waste Management to operate a landfill is on file for the official site, acceptable fill material shall be free of organic or other degradable materials, masonry, concrete and brick in sizes exceeding 12 inches, and any materials which would cause the site to be regulated as a landfill by the State of North Carolina.

4. Ground Cover

a. Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development.

b. Required ground stabilization shall be provided in accordance with Table 7.5.C.4: Timing of Ground Stabilization.

TABLE 7.5.C.4: TIMING OF GROUND STABILIZATION [1]		
SITE FEATURE OR ACTIVITY	**MAXIMUM TIMEFRAME FOR GROUND STABILIZATION AFTER LAND DISTURBANCE (DAYS)**	**VARIATIONS IN MAXIMUM TIMEFRAME**
Perimeter dikes, swales, ditches, and perimeter slopes	7	None
High Quality Water (HQW) zones	7	None
Slopes steeper than 3:1	7	14 days if slopes are 10 feet or less in length and no steeper than 2:1
Slopes of 3:1 to 4:1	14	7 days for slopes greater than 50 feet in length and steeper than 4:1; 7 days for perimeter dikes, swales, ditches, perimeter slopes, and HQW zones; 10 days for land in the Falls Lake Watershed
Areas with slopes flatter than 4:1	14	7 days for perimeter dikes, swales, ditches, perimeter slopes, and HQW zones; 10 days for land in the Falls Lake Watershed unless there is zero slope
NOTES: [1] After the permanent cessation of construction activities, any areas with temporary ground stabilization shall be converted to permanent ground stabilization as soon as practicable, but in no case longer than 90 calendar days after the last land disturbing activity. Temporary ground stabilization shall be maintained in a manner to render the surface stable against accelerated erosion until permanent ground stabilization is achieved.		

5. Prior Plan Approval

a. No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, a Plan for the activity is filed with and approved by the City of Burlington.

b. The land-disturbing activity may be initiated and conducted in accordance with the plan once the Plan has been approved.

c. The City of Burlington shall forward to the Director of the Division of Water Resources a copy of each Plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

6. Conducted in Accordance with Approved Plan

The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.

D. EROSION AND SEDIMENTATION CONTROL PLANS

(AMENDED 3.17.20 UDOTA-02-20)

1. Plan Submission

(AMENDED 3.17.20 UDOTA-02-20)

a. A Plan shall be prepared for all land-disturbing activities subject to these standards whenever the proposed activity will disturb more than one acre on a tract.

b. Two paper copies and one digital copy of the Plan shall be filed with the City of Burlington.

2. Financial Responsibility and Ownership

a. Plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or their attorney in fact.

b. The statement shall include the mailing and street addresses of the principal place of business of (1) the person financially responsible, (2) the owner of the land, and (3) any registered agents.

c. If the person financially responsible is not a resident of North Carolina, a North Carolina agent must be designated in the statement for the purpose of receiving notice of compliance or non-compliance with the Plan, the Act, these standards, or rules or orders adopted or issued pursuant to these standards.

d. Except as provided in subsection 7.5.D.2.e below, or Section 7.5.D.9, Transfer of Erosion and Sedimentation Control Plan, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity.

e. If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

3. Environmental Policy Act Document

a. Any Plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environment Policy Act (Section 113A-1, et seq. of the North Carolina General Statutes) shall be deemed incomplete until a complete environmental document is available for review.

b. The City of Burlington shall promptly notify the person submitting the Plan that the 30-day time limit for review of the Plan pursuant to these standards shall not begin until a complete environmental document is available for review.

4. Content

a. The Plan required by this section shall contain architectural or engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of these standards.

b. Plan content may vary to meet the needs of specific site requirements.

c. Detailed guidelines for Plan preparation may be obtained from the City of Burlington's Engineering Department, upon request.

5. Timeline for Decisions on Plans

(AMENDED 3.17.20 UDOTA-02-20)

a. The City of Burlington will review each complete Plan submitted to them and within 30 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved.

b. Failure to approve, approve with modifications, or disapprove a complete Plan within 30 days of receipt shall be deemed approval.

c. The City of Burlington will review each revised Plan submitted to them and within 15 days of receipt thereof will notify the person submitting the Plan that it has been approved, approved with modifications, or disapproved.

d. Failure to approve, approve with modifications, or disapprove a revised Plan within 15 days of receipt shall be deemed approval.

6. Approval

a. The City of Burlington shall only approve a Plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control.

b. Approval assumes the applicant's compliance with the federal and State water quality laws, regulations, and rules.

c. The City of Burlington shall condition approval of Plans upon the applicant's compliance with federal and State water quality laws, regulations and rules.

d. Approved plans shall expire two years from the approval date if no land disturbing activity has begun or two years from the date of documented inactivity on sites where a permitted land disturbing activity has been initiated.

7. Disapproval for Content

a. The City of Burlington, may disapprove a Plan or draft Plan based on its content.

b. A disapproval based upon a Plan's content must specifically state in writing the reasons for disapproval.

8. Other Disapprovals

a. The City of Burlington shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters.

b. The City of Burlington may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under Section 7.5.D.9, Transfer of Erosion and Sedimentation Control Plan, upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

i. Is conducting or has conducted land-disturbing activity without an approved Plan, or has received notice of violation of a plan previously approved by the Commission or the City pursuant to these standards and has not complied with the notice within the time specified in the notice;

ii. Has failed to pay a civil penalty assessed pursuant to these standards or a local ordinance adopted pursuant to these standards by the time the payment is due;

iii. Has been convicted of a misdemeanor pursuant to Section 113A-64(b) of the North Carolina General Statutes, or any criminal provision of a local ordinance adopted pursuant to these standards; or

iv. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to these standards.

c. In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the City of Burlington pursuant to Section 7.5.D.8, Other Disapprovals, the City shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The City of Burlington shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of Section 7.5.O, Performance Guarantees, the applicant may appeal the local government's disapproval of the plan directly to the Commission.

d. For purposes of this subsection, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

9. Transfer of Erosion and Sedimentation Control Plan

The City of Burlington, administering an erosion and sedimentation control program, may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur, as provided in this subsection.

a. The City of Burlington may transfer a Plan if all of the following conditions are met:

i. The successor-owner of the property submits to the City of Burlington a written request for the transfer of the Plan and an authorized statement of financial responsibility and ownership;

ii. The City of Burlington finds all of the following:

a) The Plan holder is one of the following:

i) A natural person who is deceased;

ii) A partnership, limited liability corporation, corporation, or any other business association that has been dissolved;

iii) A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur;

iv) A person who has sold the property on which the permitted activity is occurring or will occur;

b) The successor-owner holds title to the property on which the permitted activity is occurring or will occur;

c) The successor-owner is the sole claimant of the right to engage in the permitted activity; and

d) There will be no substantial change in the permitted activity.

b. The Plan holder shall comply with all terms and conditions of the Plan until such time as the Plan is transferred.

c. The successor-owner shall comply with all terms and conditions of the Plan once the Plan has been transferred.

d. Notwithstanding changes to law made after the original issuance of the Plan, the City of Burlington may not impose new or different terms and conditions in the Plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the City of Burlington from requiring a revised Plan pursuant to Section 113A-54.1(b) of the North Carolina General Statutes.

10. Notice of Activity Initiation

No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.

11. Preconstruction Conference

When deemed necessary by the approving authority a preconstruction conference may be required.

12. Display of Plan Approval

A Plan approval issued under these standards shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed, and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.

13. Required Revisions

(AMENDED 3.17.20 UDOTA-02-20)

a. After approving a Plan, if the City of Burlington, either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the City of Burlington shall require a revised Plan.

b. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

c. If, following commencement of a land-disturbing activity pursuant to an approved Plan, the City of Burlington determines that the Plan is inadequate to meet the requirements of these standards, the City of Burlington may require any revision of the Plan that is necessary to comply with these standards.

14. Amendment to a Plan

Applications for amendment of a Plan in written or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the City of Burlington, the land-disturbing activity shall not proceed except in accordance with the Plan as originally approved.

15. Failure to File a Plan

Any person engaged in land-disturbing activity who fails to file a Plan in accordance with these standards, or who conducts a land-disturbing activity except in accordance with provisions of an approved Plan shall be deemed in violation of this Ordinance.

16. Self-Inspections

(AMENDED 3.17.20 UDOTA-02-20)

a. The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the Plan after each phase of the Plan has been completed and after establishment of temporary ground cover in accordance with Section 113A-57(2) of the North Carolina General Statutes.

b. The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan.

c. The inspections required by this sub-section shall be in addition to inspections required by Section 113A-61.1 of the North Carolina General Statutes.

d. Where inspections are required by this section and Section 113A-54.1(e) of the North Carolina General Statutes, the following apply:

i. The person who performs the inspection shall make a record of the site inspection by documenting the following items:

a) All of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation

traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in sub-section 7.5.D.16.d.iii) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;

b) The completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating, and signing an inspection report;

c) The location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in sub-section 7.5.D.16.d.iii) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;

d) That maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating, and signing an inspection report (the general stormwater permit monitoring form may be used to verify the maintenance and repair requirements); and

e) Any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.

ii. The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

iii. The inspection shall be performed during or after each of the following phases of a plan:

a) Installation of perimeter erosion and sediment control measures;

b) Clearing and grubbing of existing ground cover;

c) Completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to Section 113A-57(2) of the North Carolina General Statutes;

d) Completion of storm drainage facilities;

e) Completion of construction or development; and

f) Quarterly, until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the Plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and

document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

E. BASIC CONTROL OBJECTIVES

An erosion and sedimentation control plan may be disapproved if the Plan fails to address the following control objectives:

1. Identify Critical Areas

On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion or sedimentation, are to be identified and receive special attention.

2. Limit Time of Exposure

All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.

3. Limit Exposed Areas

All land-disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

4. Control Surface Water

Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

5. Control Sedimentation

All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

6. Manage Storm Water Runoff

When the increase in the velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, a Plan is to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

F. DESIGN AND PERFORMANCE STANDARDS

1. Generally

Except as provided in Section 7.5.F.2.b, Maximum Peak Rate of Runoff Protection, erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm. Runoff rates shall be calculated using the procedures in the USDA, Soil Conservation Service's "National Engineering Field Manual for Conservation Practices", or other acceptable calculation procedures.

2. HQW Zones

In High Quality Water (HQW) zones the following design standards shall apply:

a. Limit on Uncovered Area

- **i.** Uncovered areas in HQW zones shall be limited at any time to a maximum total area of twenty acres within the boundaries of the tract.
- **ii.** Only the portion of the land-disturbing activity within a HQW zone shall be governed by this section.
- **iii.** Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.

b. Maximum Peak Rate of Runoff Protection

Erosion and sedimentation control measures, structures, and devices within HQW zones shall be planned, designed, and constructed to provide protection from the runoff of the twenty-five-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this State or the United States or any generally recognized organization or association.

c. Settling Efficiency

Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40 micron (0.04 millimeter) size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of

Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

d. Grade

Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

e. Ground Cover

Ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

G. STORM WATER OUTLET PROTECTION

1. Intent

Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity.

2. Performance Standard

a. Persons shall conduct land-disturbing activity so that the post construction velocity of the 10-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

i. The velocity established in Section 7.5.G.3, Maximum Permissible Velocities Table; or

ii. The velocity of the ten-year storm runoff in the receiving watercourse prior to development.

b. If condition (i) or (ii) above cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by 10 percent.

3. Maximum Permissible Velocities Table

The following is a table for maximum permissible velocity for storm water discharges in feet per second (F.P.S.) and meters per second (M.P.S.):

TABLE 7.5.G.3: MAXIMUM PERMISSIBLE VELOCITIES FOR STORMWATER DISCHARGE

Material	Feet-per-Second (FPS)	Meters-per-Second (MPS)
Fine sand (noncolloidal)	2.5	.8
Sandy loam (noncolloidal)	2.5	.8
Silt loam (noncolloidal)	3.0	.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (noncolloidal)	5.0	1.5
Graded, silt to cobbles (Colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8
Source - Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly		

sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

4. Acceptable Management Measures

Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The City of Burlington recognizes that the management of storm water runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives, while not exhaustive, are to:

a. Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;

b. Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and high velocity paved sections;

c. Provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities to the point of discharge;

d. Protect watercourses subject to accelerated erosion by improving cross sections or providing erosion-resistant lining; and

e. Upgrade or replace the receiving device structure, or watercourse such that it will receive and conduct the flow to a point where it is no longer subject to degradation from the increased rate of flow or increased velocity.

5. Exceptions

This rule shall not apply where it can be demonstrated to the City of Burlington that storm water discharge velocities will not create an erosion problem in the receiving watercourse.

H. BORROW AND WASTE AREAS

1. When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated.

2. When the person conducting the land-disturbing activity is not the person obtaining the borrow or disposing of the waste, these areas shall be considered a separate land-disturbing activity and the borrow or disposing of waste shall require a separate permit for those sites.

I. ACCESS AND HAUL ROADS

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

J. OPERATIONS IN LAKES OR NATURAL WATERCOURSES

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

K. RESPONSIBILITY FOR MAINTENANCE

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved Plan or any provision of these standards, the Act, or any order adopted pursuant to these standards or the Act. After site development, the landowner or person in possession or control of the land shall install or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

L. ADDITIONAL MEASURES

Whenever the City of Burlington, determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

M. EXISTING UNCOVERED AREAS

1. All uncovered areas existing on November 1, 2019, which resulted from land-disturbing activity, exceed one acre, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
2. The City of Burlington, shall serve upon the landowner or other person in possession or control of the land a written notice to comply with the Act, these standards, a rule or order adopted or issued pursuant to the Act by the Commission or by the City of Burlington.
3. The notice to comply shall be sent by registered or certified mail, return receipt requested, or other means provided in Section 1A-1, Rule 4 of the North Carolina General Statutes.
4. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed.
5. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits of compliance.
6. The City of Burlington, reserves the right to require preparation and approval of a Plan in any instance where extensive control measures are required.
7. This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

N. FEES

1. The City of Burlington, may establish a fee schedule for the review and approval of Plans.
2. In establishing the fee schedule, the City of Burlington shall consider the administrative and personnel costs incurred for reviewing the Plans and for related compliance activities.

O. PERFORMANCE GUARANTEES

Prior to Plan approval and as a condition of Plan approval, the financially responsible party shall submit a performance guarantee to the City of Burlington in the form of a bond, certified check, cash, or letter of credit to the benefit of the City of Burlington for an amount equal to 125 percent of the estimated cost for permanent stabilization of the entire site. The cost shall be estimated by the City Engineer.

P. PLAN APPEALS

1. Except as provided in sub-section 7.5.P.2 below, the appeal of a disapproval or approval with modifications of a Plan shall governed by the following provisions:
   a. The disapproval or modification of any proposed Plan by the City of Burlington, shall entitle the person submitting the Plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modifications;
   b. A hearing held pursuant to this section shall be conducted by the Board of Adjustment, within 45 days after the date of the appeal or request for a hearing;
   c. The Board of Adjustment will render its final decision on any Plan within 30 days of the hearing; and
   d. If the City of Burlington upholds the disapproval or modification of a proposed Plan following the hearing, the person submitting the Plan shall then be entitled to appeal the City of Burlington's decision to the Commission as provided in Section 113A-61(c) of the North Carolina General Statutes, and 15A NCAC 4B .0118(d).
2. In the event that a Plan is disapproved pursuant to Section 7.5.D.8, Other Disapprovals, the applicant may appeal the City of Burlington's disapproval of the Plan directly to the Commission.

Q. INSPECTIONS AND INVESTIGATIONS

1. Inspection

Agents, officials, or other qualified persons authorized by the City of Burlington will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each Plan.

2. Willful Resistance, Delay, or Obstruction

No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the City of Burlington while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

3. Notice of Violation

a. If the City of Burlington determines that a person engaged in land-disturbing activity has failed to comply with the Act, these standards, or rules, or orders adopted or issued pursuant to these standards, a notice of violation shall be served upon that person.

b. The notice may be served by any means authorized under Section 1A-1, Rule 4 of the North Carolina General Statutes. The notice shall specify a date by which the person must comply with the Act, or these standards, or rules, or orders adopted pursuant to these standards, and inform the person of the actions that need to be taken to comply with the Act, these standards, or rules or orders adopted pursuant to these standards.

c. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in Section 113A-64 of the North Carolina General Statutes and these standards.

4. Investigation

The City of Burlington, shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in these standards, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

5. Statements and Reports

The City of Burlington, shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

R. PENALTIES

1. Civil Penalties

a. Civil Penalty for a Violation

i. Any person who violates any of the provisions of these standards, or rule or order adopted or issued pursuant to these standards, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty.

ii. The maximum civil penalty amount that the City of Burlington may assess per violation is $5,000.00.

iii. A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

iv. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is $25,000.00.

b. Civil Penalty Assessment Factors

The Burlington City Council shall determine the amount of the civil penalty based upon the following factors:

i. The degree and extent of harm caused by the violation;
ii. The cost of rectifying the damage;
iii. The amount of money the violator saved by noncompliance;
iv. Whether the violation was committed willfully; and
v. The prior record of the violator in complying of failing to comply with these standards.

c. Notice of Civil Penalty Assessment

i. The Burlington City Council shall provide notice of the civil penalty amount and basis for assessment to the person assessed.

ii. The notice of assessment shall be served by any means authorized under Section 1A-1, Rule 4 of the North Carolina General Statutes.

iii. A notice of assessment by the City of Burlington shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the City of Burlington (as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice.

iv. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.

d. Final Decision

The final decision on contested assessments shall be made by the City Council in accordance with this Ordinance and any other adopted regulations pertaining to soil erosion and sedimentation control.

e. Appeal of Final Decision

(AMENDED 3.17.20 UDOTA-02-20)

Appeal from the final decision of the City Council or BOA shall be to the Superior Court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the City of Burlington.

f. Collection

i. If payment is not received within 60 days after it is due, the City of Burlington may institute a civil action to recover the amount of the assessment.

ii. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located.

iii. Such civil actions must be filed within three years of the date the assessment was due.

iv. An assessment that is not contested is due when the violator is served with a notice of assessment.

v. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

g. Credit of Civil Penalties

(AMENDED 3.17.20 UDOTA-02-20)

i. The clear proceeds of civil penalties collected by the City of Burlington under this sub-section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with Section 115C-457.2 of the North Carolina General Statutes.

ii. Penalties collected by the City of Burlington may be diminished only by the actual costs of collection.

iii. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by the City of Burlington for the prior fiscal year.

iv. In any event, the cost percentage shall not exceed 20 percent of penalties collected.

2. Criminal Penalties

Any person who knowingly or willfully violates any provision of these standards, or rule or order adopted or issued pursuant to these standards, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed $5,000.00 as provided in Section 113A-64 of the North Carolina General Statutes.

S. INJUNCTIVE RELIEF

1. Violation of Local Program

Whenever the Burlington City Council has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the City of Burlington, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by these standards, institute a civil action in the name of the City of Burlington, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

2. Abatement of Violation

Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of these standards.

T. RESTORATION AFTER NON-COMPLIANCE

(AMENDED 3.17.20 UDOTA-02-20)

The City of Burlington, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by Section 113A-57 (3) of the North Carolina General Statutes, to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized by these standards.

U. SEVERABILITY

If any section of these standards is held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

7.6. SUSTAINABILITY INCENTIVES

A. HOW TO USE THESE INCENTIVES

These sustainable development incentives are intended to reward applicants and forms of development that are configured in ways that conserve resources or are better able to withstand damaging natural hazards. Rewards take the form of increased maximum residential densities, increased maximum building heights, or reductions from other kinds of development standards such as required off-street parking or maximum sign face area.

1. Applicants seeking to take advantage of these sustainable development incentives should first understand the type of incentives available in accordance with Section 7.6.D, Type of Incentives.
2. Once the preferred type of incentive(s) is determined, an applicant should review Section 7.6.E, Procedure, in order to determine the minimum number and type(s) of sustainable development practices required to take advantage of the desired incentive(s).
3. Each type of incentive requires provision of one or more types of sustainable development practice from each of two different schedules (Schedule A and Schedule B).
4. The sustainable development practices are listed, by schedule type, in Table 7.6.F, Menu of Sustainable Development Practices.
5. The types of sustainable development practices to be provided are at the applicant's discretion, but the minimum number of practices from each schedule must be provided in order to benefit from a sustainable development incentive. Nothing shall limit the City Council from including a condition of approval that specifies the use of one or more particular types of sustainable development practice should an applicant decide to pursue a sustainable development incentive.
6. Site plans, subdivision plats, and other application materials shall identify the type(s) of incentives sought and the sustainable development practices provided.

B. PURPOSE AND INTENT

In an effort to encourage sustainable development practices as a means of addressing climate change and the need for more resilient development practices, the protection of natural resources, and ensuring a high quality of life for future City residents, the UDO provides the following sustainable development practice incentives.

C. APPLICABILITY

The incentives included in this section are available to new development in the residential, commercial, industrial, and planned development districts.

D. TYPE OF INCENTIVES

1. Development integrating sustainable development practices in accordance with the provisions of this section shall be eligible for the following incentives:
   a. A density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zoning district, based on the land's designation in the Comprehensive Plan;
   b. An increase in the maximum allowable height by up to one story or ten feet beyond the maximum allowed in the base zoning district, with approval of the Fire Marshal;
   c. A modification to the off-street parking requirements resulting in a reduction from the minimum requirements by 15 percent, or an increase to the maximum allowable number of spaces provided by 15 percent (without an alternative parking plan); or
   d. An increase in the maximum allowable sign area or maximum height for wall or freestanding signs by 10 percent.
2. Development may include a sufficient number of sustainable development practices to take advantage of more than one type of incentive, but in no instance shall the amount of an incentive be increased or decreased (as appropriate) beyond the maximum listed in this sub-section.

E. PROCEDURE

1. Development seeking to use incentives shall include a written request with the development application that identifies the type of sustainable development practice proposed and demonstrates how compliance with the standards will be achieved.
2. Review for compliance with this section, and granting of requests in accordance with this section shall occur during review of a site plan, subdivision, planned development master plan, special use permit,

or building permit, as appropriate. The review authority responsible for review of the development application shall also be responsible for the review of sustainable development incentive request.

3. Approval of use of a particular incentive shall be based on the number of sustainable development practices provided, in accordance with Table 7.6.E, Sustainable Development Practice Incentives, and Table 7.6.F, Menu of Sustainable Development Practices. To obtain the right to a particular incentive, development shall provide the minimum number associated of sustainable development practices from both schedule A and schedule B in the table below.
4. In cases where a proposed development seeks to combine two or more development incentives, the minimum number of required sustainable development practices for each individual incentive shall be provided.

TABLE 7.6.E: SUSTAINABLE DEVELOPMENT PRACTICE INCENTIVES

Type of Incentive	Minimum Number of Sustainable Development Practices Provided	
	From Schedule A	From Schedule B
A density bonus of up to one additional dwelling unit per acre beyond the maximum allowed in the base zoning district	2	4
An increase in the maximum allowable height by up to one story or ten feet beyond the maximum allowed in the base zoning district	2	3
A reduction from the minimum parking space requirements by 15 percent, or an increase to the maximum allowable number of parking spaces provided by 15 percent	2	2
An increase in the maximum allowable sign area or maximum height for wall or freestanding signs by 10 percent	1	3

F. MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

One or more of the sustainable development practices in Table 7.6.F, Menu of Sustainable Development Practices, may be offered by an applicant for proposed development in accordance with Table 7.6.E, Sustainable Development Practice Incentives. An applicant may suggest a practice not listed, which shall be considered by the Technical Review Committee as part of review.

TABLE 7.6.F: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

Schedule	Type of Practice	Documentation of Compliance
Energy Conservation		
A	Inclusion of solar photovoltaic panels or small wind energy facilities in an amount capable of producing 900 kilowatt hours of electricity per month for each dwelling or principal use in the development	Indication on site plan
A	Use of central air conditioners that are Energy Star qualified	Provision of manufacturer's certification statement
A	Use of only solar or tankless water heating systems throughout the structure	Inclusion on construction drawings
A	Use of a white roof or roofing materials with minimum reflectivity rating of 60 percent or more	Provision of materials sample and manufacturer's certification statement (statement not required for white roofs)
A	Pre-plumb and pre-wire structures for solar water heating and photovoltaic installation	Indication on site plan

TABLE 7.6.F: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES

SCHEDULE	TYPE OF PRACTICE	DOCUMENTATION OF COMPLIANCE
B	Provision of skylights in an amount necessary to ensure natural lighting is provided to at least 15 percent of the habitable rooms in the structure	Indication on site plans
B	Roof eaves or overhangs of three feet or more on southern or western elevations	Indication on site plans
B	Structure design that can accommodate the installation and operation of solar photovoltaic panels or solar thermal heating devices (including appropriate wiring and water transport systems)	Inclusion on construction drawings
B	Inclusion of shade features (e.g., awnings, louvers, shutters, etc.) to shade all windows and doors on the southern building facade	Indication on site plan
B	Shade impervious surfaces and southern/western building exposures to limit heat gain	
B	Inclusion of on-demand hot water systems instead of tank-based systems	
B	Configuration of new buildings with one axis at least 1.5 times longer than the other, and the long axis oriented in an east-west configuration for solar access	
CERTIFICATION		
AAA [1]	Construction of the principal structure(s) to meet or exceed LEED Platinum certification standards	Provision of verification of project compliance by certifying agency (may be provided within one year following occupancy)
AA [2]	Construction of the principal structure(s) to meet or exceed LEED Gold certification standards	
BBB	Construction of the principal structure(s) to meet or exceed LEED Silver certification standards	
BB	Construction of the principal structure(s) to meet or exceed LEED Bronze certification standards	
AAA	Construction of the principal structure(s) to meet or exceed BREEAM "Excellent" certification standards	
AA	Construction of the principal structure(s) to meet or exceed BREEAM "Very Good" certification standards	
BBB	Construction of the principal structure(s) to meet or exceed BREEAM "Good" certification standards	
BB	Construction of the principal structure(s) to meet or exceed BREEAM "Pass" certification standards	
AAA	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Emerald" certification standards	
AA	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Gold" certification standards	
BBB	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Silver" certification standards	
BB	Construction of the principal structure(s) to meet or exceed National Green Building Standard's "Bronze" certification standards	
AA	Green Globes certification for new construction or an existing building, as appropriate	
A	Construction of the principal structure(s) to meet some other recognized organization's sustainability standards, as determined by the Technical Review Committee	
WATER CONSERVATION AND QUALITY PROTECTION		

TABLE 7.6.F: MENU OF SUSTAINABLE DEVELOPMENT PRACTICES		
SCHEDULE	**TYPE OF PRACTICE**	**DOCUMENTATION OF COMPLIANCE**
AA [2]	Configuration of the principal structure's roof so that at least 50 percent of the roof is a "green" roof intended to capture and hold rain water	Indication on site plan
A	Inclusion of rain water capture and re-use devices such as cisterns, rain filters, and underground storage basins with a minimum storage capacity of 500 gallons	Inclusion on construction drawings
A	Provision of bio-retention area(s) or other appropriate stormwater infiltration system(s) of at least 700 square feet in area	Indication on site plan
A	Provision of open space set-asides at a rate 200 percent or more beyond the minimum required	
B	Provision of bio-retention area(s) or other appropriate stormwater infiltration SCM systems of at least 100 square feet in area	
B	Removal of all lawn or turf in favor of living ground cover	
B	Use of xeriscape landscaping techniques without irrigation	
B	Provision of 150-foot undisturbed buffers adjacent to/surrounding all wetlands or surface waters	
B	Use of permeable surfacing on 50 percent or more of the vehicular use area	
BUILDING CONFIGURATION (AMENDED 1.4.22 UDOTA-1-22)		
AA [2]	Compliance with the multi-family residential design standards in Section 5.5.D, Multi-Family Residential Design Standards, for single-family attached development	Indication on site plan & signature on statement of consent
AA	Compliance with the design guidelines in Section 5.5.E, Single-Family Residential Design Guidelines	Indication on site plan & signature on statement of consent
A	Construction of principle structure in accordance with Barrier Free Design Standards (ANSI A1171.1)	Inclusion on construction drawings
A	Construction of the principal structure to a design wind speed standard of 150 mph	Signed attestation from a qualified NC licensed engineer
A	Inclusion of underground parking or parking structures sufficient to accommodate 51 percent or more of the off-street parking requirements	Indication on site plan
A	Setback of a second- or higher story primary building façade wall from the building's first floor primary façade plane by 12 feet or more (see multi-family building massing diagram in Section 5.5.D.5)	
B	Include operable windows on all building sides	
B	Provision of on-site transit facilities (e.g., designated park-and-ride parking spaces, bus shelters, or similar features)	
B	Inclusion of showering and dressing facilities in non-residential developments for employees using alternative forms of transportation	Inclusion on construction drawings
B	Provision of at least one enclosed recycling station per building suitable for storage and collection of recyclable generated on-site	Indication on site plan
B	Setback of a second- or higher story primary building façade wall from the building's first floor primary façade plane by six feet or more (see multi-family building massing diagram in Section 5.5.D.5)	Indication on site plan
NOTES: [1] Credited as provision of three schedule "A" features [2] Credited as provision of two schedule "A" features		

G. FAILURE TO INSTALL OR MAINTAIN SUSTAINABLE DEVELOPMENT PRACTICES

The failure to install or maintain approved sustainable development practices is a violation of this Ordinance, shall render the subject development nonconforming, and may result in revocation of the authorization for use of sustainable development practice incentives.

CHAPTER 8. MEASUREMENT AND DEFINITIONS

8.1. Rules of Language Construction **8-2**
A. Meanings and Intent 8-2
B. Headings, Illustrations, and Text 8-2
C. Lists and Examples 8-2
D. Computation of Time 8-2
E. Time-Related Language 8-2
F. References to this Ordinance 8-2
G. References to Other Regulations or Publications 8-2
H. References to North Carolina General Statutes 8-2
I. Delegation of Authority 8-3
J. Joint Authority 8-3
K. Technical and Non-Technical Terms 8-3
L. Public Officials and Agencies 8-3
M. Mandatory and Discretionary Terms 8-3
N. Conjunctions 8-3
O. Tenses, Plurals, and Gender of Words 8-3
P. Oath 8-3
Q. Term not Defined 8-3

8.2. Table of Abbreviations **8-4**

8.3. Rules of Measurement **8-7**
A. Purpose 8-7
B. Measurements, Generally 8-7
C. Lot Dimensions 8-8
D. Setbacks 8-10
E. Setback Encroachments 8-11
F. Residential Density 8-13
G. Gross Floor Area (GFA) 8-13
H. Height 8-14
I. Lot Coverage 8-15
J. Slope and Elevation 8-15
K. Parking Space Computation 8-16
L. Landscaping 8-17
M. Signage Measurement 8-18
N. Building Façade Type 8-21
O. Exterior Lighting 8-22
P. Fence and Wall Height 8-23

8.4. Definitions **8-25**

8.1. RULES OF LANGUAGE CONSTRUCTION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

A. MEANINGS AND INTENT

1. All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.4, General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance.
2. When a specific section of these regulations gives a different meaning than the general definition provided in Section 8.4, Definitions, the specific section's meaning and application of the term shall control.
3. Terms that are not defined are subject to their common or customary meaning.

B. HEADINGS, ILLUSTRATIONS, AND TEXT

1. In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.
2. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

C. LISTS AND EXAMPLES

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

D. COMPUTATION OF TIME

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the City.

E. TIME-RELATED LANGUAGE

1. **Time Standard**
   Whenever certain hours are named, they shall mean standard time or daylight savings time as may be in current use by the City.
2. **Day**
   The term "day" means a calendar day, or any day during a week, including business days and weekend days.
3. **Holiday**
   The term "holiday" means a legal holiday recognized by the City.
4. **Week**
   The term "week" means five business days and two weekend days. Weeks commence on a Monday.
5. **Month**
   The term "month" means a calendar month.
6. **Year**
   The term "year" means a calendar year.
7. **Temporary**
   The term "temporary" shall mean a condition lasting for only a limited period of time; not permanent.

F. REFERENCES TO THIS ORDINANCE

A reference to a chapter, section, sub-section, or paragraph means a chapter, section, sub-section, or paragraph of this Ordinance, unless otherwise specified.

G. REFERENCES TO OTHER REGULATIONS OR PUBLICATIONS

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition or adopted version of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

H. REFERENCES TO NORTH CAROLINA GENERAL STATUTES

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section.

I. DELEGATION OF AUTHORITY

Whenever a provision of this Ordinance requires or authorizes an officer or employee of the City to do some act or perform some duty, the officer or employee may designate, delegate, and authorize subordinates to perform the act or duty unless the terms of the provision specifically provide otherwise.

J. JOINT AUTHORITY

All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

K. TECHNICAL AND NON-TECHNICAL TERMS

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

L. PUBLIC OFFICIALS AND AGENCIES

All public officials, bodies, and agencies to which references are made are those of the City of Burlington, unless otherwise indicated.

M. MANDATORY AND DISCRETIONARY TERMS

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may," "can," and "should" are permissive in nature.

N. CONJUNCTIONS

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions or events apply.
2. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

O. TENSES, PLURALS, AND GENDER OF WORDS

1. Tense

Words used in the past or present tense include the future tense as well as the past and present.

2. Number

Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

3. Gender

Words used in the masculine gender include the feminine gender and the neuter, and vice versa.

P. OATH

The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Q. TERM NOT DEFINED

If a term used in any chapter of this Ordinance is not defined, the Planning Director, City Engineer, Stormwater Administrator, or Transportation Director is authorized to interpret the term in accordance with Section 2.4.F, Determination, based upon the definitions used in professionally accepted sources.

8.2. TABLE OF ABBREVIATIONS

Table 8.2, Abbreviations, is a summary table of abbreviations used in this Ordinance.

TABLE 8.2: ABBREVIATIONS

ABBREVIATION	TERM
AASHTO	American Association of State Highway and Transportation Officials
ADU	Accessory Dwelling Unit
AHO	Airport Height Overlay
APA	Airport Protection Area
APC	Airport Conical Zone
APH	Airport Horizontal Zone
APT	Airport Transitional Zone
ATM	Automated Teller Machine
AVE	Avenue
BFE	Base Flood Elevation
BLVD	Boulevard
BMP	Best Management Practice
BOA	Board of Adjustment
BOW	Balance of Watershed
BUA	Built-Upon Area
CB	Conditional Business
CBD	Central Business
CBU	Cluster Box Unit
CI	Conditional Industrial
Cir	Circle
CLG	Certified Local Government
CLOMR	Conditional Letter of Map Revision
CO	Certificate of Occupancy
COI	Conditional Office-Institutional
CR	Conditional Residential
Ct	Court
CTS	Cooperating Technical State
CWA	Clean Water Act
DBH	Diameter at Breast Height
Dr	Drive
EIFS	Exterior Insulation and Finish System
EMB	Electronic Message Board
EMC	Environmental Management Commission
EMS	Emergency Medical Service
ETJ	Extra Territorial Jurisdiction
EV	Electric Vehicle
FAA	Federal Aviation Administration
FBFM	Flood Boundary and Floodway Maps
FEMA	Federal Emergency Management Agency
FHBM	Flood Hazard Boundary Map

TABLE 8.2: ABBREVIATIONS	
ABBREVIATION	**TERM**
FHO	Flood Hazard Overlay
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
GB	General Business
GCO	Gateway Corridor Overlay
GFA	Gross Floor Area
GIS	Geographic Information System
HAG	Highest Adjacent Grade
HDR	High Density Residential
HI	Heavy Industrial
HPC	Historic Preservation Commission
HPM	Hazardous Production Material
HQW	High Quality Waters
HTM	Highly Toxic Material
Hwy	Highway
ITE	Institute of Traffic Engineers
LAG	Lowest Adjacent Grade
LDR	Low Density Residential
LED	Light-Emitting Diode
LHO	Local Historic Overlay
LI	Light Industrial
Ln	Lane
LOMA	Letter of Map Amendment
LOMR	Letter of Map Revision
MDR	Medium Density Residential
MI	Medium Industrial
MS4	Municipal Separate Storm Sewer System
MX	Mixed Use
NB	Neighborhood Business
NC	North Carolina
NCAC	North Carolina Administrative Code
NCDEQ	North Carolina Department of Environmental Quality
NCDOT	North Carolina Department of Transportation
NCGS	North Carolina General Statutes
NFIP	National Flood Insurance Program
NPDES	National Pollutant Discharge Elimination System
NSW	Nutrient Sensitive Waters
OI	Office Institutional
P&Z	Planning and Zoning Commission
PC	Parks and Conservation
PD	Planned Development
Pkwy	Parkway
Pl	Place
Rd	Road

TABLE 8.2: ABBREVIATIONS	
ABBREVIATION	**TERM**
RMH	Residential Mobile Home
ROW	Right-of-Way
SCM	Stormwater Control Measure
SES	Solar Energy System
SIA	Stormwater Impact Analysis
St	Street
TIA	Transportation Impact Analysis
TRC	Technical Review Committee
Trl	Trail
TSS	Total Suspended Solids
UDO	Unified Development Ordinance
USC	United States Code
USDA	United States Department of Agriculture
USGS	United States Geologic Survey
Way	Way
WCA	Watershed Critical Area
WPO	Watershed Protection Overlay
WSW	Water Supply Watershed

8.3. RULES OF MEASUREMENT

A. PURPOSE

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this Ordinance. These standards may be modified by other applicable sections of this Ordinance.

B. MEASUREMENTS, GENERALLY

1. Straight Lines

Unless otherwise stated in this Ordinance, distances specified in this Ordinance are to be measured as the length of an imaginary straight line joining two points.

2. Rounding

All calculations that result in a fractional unit or part of a whole number, the number shall be rounded up to the next highest whole number, unless otherwise provided in this section or elsewhere in this Ordinance.

3. Irregular Shapes

In cases where an irregular shape complicates the application of these standards, the Planning Director shall determine the applicable dimensional, setback, or bulk standards in accordance with the standards in this section and Section 2.4.F, Determination.

4. Separation

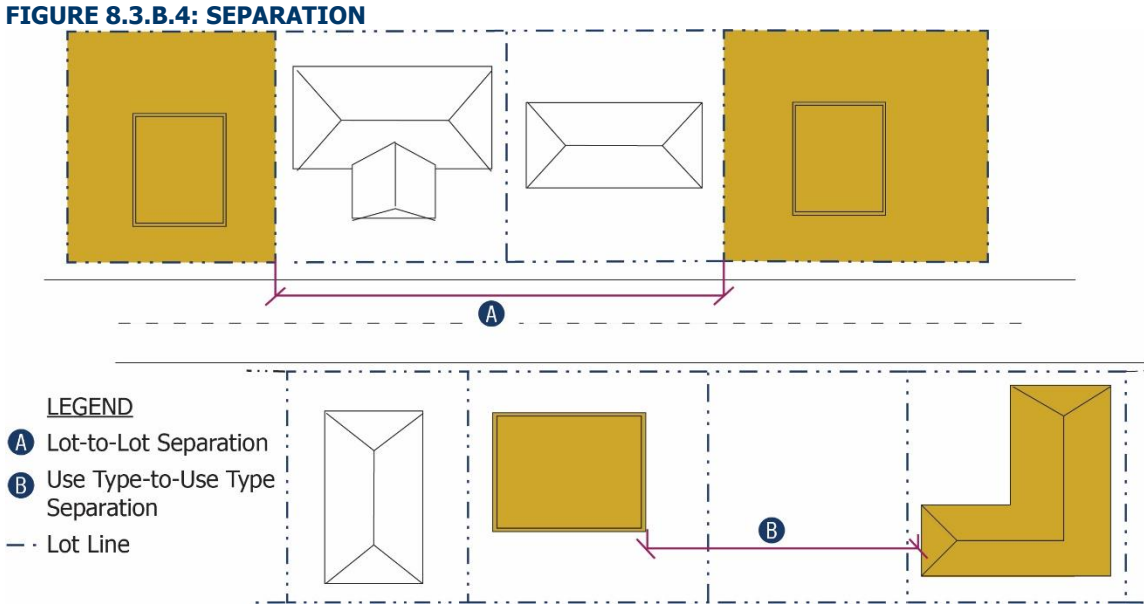
a. Lot to Lot

When the provisions of this Ordinance require separation between two or more lots, or a lot and another feature, separation shall be measured by drawing straight lines from the nearest point of one lot line to the nearest point of the lot line subject to the separation requirement (see Figure 8.3.B.4: Separation).

b. Use Type to Use Type

When the provisions of this Ordinance require one use type to be separated from another use type, separation shall be measured by drawing straight lines from the nearest point of the wall of one existing or proposed principal structure to the nearest point of the wall of another existing or proposed structure subject to the separation requirement.

FIGURE 8.3.B.4: SEPARATION



5. Abutting versus Adjacent

a. Abutting

The term abutting describes a condition where two or more features (a lot line, building, driveway, etc.) are immediately beside or next to one another either on the same lot or on different lots sharing a common lot line.

b. Adjacent

The term adjacent describes a condition where two or more similar features (a lot line, building, use type, structure, site feature, etc.) are proximate to one another, but are separated by some form of intervening feature, such as a street, alley, water feature, railroad, lot or property under separate ownership, or natural feature of sufficient size so as to prevent direct site visibility or impede the movement of sound from one feature to another.

C. LOT DIMENSIONS

1. Lot Measurements

a. Acreage

The total number or gross number of acres on a tract or site.

b. Lot Depth

The dimension measured from the front of the lot to the extreme rear line of the lot. In case of irregularly shaped lots, the mean depth shall be taken.

c. Lot Width

The width of a lot is measured at right angles to its depth at the edge of the street setback or at a proposed building setback line, whichever is further from the street right-of-way.

d. Minimum Lot Area

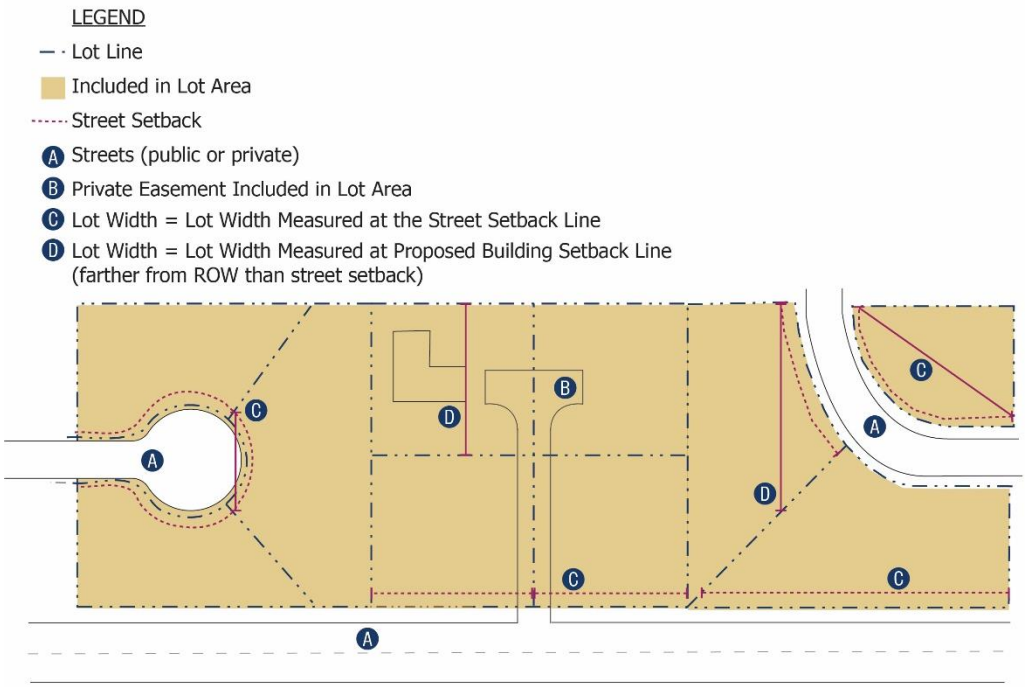
The minimum amount of required land area, measured horizontally, that must be included within the lines of a lot (see Figure 8.3.C.1.d: Lot Measurement). Lands located within any private easements shall be included within the lot area.

e. Street Frontage

The length of the lot line of a single lot abutting a public or existing private street right-of-way.

FIGURE 8.3.C.1.d: LOT MEASUREMENT

(AMENDED 12.3.19 UDOTA-01-20)



2. Lot Lines

A lot line is a line of record bounding a lot which separates one lot from another lot or separates that lot from a public or private street or any other public space (see Figure 8.3.C.2: Lot Lines). The following terms describe differing types of lot lines:

a. Street Lot Line

(AMENDED 12.3.19 UDOTA-01-20); (AMENDED 1.4.22 UDOTA-1-22)

The lot line along the edge of the street that provides a lot's street address or the primary entrance of a building. Street setbacks are applied to any lot line abutting a street, but only one lot line serves as the street lot line.

b. Rear Lot Line

(AMENDED 1.4.22 UDOTA-1-22)

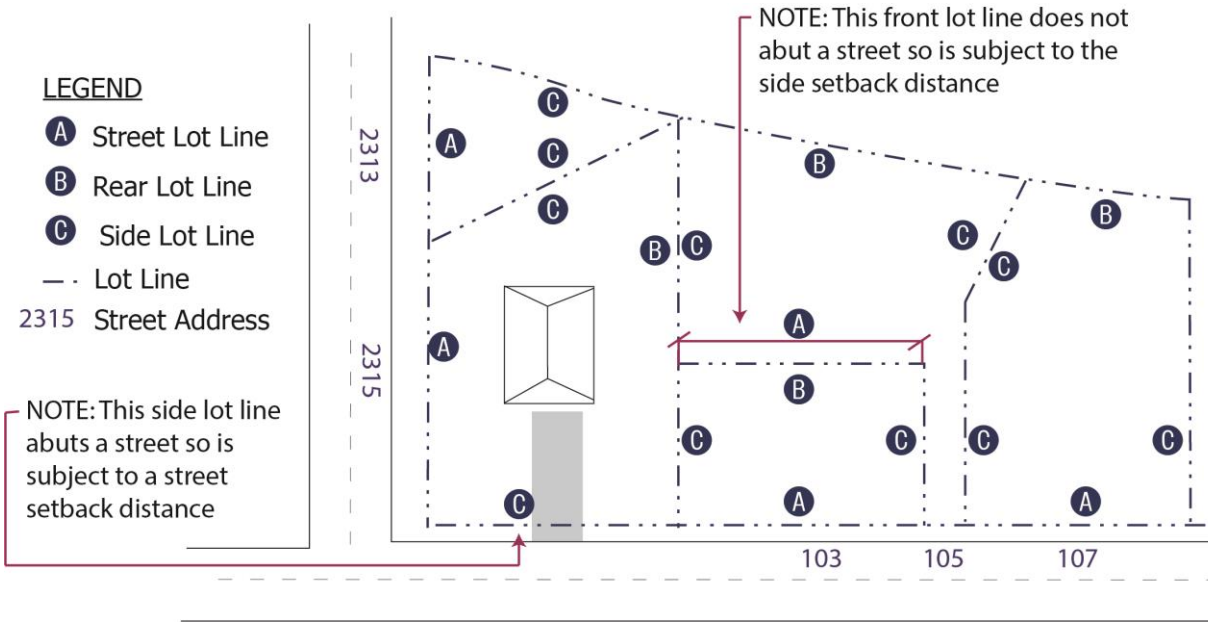
The lot line opposite the street lot line.

c. Side Lot Line

The lot line connecting the front and rear lot lines regardless of whether it abuts a right-of-way or another lot line.

FIGURE 8.3.C.2: LOT LINES

(AMENDED 12.3.19 UDOTA-01-20)



3. Lot Types

a. Corner Lot

A lot which occupies the interior angle at the intersection of two street lines or a single street which make(s) an angle of more than 45 degrees and less than 135 degrees. The front of the lot is the lot line adjacent to the street from which the lot obtains its street address.

b. Flag Lot

A lot having shape and configuration so that it connects to street frontage by an extension and/or arm of the main portion of the lot.

c. Interior Lot

A lot other than a corner lot with only one frontage on a street.

d. Lot of Record

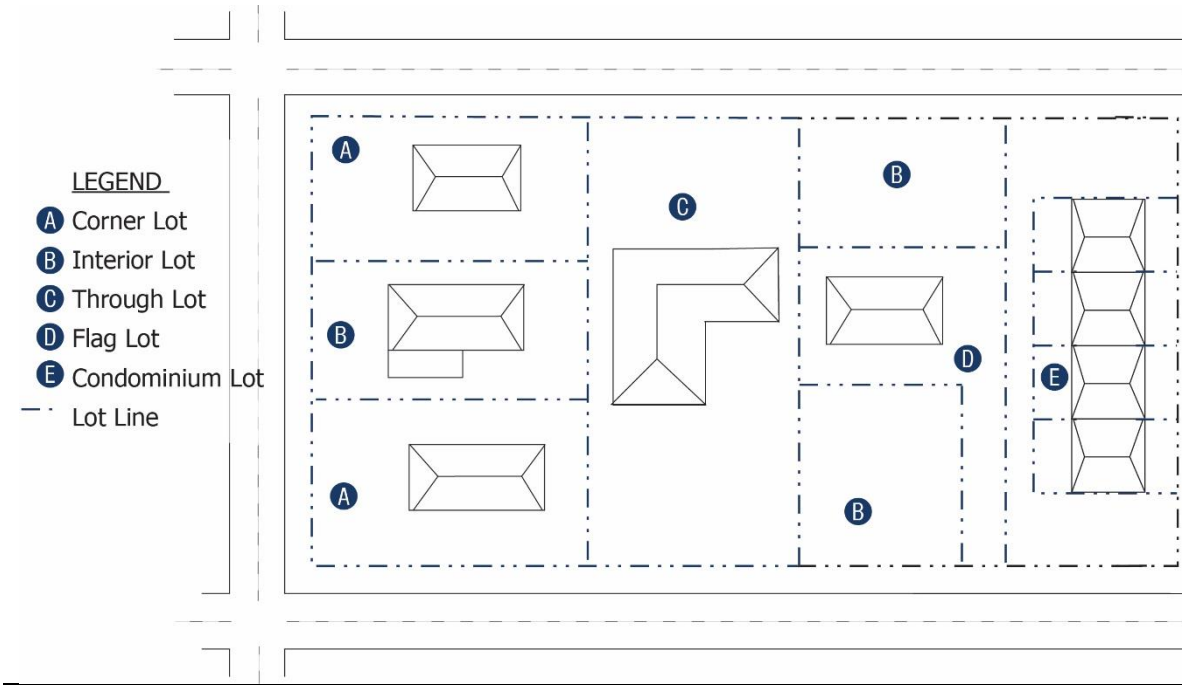
A lot that is a part of a subdivision, a plat of which has been recorded in the office of the Alamance County or Guilford County Register of Deeds, as appropriate or a lot described by metes and bounds, the description of which has been recorded with the Alamance County or Guilford County Register of Deeds, as appropriate.

e. Through Lot (Double Frontage Lot)

A lot which fronts upon two parallel streets, and/or which fronts upon two streets which do not intersect at the boundaries of the lot.

FIGURE 8.3.C.3: LOT TYPES

(AMENDED 12.3.19 UDOTA-01-20)



4. Lots Serving Condominium Use Types

Individual condominium uses, whether residential or non-residential, are exempted from minimum lot area requirements in this Ordinance but shall be located on a larger site or parent tract that meets the standards for the zoning district where located.

D. SETBACKS

A setback is the horizontal distance from a lot line or street right-of-way line to the nearest part of the applicable building, structure, sign, or activity, measured perpendicularly to the line.

1. Perimeter Setback

(AMENDED 10.20.20 UDOTA-03-20)

Setbacks applied to multiple building developments or multiple lot developments that apply only to the outermost buildings along the perimeter of a development. A perimeter setback does not apply along streets, where the minimum or maximum required street setback shall prevail.

2. Rear Setback

(AMENDED 12.3.19 UDOTA-01-20)

A setback from an interior lot line lying on the opposite side of the lot from the street setback.

3. Side Setback

Any interior property line setback other than a rear setback.

4. Setbacks from Railroads or Sidings

Lots in business or special district abutting a railroad or railroading siding are not required to provide a side or rear setback from the railroad or siding.

5. Street Setback

(AMENDED 10.20.20 UDOTA-03-20)

a. A setback measured from the right-of-way edge associated with a public street or existing private street.

b. The street setback is a minimum setback, and nothing shall prohibit a building from being located farther from the street right-of-way, except where a maximum street setback is specifically identified by this Ordinance or a condition of approval.

c. In cases where the street right-of-way edge is not readily identifiable, the location of the right-of-way edge shall be determined by measuring outwards from the street centerline one-half of the total right-of-way width. The right-of-way edge location shall be certified by a professional engineer or land surveyor licensed by the State of North Carolina.

d. Lots shall provide a street setback from all lot lines abutting a street (excluding alleys).

E. SETBACK ENCROACHMENTS

Table 8.3.E, Allowable Encroachment into Setbacks, sets out the kinds of features that are permitted to encroach within a required setback, provided they do not obstruct visibility for motorists at any street intersection (see Figure 8.3.E: Setback Encroachments).

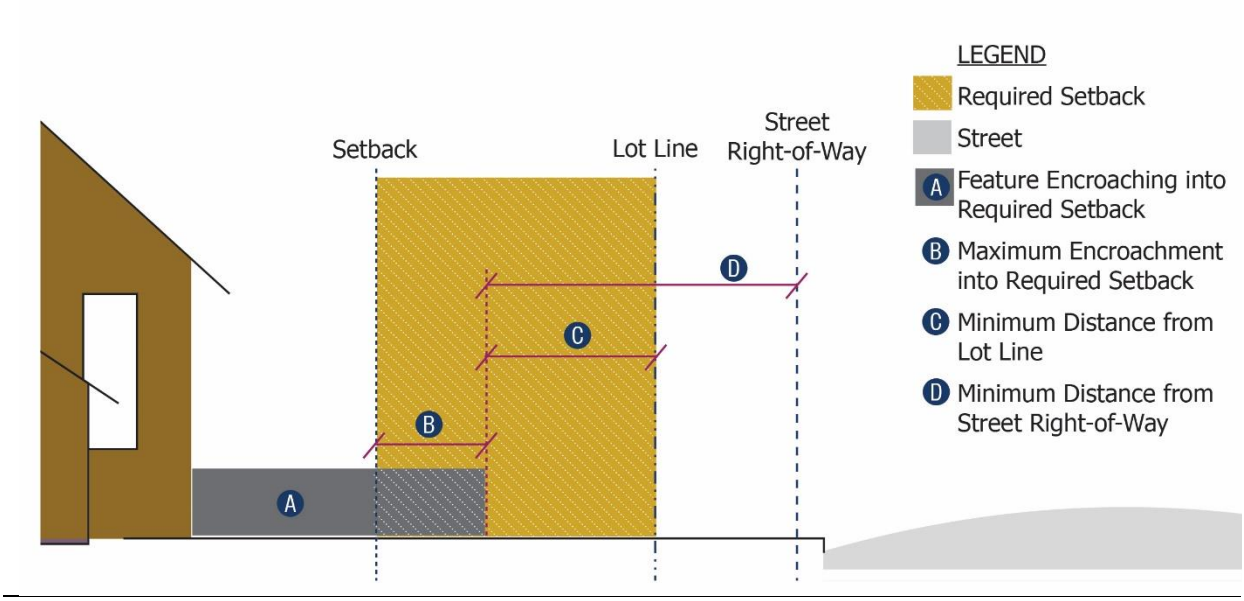
TABLE 8.3.E: ALLOWABLE ENCROACHMENT INTO REQUIRED SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT DISTANCE INTO A REQUIRED SETBACK
Awnings	May encroach into any setback up to eight feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access
Balcony or Bay Window	May extend up to four feet into any required setback within a residential zoning district, but shall be no closer than three feet from any lot line
Bicycle Parking Facilities	Allowed within a setback, but no closer than five feet to the edge of the pavement of a street
Canopy, Attached	May encroach into any setback up to three feet, but shall maintain a minimum height of at least nine feet above a sidewalk or other pedestrian access In the CBD district, a canopy shall maintain a minimum distance of at least two feet from the back of the curb
Canopy, Freestanding	May be located in a setback provided no portion is closer than 15 feet to a street right-of-way
Chimneys, Fireplaces, Outdoor Kitchens, or steps	May extend up to four feet into any setback, but shall be no closer than three feet from any lot line
Cornice, Beltcourse, or Sill	May extend up to one-and-one-half feet into any required setback
Decks, Covered	Subject to the setbacks applied to principal structures
Decks, Uncovered (AMENDED 12.3.19 UDOTA-01-20)	May extend up to four feet into a required side yard or ten feet into a required street or rear yard
Driveways	May be located in any required setback
Elevators and Similar Mechanical Devices	May encroach into side setbacks no more than 18 inches and rear setbacks no more than 36 inches
Fences or Walls, excluding Retaining Walls	May be located in any required setback, subject to the limitations in Section 5.3.H.2, Fences and Walls, but shall not be located within a required sight distance triangle
Flagpoles, Mailboxes, Lamp and Address Posts	May be located in any required setback
Detached Garage (AMENDED 3.17.20 UDOTA-02-20)	May be located within rear yard, provided the structure is more than 10 feet from the principal dwelling
Gazebo or Garden Structure	May not be located within a street setback
Handicap Ramps	May be located in any required setback provided it does not unduly obstruct pedestrian or vehicular access

TABLE 8.3.E: ALLOWABLE ENCROACHMENT INTO REQUIRED SETBACKS

FEATURE	MAXIMUM ALLOWABLE ENCROACHMENT DISTANCE INTO A REQUIRED SETBACK
Outdoor Equipment (e.g., HVAC condenser, water heater, etc.) Serving Single-family Detached Residential Use	May extend up to four feet into any required setback
Outdoor Equipment Serving a Use other than Single-family Detached Residential	May encroach into a required setback except when the required setback is five feet or less
Outdoor Seating Areas Serving a Non-residential Use	May encroach into a setback up to eight feet
Outdoor Storage	May not encroach into a required setback
Patio or Porch, Covered **(AMENDED 1.4.22 UDOTA-1-22)**	May extend up to four feet into a required side yard or ten feet into a required front or rear yard
Patio or Porch, Uncovered **(AMENDED 1.4.22 UDOTA-1-22)**	May be located in any required setback provided that no portion is located within five feet of the street right-of-way
Pet Shelters	Subject to the setbacks applied to principal structures
Playground Equipment Accessory to a Residential Use	When located ten or more feet from the principal structure, may be located within five feet of a side or rear lot line, but shall not be located within a required street setback
Retaining Walls	May encroach into a required setback
Roof Eaves, Rakes, and Overhangs	May extend up to four feet into any required setback
Signs	May extend into any required setback in accordance with Section 5.6, Signage
Swimming Pool, (including all ancillary appurtenances) **(AMENDED 1.4.22 UDOTA-1-22)**	May extend into a required side or rear setback, but shall be no closer than five feet to a lot line
Underground Structures (including septic systems but excluding swimming pools)	May be located in any required setback
Vegetation and Landscaping Features	May be located in any required setback
Vehicular Off-street Parking Area	May be located in any required setback provided that no parking area is located within five feet of the street right-of-way
Well House (functional or aesthetic)	May be located in any required setback, but shall be no closer than eight feet from a right-of-way

FIGURE 8.3.E: SETBACK ENCROACHMENTS



F. RESIDENTIAL DENSITY

Residential density is the maximum allowable number of residential dwelling units permitted on a particular site, tract, lot, or other unit of land area, typically expressed as a maximum number of residential units per acre.

1. Calculation

(AMENDED 3.4.21 UDOTA-01-21)

a. Maximum residential density is calculated by dividing the square footage of a lot by the number of square feet in an acre (43,560), then multiplying the maximum number dwelling units allowed in the zoning district, and rounding the product upwards to remove any fractions.

Example:
Lot size: 52,000 square feet / 43,560 = 1.19 acres.
Zoning district maximum density is 1.08 units per acre: 1.19 x 1.08 = 1.28.
Maximum number of residential units = 2 (fractions are rounded upwards).

b. Land area associated with floodplains and riparian buffers may be included in the calculation of the square footage of a tract or site for the purposes of determining the maximum residential density.

c. Land area located within a right-of-way shall not be included in the calculation of allowable density.

d. Maximum residential density in a particular zoning district may be increased beyond the amount stated in CHAPTER 3. ZONING DISTRICTS, in accordance with the standards in Section 7.6, Sustainability Incentives.

2. Density Equivalence

a. Accessory dwelling units associated with a single-family residential principal use shall not be counted towards the maximum allowable residential density.

b. When calculating the density for a private dormitory associated with an educational use, two bedrooms in a private dormitory shall be equivalent to one regular dwelling unit.

c. Maximum density amounts do not apply to student housing or lodging on college or university campuses when the housing is owned or operated by the college or university. In these instances, residential land uses are considered as an accessory to the college or university principal use.

G. GROSS FLOOR AREA (GFA)

Gross floor area (GFA) shall be defined as the sum in square feet of all floors of the building measured from the exterior face of the exterior walls. The gross floor area shall include or exclude areas as indicated below:

1. Areas Included in Gross Floor Area

a. All enclosed habitable space.
b. Elevators, hallways, and stairwells on stories containing habitable space.

2. Areas Excluded from Gross Floor Area

(AMENDED 10.20.20 UDOTA-03-20)

a. Unenclosed porches or decks.
b. Off-street parking areas, including the elevators, hallways, mechanical equipment, and stairwells serving structured parking.
c. Utility services areas devoted to the electric service, the potable water service, the wastewater system, the telephone service, the cable service, or to a backup generator.
d. Mechanical areas and uninhabited enclosed spaces on tops of roofs not intended for general storage.

H. HEIGHT

1. Measurement

Building height shall be measured from the finished or established grade elevation following any land disturbing activities.

2. Maximum Height

Building height is the vertical distance from a point established as the mean elevation of the finished grade along the front façade of a building to any of the following points (see Figure 8.3.H: Building Height):

a. The highest point of a flat roof (excluding coping or parapet walls shorter than five feet above the roof deck);
b. The deck line of a mansard roof;
c. The mid-point of the roof between the ridge and the eaves for a gable, hip, or gambrel roof; or
d. To the highest point of a dome, shed, or cricket-style roof.

3. Story

A building story is the portion of a building where all rooms share the same floor and ceiling level.

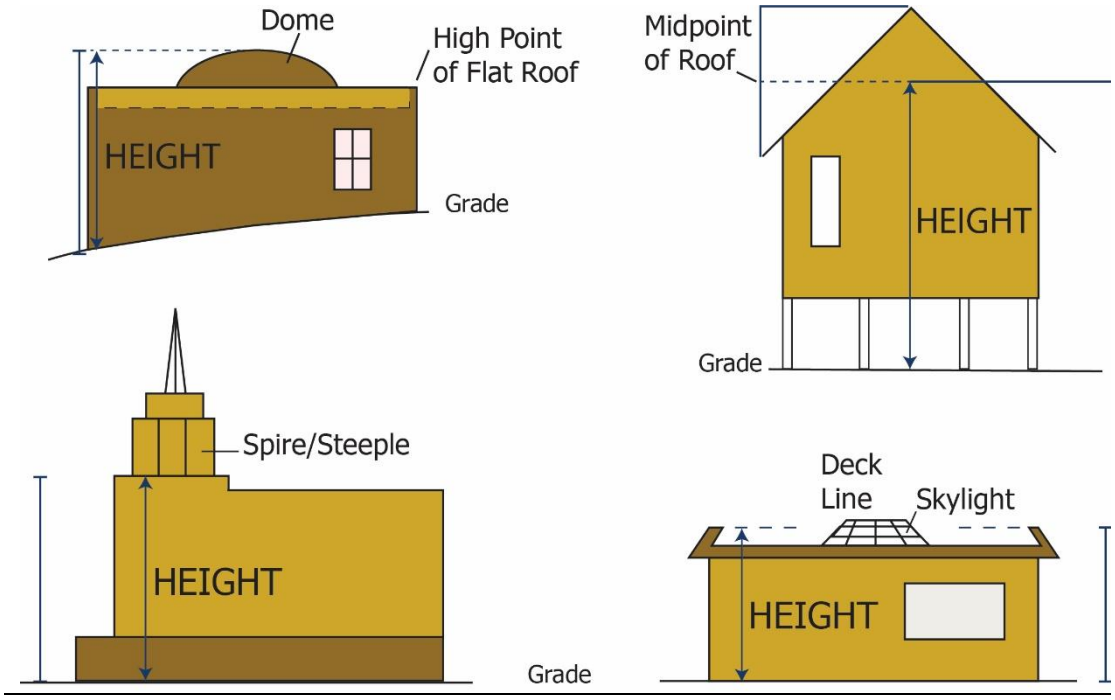
a. A crawlspace or basement with an average ceiling height of less than seven feet is not considered as a story.
b. An attic with an average ceiling height of less than six feet is not considered a story.

4. Exceptions

a. Except when proposed within the AHO, the following features are exempted from the maximum height requirements in this Ordinance:
   i. Parapet walls of less than five feet in height above the roof deck;
   ii. Spires, steeples, minarets, belfries, cupolas, domes, and similar architectural features not intended for human habitation;
   iii. Water tanks, vent housings, elevator housings, and equipment covers;
   iv. Chimneys, vent pipes, skylights, or mechanical equipment; and
   v. Bulkheads or a single-story penthouse occupying 25 percent or less of the total roof area.
b. In the AHO, such structures shall be subject to the maximum height limits, and shall require a variance in accordance with Section 2.4.BB, Zoning/Subdivision Variance, when they project above the maximum height limitations or otherwise interfere with aerial navigation.

FIGURE 8.3.H: BUILDING HEIGHT

(AMENDED 12.3.19 UDOTA-01-20)



I. LOT COVERAGE

(AMENDED 12.3.19 UDOTA-01-20)

Lot coverage is the percentage of a lot or development site that is covered by buildings or roof structures, excluding allowed projecting eaves and balconies.

J. SLOPE AND ELEVATION

1. Slope

The degree of deviation of the ground surface from a flat, horizontal elevation, usually expressed in percent or degrees of deviation from horizontal.

2. Base Flood Elevation (BFE)

a. A determination of the water surface elevations of the base flood as published in the flood insurance study.

b. When the BFE has not been provided for land within the FHO, it may be obtained from engineering studies available from a federal, State, or other source using FEMA approved engineering methodologies. This elevation establishes the Regulatory Flood Protection Elevation.

3. Finished Grade

The established grade following grading, excavation, or other land-disturbing activity.

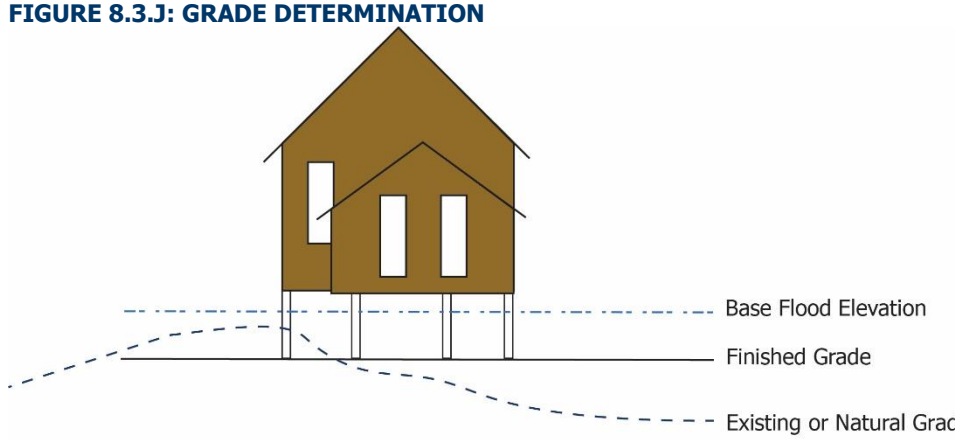
4. Natural Grade

The level of the ground elevation prior to the commencement of development or land disturbing activity (see Figure 8.3.J: Grade Determination).

5. Regulatory Flood Protection Elevation

The minimum height allowable for lowest structural member comprising habitable space within a building. This is a height equivalent to two linear feet in elevation above the base flood elevation.

FIGURE 8.3.J: GRADE DETERMINATION



K. PARKING SPACE COMPUTATION

1. Rounding

When computation of the number of required parking spaces results in a fraction, the fraction shall be rounded downwards to the previous whole number.

2. Multiple and Mixed Uses

Unless otherwise approved, development containing more than one principal use shall provide off-street parking in an amount equal to the total requirements of all individual uses, unless the Planning Director determines that a lower standard would be adequate because of differences in peak operating hours.

3. Seat Based Standards

Where the minimum number of off-street parking spaces is based on the number of seats, all computations shall be based on the number of seats provided, including outdoor and waiting areas.

4. Employee Based Standards

When the minimum number of off-street parking spaces is based on the number of employees, the computations shall be based on the number of employees on the largest shift.

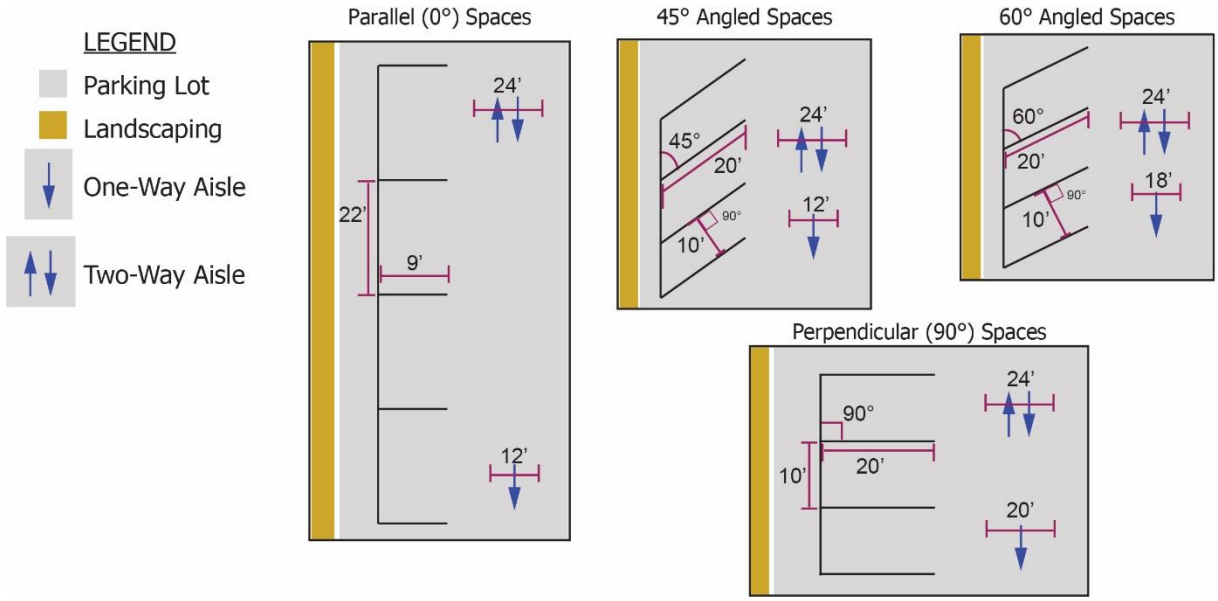
5. Floor-Area Based Standards

Where the minimum number of off-street parking spaces is based on square feet of floor area, all computations shall be based on gross floor area. The square footage shall include outdoor use area.

6. Parking Space and Access Aisle Dimensions

Figure 8.3.K: Parking Space and Aisle Dimensions, sets out the minimum off-street parking space dimensions and minimum widths of access aisles.

FIGURE 8.3.K: PARKING SPACE AND AISLE DIMENSIONS
(AMENDED 12.3.19 UDOTA-01-20)



L. LANDSCAPING

1. Determining Tree Size at Time of Planting

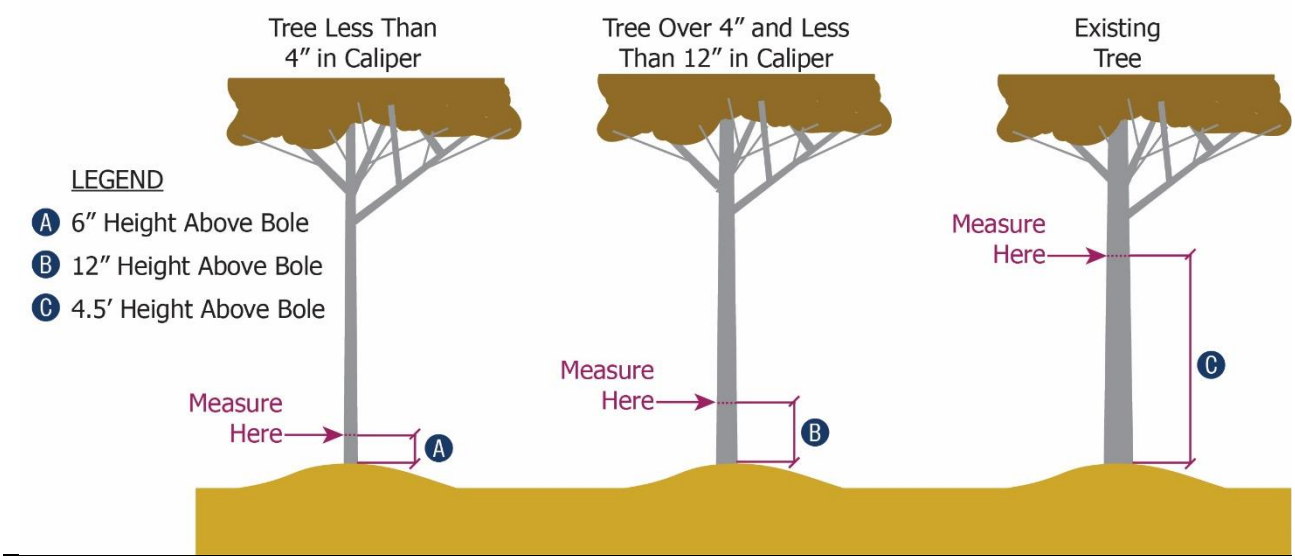
a. Trees under Four Inches in Caliper

Minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of six inches above the bole, or the location where tree trunk meets the soil it is planted in.

b. Trees over Four, but less than Twelve Inches, in Caliper

Minimum size at time of planting shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of 12 inches above the bole, or the location where tree trunk meets the soil it is planted in.

FIGURE 8.3.L: PLANT SIZE DETERMINATION
(AMENDED 12.3.19 UDOTA-01-20)



2. Determining Tree Size of Existing Trees

a. Existing tree size shall be determined by taking a measurement of the girth or circumference of the tree trunk, in inches, at a height of four-and-one-half feet above the bole, or the location where tree trunk meets the soil it is planted in.

b. In the case of a multi-stemmed tree, the cumulative DBH shall be the square root of the sum of all the individual stem diameters squared. As an alternative, the tree's basal area is the sum of the diameters of all tree stems.

3. Rounding

When computation of the amount of landscaping material to be provided results in a fraction, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

4. Calculation of Required Landscaping Yard or Area Distances

a. In cases where a driveway, sidewalk, or greenway trail intersects a required landscaping area or yard, the width of these features shall be subtracted from the yard or area distance.

b. In cases where an easement that prohibits the placement of landscaping material intersects a required landscaping yard or area, the width of the easement shall not be subtracted from the required yard or area distance. Required plant material shall be located outside the easement but within the required landscaping area or yard.

M. SIGNAGE MEASUREMENT

1. Sign Area Determination

(AMENDED 10.20.20 UDOTA-03-20)

a. The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle, or other regular geometric figure, including all of the elements of the display, including incidental or changeable copy signage, frames, display of identification or licensing officially required by any governmental body, and structural elements.

b. The supporting structure for a projecting sign shall not be included within the calculation of the surface area of a sign unless otherwise indicated in this Ordinance.

c. In the case of signs mounted back-to-back, only one side of the sign is to be included in the calculation of sign face area. Otherwise, the surface area of each sign is to be separately computed.

d. When two identical sign faces are placed back-to-back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

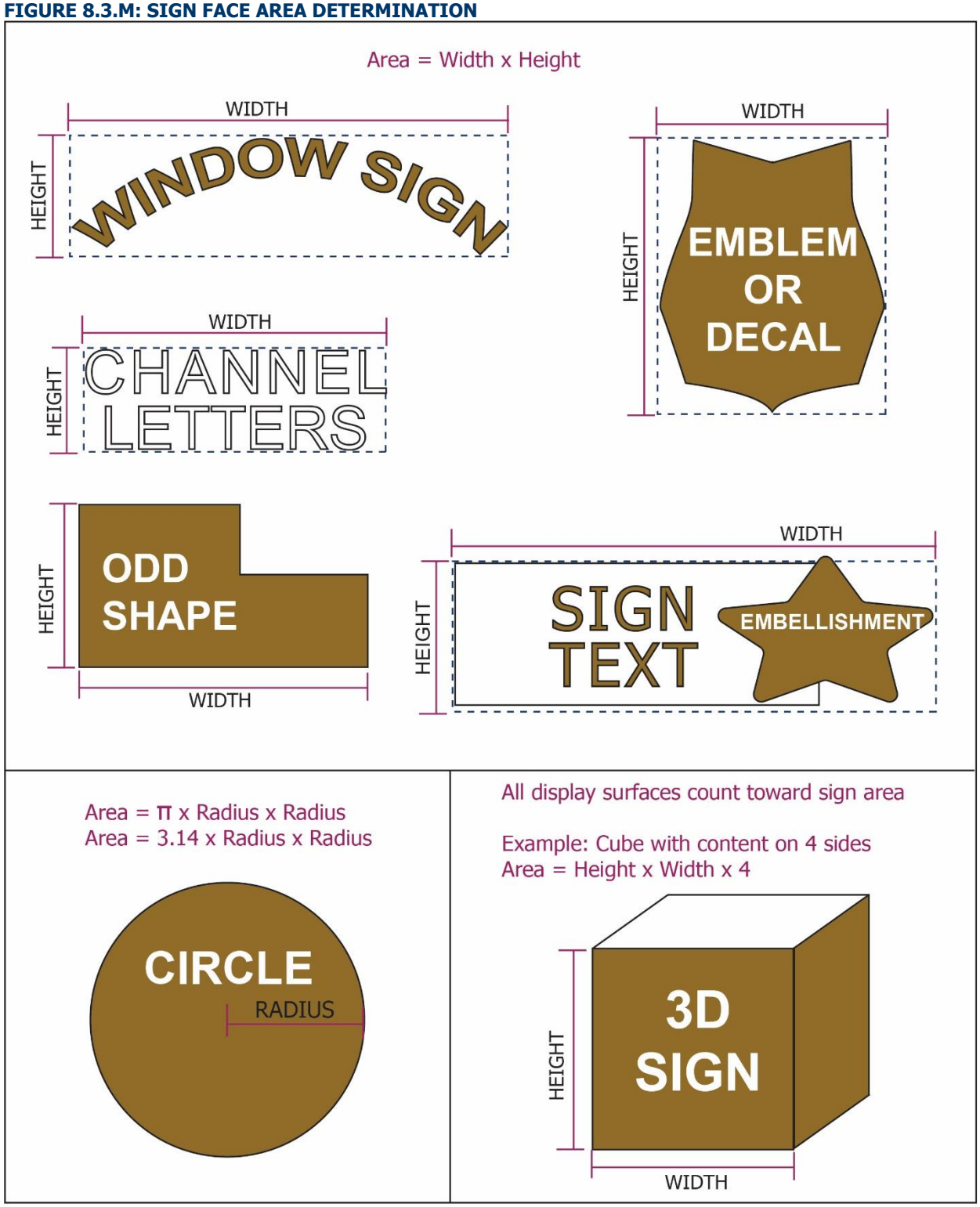
e. For multi-faced signs, the sign area shall be computed by including all sign faces visible from any one point.

f. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in computations of area.

g. Embellishments such as display portions of signs extending outside the general display area, incidental signage, changeable copy, or supplemental signage affixed to or included on a sign or sign support structure shall be computed as part of the total surface area of the sign, unless otherwise indicated in this Ordinance.

h. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence on which the sign face or letters are placed shall be calculated in the sign area.

FIGURE 8.3.M: SIGN FACE AREA DETERMINATION

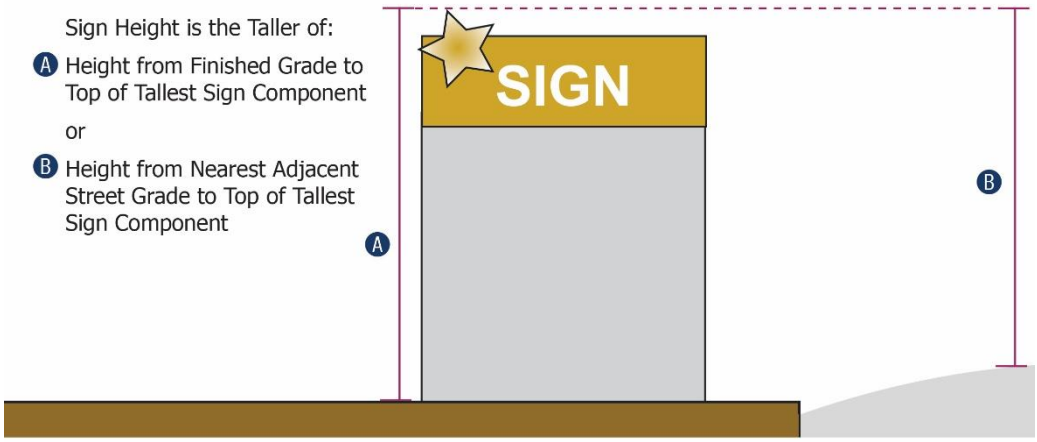


2. Sign Height Determination

a. Sign height shall be computed as the distance from the base of the sign at the finished grade or from the nearest adjacent street grade to which the sign is oriented and on which the lot has frontage, whichever is higher, to the top of the highest component of the sign.

b. Finished grade shall be the grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

FIGURE 8.3.M.2: SIGN HEIGHT DETERMINATION



3. Wall Area (for the purposes of Sign Area Measurement)

(AMENDED 1.4.22 UDOTA-1-22)

For the purposes of determining allowable sign area, a wall is the vertical exterior surface of a building, the area of which shall be determined as follows:

a. The area of all parallel vertical surfaces along a single building elevation regardless of offsets shall be counted as one wall. This includes wall surfaces that are parallel or approximately parallel that may be located in front of or behind the primary façade plane.

b. The front of each unit of a multiple tenant commercial building shall be counted as a separate wall.

c. The area of an angled wall surface shall be counted as part of whichever adjoining wall surface it is most parallel with.

d. A 45-degree angled wall may be counted as part of the area of either adjoining wall, but not as a part of both.

FIGURE 8.3.M.4: WALL AREA DETERMINATION FOR WALL SIGNAGE

LEGEND

One Wall

A Area of Parallel Vertical Surfaces Along a Single Building Elevation, Regardless is One Wall

B Front of Each Unit of a Multi Tenant Commercial Building is One Wall

C Area of An Angled Wall Surface is Part of the Adjoining Wall Surface it is Most Parallel With

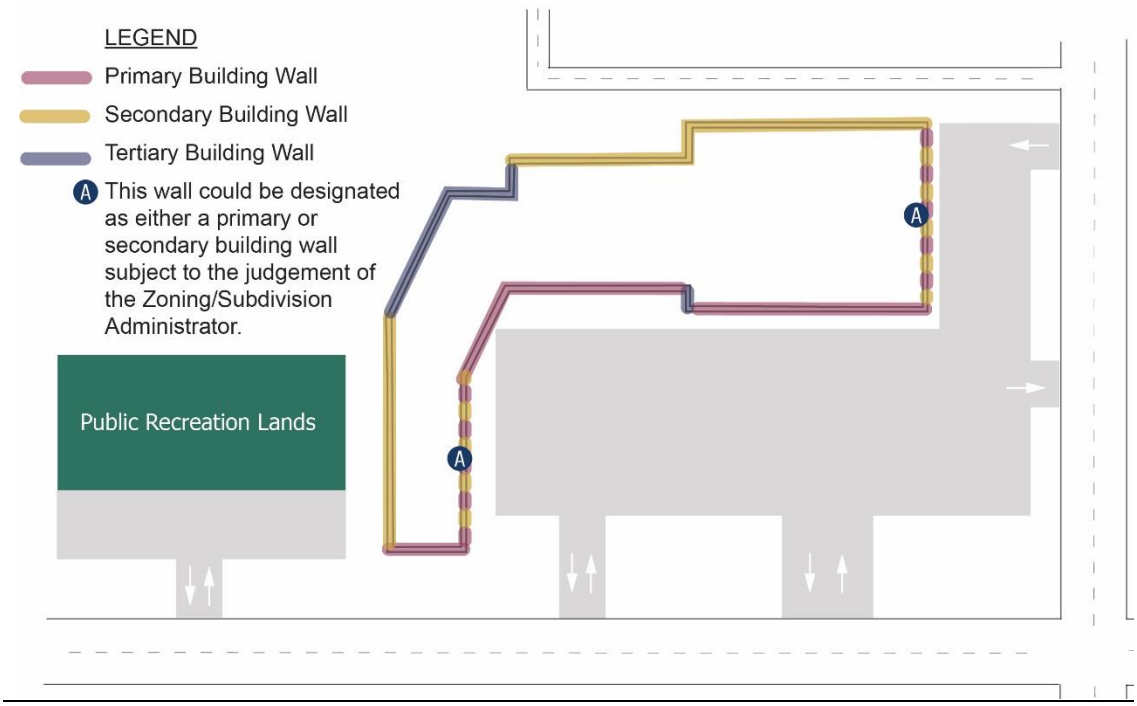
D 45 Degree Angled Wall May Count as Part of Either Adjoining Wall, But Not Both

N. BUILDING FAÇADE TYPE

(AMENDED 10.20.20 UDOTA-03-20)

1. Exterior building wall facades shall be distinguished as primary, secondary, or tertiary, in accordance with the following standards (see Figure: 8.3.N, Building Façade Walls Distinguished):
   a. Primary walls are the architectural front façade of the building that faces the street from which the building is addressed.
   b. Secondary building walls are exterior building walls that correspond to the side or rear of a building that that are visible from public recreation lands or streets other than the street that the building is addressed from.
   c. Tertiary walls are all other exterior building walls.
2. Different standards apply to building walls based on their designation as a primary, secondary, or tertiary building wall.
3. In cases where site conditions result in a situation where a building wall could be designated as either a primary or secondary wall by the Planning Director, the wall shall be treated as a primary wall. Nothing in these standards shall limit the number of primary walls on any particular building.
4. In cases where site conditions result in a situation where a building wall could be designated as either a secondary or tertiary wall by the Planning Director, the wall shall be treated as a secondary wall.

FIGURE 8.3.N: BUILDING FAÇADE WALLS DISTINGUISHED



O. EXTERIOR LIGHTING

1. Measured at the Lot Line

Light level measurements shall be made at the lot line of the land upon which light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the land.

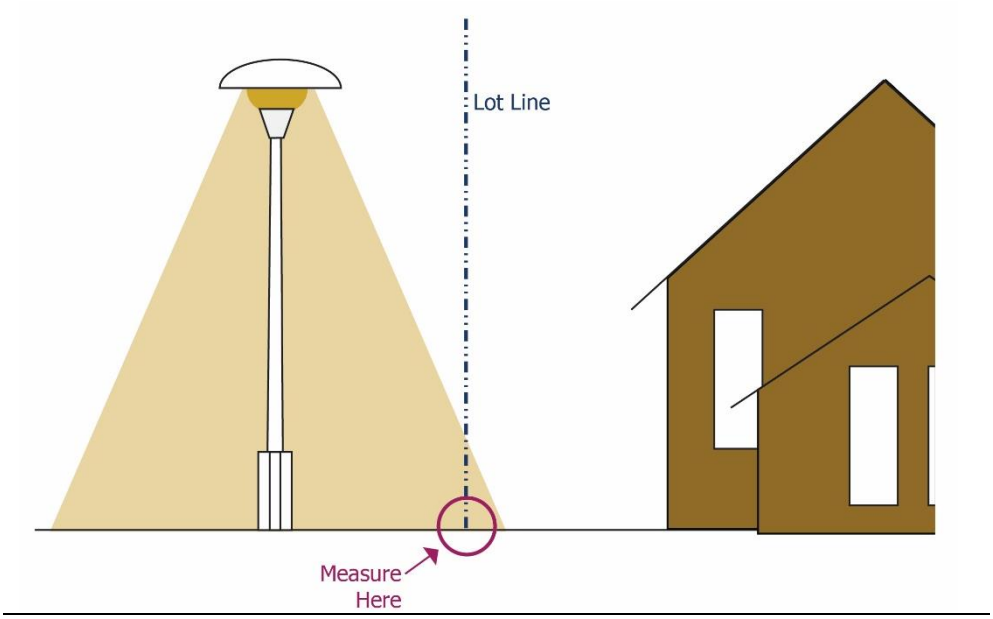
2. Measured at Finished Grade

Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent.

3. Measurement Device

Measurements shall be taken with a light meter that has been calibrated within two years.

FIGURE 8.3.O: LIGHTING MEASUREMENT



P. FENCE AND WALL HEIGHT

1. Measurement Location

a. In cases where a fence or wall is located within a required setback or required yard, fence height shall be determined along the grade of the adjacent lot or street.

b. In cases where a fence or wall is located outside a required setback or yard, the height shall be determined based on the finished grade.

c. In cases where a fence or wall is placed on a berm, the maximum fence or wall height shall include the height of the berm, as measured from the toe of the slope.

d. Fence height shall be measured at the highest point above grade (not including columns or fence posts) on the portion of the fence nearest an abutting or adjacent lot or street right-of-way.

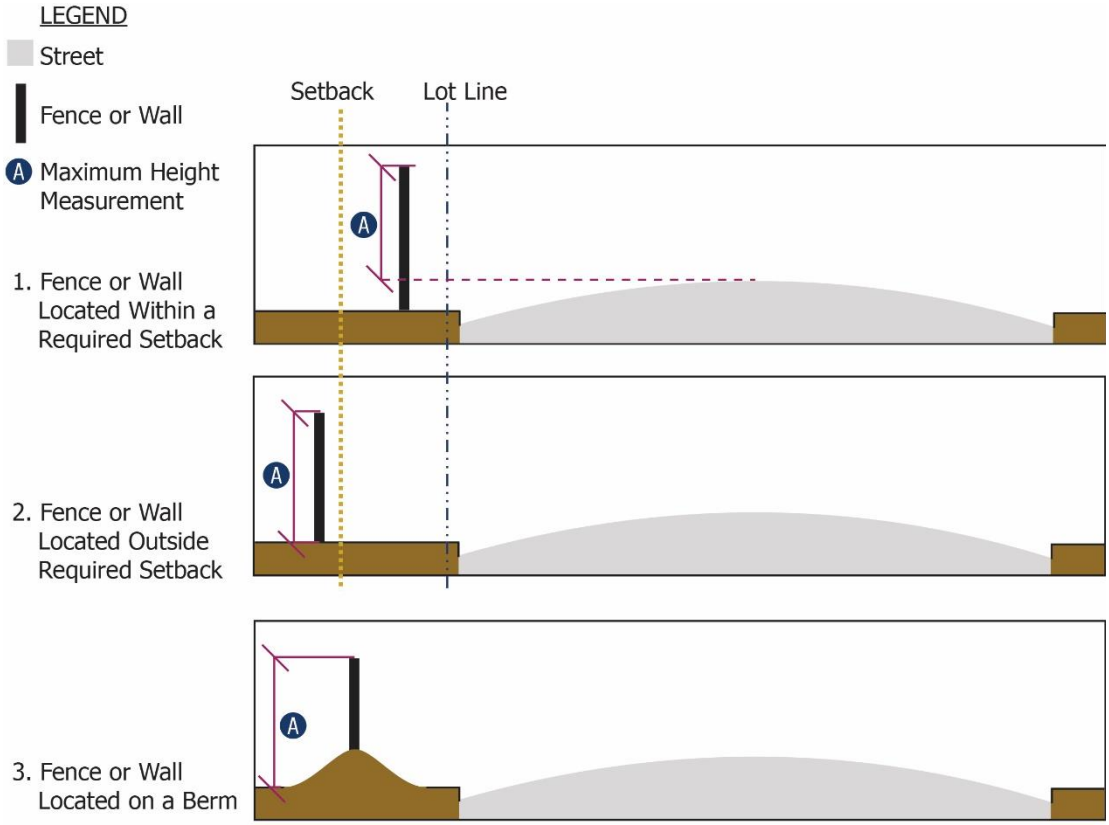
2. Column and Post Height

Columns or posts shall not exceed a height 18 inches above the built height of the fence.

3. Railings Not Included

Safety railings required by the North Carolina Building Code shall not be included in wall height measurements.

FIGURE 8.3.P: FENCE AND WALL HEIGHT DETERMINATION



8.4. DEFINITIONS

This section includes definitions of terms used throughout this Ordinance.

DEFINITIONS	
A	
ABANDONMENT	The relinquishment of property or a cessation of the use of the property for a continuous period.
ABUTTING	The condition of two parcels of land having a common property line or boundary, including cases where two or more parcels of land adjoin at a corner, but not including cases where parcels of land are separated by a street, water body, or right-of-way.
ACCELERATED EROSION	As used in Section 7.5, Soil Erosion and Sedimentation, any increase over the rate of natural erosion as a result of land-disturbing activity.
ACCENT	The use of an alternate material or color to a detail that is emphasized by contrasting with its surroundings.
ACCESS EASEMENT	An easement which grants the right to cross land.
ACCESS TRAILS	As used in the riparian buffer standards, pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.
ACCESSWAY	A paved or unpaved travelway intended to serve vehicles for the purposes of obtaining ingress, egress, or circulation around a lot or site.
ACCESSIBLE PARKING SPACE	An off-street parking space provided for the exclusive use of vehicles serving disabled persons.
ACCESSORY BUILDING	See "Accessory Structure."
ACCESSORY DWELLING UNIT	A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.
ACCESSORY STRUCTURE	A detached subordinate or incidental structure, the use of which is incidental to the principal structure and which is located on the same lot as the principal structure.
ACCESSORY USE	A use that is incidental and subordinate to the principal use of land or buildings and located on the same lot.
ACQUISITION	Act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).
ACT	As used in Section 7.5, Soil Erosion and Sedimentation, the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.
ACTIVE OPEN SPACE SET-ASIDE	Land set aside for the residents or a development and under common ownership that is configured for active forms of recreation. Active open space typically includes playgrounds, athletic fields and courts, and similar features devoted to movement, activity, or sports pursuits.
ACTIVE RECREATION USES	Uses or structures intended for specific active recreational uses such as play grounds, ball fields, tennis courts and other similar uses typically located in open space set-aside areas or parks.
ADDITION (TO AN EXISTING BUILDING)	An extension or increase in the floor area or height of a building or structure.
ADEQUATE EROSION CONTROL MEASURE, STRUCTURE, OR DEVICE	As used in Section 7.5, Soil Erosion and Sedimentation, one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.

DEFINITIONS	
ADJACENT	A parcel of land or development that shares all or part of a common lot line or boundary with another parcel of land, or a parcel of land that would abut another parcel of land, but for the fact a street, waterbody, or right-of-way divides the parcels.
ADMINISTRATIVE ADJUSTMENT	A request by an applicant to deviate from a specified numerical standard of this UDO by a specified percentage, subject to consistency with applicable review criteria.
ADOPTED POLICY GUIDANCE	The combined future land-use policy guidance provided by the adopted comprehensive plan, area or corridor plans prepared for specific parts of the City, and system plans related to the City's infrastructure systems.
ADULT BOOKSTORE/VIDEO STORE	Any bookstore/video store: 1. That receives a majority of its gross income during any calendar month from the sale of publications (including videos, books, magazines and other periodicals) that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or 2. Having a preponderance of its publications, books, magazines, videos and other periodicals that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.
ADULT CABARET	A nightclub, bar, restaurant or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes: 1. Persons who appear nude or semi-nude; or 2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or 3. Films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe "specified anatomical areas."
ADULT DAY CARE CENTER	A program operated in a structure other than a single-family dwelling that provides group care and supervision on a less than 24-hour basis, and in a place other than their usual place of residence, to adults 18 years or older who may be physically or mentally disabled, and which is certified or approved to operate by the State of North Carolina.
ADULT MOTEL	A hotel, motel, or similar commercial establishment that: 1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes; or 2. Offers a sleeping room for rent for a period of time that is less than 10 hours; or 3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
ADULT USE, OTHER	Any place defined as an "adult establishment" by Section 14-202.10 of the North Carolina General Statutes, except that the use type shall not include and adult bookstore, adult video store, adult cabaret, or adult motel as identified and defined in this Ordinance. Another adult use shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy use, or other similar health-related use provided the person rendering or receiving a massage does not exhibit or include "specified anatomical areas" as defined by Section 14-202.10 of the North Carolina General Statutes.

DEFINITIONS	
AFFECTED PARTY	Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.
AFFILIATE	As used in Section 7.5, Soil Erosion and Sedimentation, a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
AGRICULTURE OR HORTICULTURE	The cultivation and production of orchard, garden, or nursery crops on a small or large scale, the production of field grown crops, specialty crops, flowers, fruit, market gardening, nuts, ornamental plants, sod, vegetables, and similar horticultural uses. Uses also include agronomy, aquaculture, fisheries, apiculture, silviculture, plant nurseries, and similar uses.
AGRICULTURE SUPPORT SERVICES	Commercial establishments engaged in the sales, repair, rental, and storage of tools, equipment, supplies, and machinery in support of farms, farming, agriculture, or horticulture. Uses also include sales of products grown on a farm, provision of farm-related experiences (e.g., immersion farming or pick-your-own establishments), wineries, and agritourism.
AIRCRAFT PARTS, SALES, AND MAINTENANCE	The use of land for the display and sale of, or general repair, rebuilding, or reconditioning of any contrivance used for navigation of or flight in the air.
AIRPORT	The Burlington-Alamance Regional Airport.
AIRPORT AND RELATED FACILITIES	Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing, fueling, and maintenance of aircraft.
AIRPORT ELEVATION	The highest point of the airport's usable landing area measured in feet above mean sea level (617.0 feet).

DEFINITIONS	
AIRPORT FACILITIES	As used in the riparian buffer standards, all properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases 'air navigation facility', 'airport', or 'airport protection privileges' under Section 63-1 of the North Carolina General Statutes; the definition of 'aeronautical facilities' in Section 63-79(1) of the North Carolina General Statutes; the phrase 'airport facilities' as used in Section 159-48(b)(1) of the North Carolina General Statutes; the phrase 'aeronautical facilities' as defined in Section 159-81 and Section 159-97 of the North Carolina General Statutes; and the phrase 'airport facilities and improvements' as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of 'airport facilities': 1. Satellite parking facilities; 2. Retail and commercial development outside of the terminal area, such as rental car facilities; and 3. Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of 'airport facilities'.
ALLEY	See "Street, Alley."
ALTERATION	Any change because of construction, repair, maintenance or otherwise to buildings located within a historic district or designated as a historic property.
ALTERNATIVE LANDSCAPE PLAN	A document prepared by an applicant that proposes an alternative means of compliance with the standards in Section 5.3, Landscaping.
ALTERNATIVE PARKING PLAN	A document prepared by an applicant that proposes an alternative means of compliance with the standards in Section 5.1, Off-Street Parking and Loading.
AMATEUR HAM RADIO	Equipment, including antennas, transmitters, and antenna support structures used by a non-professional person in the transmittal of messages and information within the radio frequency portion of the electro-magnetic spectrum.
ANIMAL DAY CARE	A commercial establishment providing socialization, training, or housing, in the absence of the owner, for less than 24 hours for pets owned by the general public for which a fee is charged.

DEFINITIONS	
ANIMAL GROOMING	Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value and/or health and for which a fee is charged.
ANIMAL HUSBANDRY	The commercial and non-commercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling, or general care of living animals and livestock. Examples include, but are not limited to the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry, sheep, fish, and similar livestock or domesticated animals, and equestrian facilities. Concentrated animal feeding operations (CAFOs) are industrial uses. Breeding and rearing of animals typically thought of as household pets (e.g., dogs, cats, small rodents, etc.) is not animal husbandry.
ANIMAL SHELTER	A facility used to house and care for stray, homeless, abandoned, or neglected animals and that is owned, operated, or maintained by a public body, an established humane society, or other private or nonprofit organization.
ANTENNA	Communications equipment that transmits and/or receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services.
ANTENNA COLLOCATION, MAJOR (AMENDED 10.20.20 UDOTA-03-20)	Uses involving the placement of antennas on building's roof or wall, placement of antennas on a vertical projection not constructed for communications purposes, or placement of antennas on a communications structure that requires "substantial modifications" as defined in Section 160D-931 of the North Carolina General Statutes.
ANTENNA COLLOCATION, MINOR (AMENDED 10.20.20 UDOTA-03-20)	Uses involving the placement of antennas on a vertical projection (including a structure built for communications) that does not require substantial modifications and meets the definition of an "eligible facility" in Section 160D-931 of the North Carolina General Statutes.
ANTENNA SUPPORT STRUCTURE	The frame, bracket, or other mechanical device, including mounting hardware such as bolts, screws, or other fasteners used to affix an antenna to a telecommunications tower, building, utility pole, or other vertical projection.
APPEAL	A request for a review of a determination, decision, or the application of any provision of this Ordinance.
APPLICANT	A person who has submitted a development application for review under applicable provisions of this Ordinance.
APPLICATION	The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate City department or board as part of the development review processes.
APPLICATOR	As used in Section 7.4, Stormwater, a person who applies fertilizer to the land or under the immediate supervisor of such person.
APPROACH SURFACE	A surface longitudinally centered on the extended runway centerline extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope.
ARBOR	A structure with an open roof system providing partial shading and which may also have non-opaque fencing on the outside perimeter.
ARBORETUM	A place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational, or passive recreational purposes, not including the harvest of plants or their produce.
ARCADE	A series of arches supported by piers or columns. It is typical for an arcade to have habitable floor space directly above it.
ARCH OR ARCHWAY	A curved, semicircular opening in a wall.

DEFINITIONS	
AREA OF SHALLOW FLOODING	A designated Zone AO on the City'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.
ART INSTALLATION	Three-dimensional art (such as sculpture, painting, or other physical form of expression) that is created, constructed, and installed on the site where it is displayed for the purposes of expressing an idea, feeling, or desire to evoke a reaction from the viewer.
ARTERIAL STREET	See "Street, Arterial."
ARTICULATION	The presence or projections, recesses, or other architectural features along a building façade.
AS-BUILT PLANS	A set of engineering or site drawings that delineate the specific permitted development as actually constructed.
ASPHALT OR CONCRETE PLANT	An industrial establishment engaged in the production of asphalt, macadam, blacktop, concrete, or mortar for use in the construction and repair of buildings, roadways, and vehicular use areas. The use involves the stockpiling of sand, binder and filler, as well as a heater to mix the ingredients, and trucks to deliver products to the site of installation.
ASSISTED LIVING FACILITY	A residential facility with support and supervisory personnel for the elderly or infirm that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services such as recreational and social activities, financial services, transportation, laundry, and other services appropriate for the residents and designed to provide a relatively independent lifestyle.
AUDITORIUM	A building or structure designed or intended for use for spectator sports, entertainment events, expositions, conferences, seminars, product displays, recreation activities, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption.
AUTHORIZED AGENT	A person with express written consent to act upon another's behalf.
AUTOMATED TELLER MACHINE	An automated mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether inside or outside of a financial institution, or located in a structure unrelated to the financial institution operating it. Such uses may not serve as the principal use of a parcel of land or site.
AUTOMOBILE REPAIR AND SERVICING (WITHOUT PAINTING/BODYWORK)	General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service.
AUTOMOBILE SALES OR RENTALS	Premises on which new or used passenger automobiles, trailers, recreational vehicles, or light trucks in operating condition are displayed for sale, lease, or rental.
AUTOMOTIVE PAINTING/BODY SHOP	Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.
AUTOMOTIVE PARTS AND ACCESSORY SALES	The on-site sale and subsequent installation of various automobile parts and accessories, including but not limited to bed liners, toolboxes, truck tops, or audio systems. Such uses do not include the sale of gasoline or other fuels.
AUTOMOTIVE TOWING AND STORAGE LOT (AMENDED 3.17.20 UDOTA-02-20)	An establishment operated for the purpose of temporary storage on-site of operable or inoperable vehicles. If an establishment , stacks vehicles or portions of stored vehicles are dismantled or removed for sale, it shall be considered a salvage and junkyard.

DEFINITIONS	
AWNING	A plastic, canvas, or metal porch or shade supported by a frame and often foldable that is placed over a storefront, doorway, or window.
B	
BALANCE OF WATERSHED	The entire land area within a water supply watershed contributing surface drainage to a specific point, the public water supply intake, minus the watershed critical area.
BALCONY	A platform on the outside of a building that is accessible from an upper-story door or window and bounded by a building wall on at least one side, with its open sides surrounded by a railing.
BANNER	A sign of lightweight fabric or similar material which is rigidly mounted to a pole or a building by a rigid frame at two or more opposite sides. Flags are mounted along one side and shall not be considered banners.
BAR, COCKTAIL LOUNGE, OR PRIVATE CLUB	An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food. Such uses may also provide on-site entertainment in the form of live performances, dancing, billiards, or other entertainment activities.
BARBED OR RAZOR WIRE	Wire serving as a fence or located on top of a fence, wall, or building, that includes clusters of short spikes set at regular intervals or supplemented with strands of sharpened metal used as a security method to deter people or animals from climbing the fence, building, or wall.
BASE FLOOD	The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
BASE FLOOD ELEVATION	A determination of the water surface elevations of the base flood as published in the flood insurance study. When the base flood elevation has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a federal or State or other source using FEMA approved engineering methodologies.
BASEMENT	Any area of a building having its floor subgrade (below ground level) on all sides.
BAY WINDOW	A window, typically with two or more sides that is built to project outward from an outside wall.
BED AND BREAKFAST	A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to breakfast for guests only.
BEING CONDUCTED	As used in Section 7.5, Soil Erosion and Sedimentation, a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
BERM	An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses or site features.
BEST MANAGEMENT PRACTICE (BMP) **(AMENDED 10.20.20 UDOTA-03-20)**	As used in Section 7.4, Stormwater, see "Stormwater Control Measure." As used in Section 7.3, Riparian Buffers, a practice or combination of practices that is determined to be an effective and practicable means of preventing or reducing the amount of pollution to a level compatible with the water quality goals in Section 7.3, Riparian Buffers.
BICYCLE LANE	A portion of a street designated solely for use by bicyclists.

DEFINITIONS	
BICYCLE PARKING SPACE	Land and facilities used for the parking of bicycles, including a mechanism for securing a parked bicycle.
BIO-RETENTION CELL (AMENDED 10.20.20 UDOTA-03-20)	A stormwater infiltration device consisting of an excavated area that is filled with a specialized soil media and plants, grass, or sod.
BLOCK	The land lying within an area bounded on all sides by streets.
BLOCK FACE	The lands abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, railroad right-of-way, watercourse, or un-subdivided land.
BLOOD/TISSUE COLLECTION	A facility where blood or related materials are either withdrawn or collected from patients or assembled after being withdrawn or collected elsewhere from patients for subsequent delivery to a clinical laboratory for examination. A collection facility is maintained at a separate physical location not on the grounds or premises of the main licensed laboratory or institution which performs the testing.
BOARD OF ADJUSTMENT	A quasi-judicial decision-making body responsible for hearing appeals, variance requests, and special use permits in Burlington, North Carolina.
BOARDING HOUSE	A residential dwelling that offers five or fewer sleeping rooms for rent by lodgers staying one or more nights. The dwelling contains a single common kitchen and may include other common areas for dining, laundry, and congregating. Boarding houses are not intended as group homes or halfway houses.
BOAT AND MARINE RENTAL, SALES, AND SERVICE	Premises on which new or used boats and other marine vessels are displayed for sale, lease, or rental. On-site repair and service to boats is also provided.
BONA FIDE FARM (AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)	Any tract or tracts of land used for farm purposes as defined in Section 160D-903 of the North Carolina General Statutes, including the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as defined in Section 106-581.1 of the North Carolina General Statutes. In addition, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under Section 106-743.2 of the North Carolina General Statutes is a bona fide farm purpose. Any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes: 1. A farm sales tax exemption certificate issued by the Department of Revenue; 2. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to Section 105-277.3 of the North Carolina General Statutes; 3. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; and 4. A forest management plan.
BORROW	As used in Section 7.5, Soil Erosion and Sedimentation, fill material which is required for on-site construction and is obtained from other locations.
BOTTLE SHOP	A commercial establishment engaged in the retail sale of beer, wine, or liquor in sealed containers offered for sale to an individual solely as a sealed container such as a bottle or can. Beverages may be sold for off-site or on-site consumption only in accordance with all applicable State laws and permits. Incidental sale of food or associated merchandise may also take place.
BOW	An exterior building wall that is curved.

DEFINITIONS	
BOW SIGN	See "Sign, Bow."
BROADCASTING STUDIO	Uses including buildings, studios, and transmission facilities for the production and distribution of radio and television signals.
BUFFER (AMENDED 10.20.20 UDOTA-03-20)	An area of natural or planted vegetation adjoining or surrounding a use and unoccupied in its entirety by any building, structure, paving or portion of such use, for the purposes of screening and softening the effects of the use. As used in Section 7.3, Riparian Buffers, and Section 3.20.F, Water Supply Watershed Protection Overlay (WPO) District, a buffer is a vegetated area bordering a body of water such as a stream, pond, or lake.
BUFFER, PERIMETER	Vegetative material and structures (i.e., walls, fences) that are used to separate uses from each other as required by this Ordinance, including the Type A Separation, Type B Intermittent, Type C Semi-Opaque, and Type D, Opaque.
BUFFER STREETSCAPE	See "Streetscape Buffer."
BUFFER ZONE	As used in Section 7.3, Riparian Buffers, and Section 7.5, Soil Erosion and Sedimentation, the vegetated strip of land adjacent to a lake or natural watercourse.
BUILDING (AMENDED 10.20.20 UDOTA-03-20)	Any structure used or intended for supporting or sheltering any use or occupancy.
BUILDING AXIS	An imaginary line between two points on a building that describes or explains how the building is organized. For example, the ridgeline of a roof gable depicts a building's axis.
BUILDING CORNERSTONE	A stone that forms the base of a building's most prominent corner.
BUILDING FACADE	The entire exterior wall of a building facing a lot line measured from the grade to the eave or highest point of a flat or mansard roof. Facades may be on the front, side, or rear elevation of the building.
BUILDING FOOTPRINT	The area occupied by the perimeter of a principal building. Accessory structures and non-building facilities are not included in the building footprint.
BUILDING PERMIT	Authorization granted by the City for an applicant to begin construction of a building or structure.
BUILDING WALL	See "Wall, Building."
BUILDING WALL PROJECTION	An extension of a building wall or building façade projecting outwards from the primary building façade plane typically used to conceal or screen a service element of site feature like a refuse collection container.
BUILDING WING	A portion of a building that is subordinate to the main or central part of the structure. Building wings may share a wall with the main or central part of the building or be joined to it by another ancillary structure like a hallway or a colonnade.
BUILT-UPON AREA (AMENDED 10.20.20 UDOTA-03-20)	A surface area composed of any material that impedes or prevents natural infiltration of water into the soil. As used in Section 7.4, Stormwater, that portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

DEFINITIONS	
BULB OUT	A curb extension used to extend the sidewalk, reducing the street crossing distance for pedestrians while also allowing approaching vehicle drivers to see pedestrians when vehicles parked in a parking lane would otherwise block visibility.
BULKY ITEMS SALES	A retail establishment engaged in the retail sale of large or bulky items that are not commonly constructed or maintained indoors, such as truck camper tops, bed liners, prefabricated outdoor buildings, manufactured homes, modular homes, play equipment, portable storage containers, or hot tubs. Such uses may include on-site assembly or fabrication of such items for sale.
BUNGALOW COURT	A series of between two and 12 single-family detached homes configured as a cohesive development that incorporates smaller lot sizes, reduced setbacks, shared accessways, and where each home complies with the residential design guidelines in this Ordinance.
BURLINGTON SAFETY SURFACE	For the purposes of the AHO, a horizontal plane 100 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
BUSINESS DAY	Any day in which normal business is conducted. A business day does not include a holiday or a weekend day.
BUSINESS INCUBATOR	A commercial establishment that provides support and encouragement to new business startups and ventures in the form of affordable floor area to rent, shared office space, shared marketing resources, and may also provide management training services and access to financing. Business incubators contain a wide array of use types, including retail, office, personal service, and light manufacturing uses.
C	
CALENDAR DAY	Any day of the week.
CALIPER (AMENDED 10.20.20 UDOTA-03-20)	Measurement for determining the size of trees at time of planting. Caliper is the quantity in inches of the diameter of trees measured at six inches or 12 inches above the ground, depending upon the size of the tree.
CAMPER	A portable dwelling (as a special equipped trailer or automobile vehicle) for use during casual travel and camping.
CAMPGROUND (AMENDED 10.20.20 UDOTA-03-20)	A commercial establishment containing two or more campsites or cabins available for overnight camping use whether by rental fee or short term lease. Campgrounds may include recreational facilities, a store for sale of food or camping supplies while on the premises, and facilities for the assembly of campers and guests. Campground does not include a summer camp, migrant labor camp, manufactured or mobile home park, or recreational vehicle park.
CANOPY	A permanent structure other than an awning made of cloth, metal, or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature. A canopy is not a completely enclosed structure.
CANOPY TREE	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
CAR WASH OR AUTO DETAILING	An establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Incidental sales of automobile-related accessories may take place.

DEFINITIONS	
CASUALTY DAMAGE	The damage to or loss of a nonconforming structure or use that is sudden, unexpected, and unusual. Typically associated with fire, severe weather, or Act of God.
CATERING ESTABLISHMENT	A commercial establishment that prepares, delivers, and may or may not serve food and/or beverages to clients in a pre-arranged on-site or off-site location at a pre-arranged time. Catering operations associated with a restaurant are considered eating establishments, and catering associated with a hotel, motel, or conference venue is considered an accessory use.
CELLULAR REINFORCED PAVING SYSTEM	Plastic, metal, or polymers that are installed into a matrix of earth or crushed stone and used to reinforce or stabilize parking or vehicular use areas.
CEMETERY, COLUMBARIUM, MAUSOLEUM	Uses intended for the burial of the dead and dedicated for cemetery purposes. This use type may include a funeral home or mortuary or a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.
CENTRAL LEADER	The dominant upright branch (or trunk) of a tree.
CERTIFICATE OF APPROPRIATENESS	A document evidencing approval of the Burlington Historic Preservation Commission for work proposed in a historic district or to a historic property by an applicant.
CERTIFICATE OF OCCUPANCY	Authorization granted by the City for the occupancy of a building reviewed and approved under this Ordinance.
CERTIORARI	A situation where an appellant may file an appeal of a decision directly to a higher court of law.
CHANGE OF USE	The change in the use of a building, structure, or land. "Change of use" includes a change from one use type to another use type.
CHANGEABLE COPY	Text or other depictions on the face of a sign that are capable of being revised on a regular or infrequent basis.
CHANNEL	As used in the riparian buffer standards, a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
CHECK CASHING/PAYDAY LENDING	An establishment engaged in loaning money upon deposit of personal property or signature on a promise to repay. Such uses also store personal property on site and may sell goods at retail sale.
CHEMICAL STORAGE FACILITY	For the purposes of the FHO, a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.
CHICANE	A serpentine curve added to a street as a traffic calming measure.
CHILD CARE, INCIDENTAL	A program or arrangement, licensed by the State and located in the provider's residence where, at any one time, three or more children under the age of 13, receive child care on a regular basis of at least once per week for at least four (but less than 24) hours per day from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. This definition does not include child day care centers, cooperative arrangements among parents, or other activities not defined as child care by Section 110-86 of the North Carolina General Statutes. Provision of day care services for more than six children in a residential dwelling is subject to the standards for a child day care center.

DEFINITIONS	
CHILD DAY CARE CENTER	A commercial or non-profit use licensed by the State where, at any one time, three or more unrelated children under the age of 13 receive child care from an unrelated person in a building other than a private residence on a regular basis of at least one occurrence per week for more than four hours per occurrence. Such uses may also involve the provision of educational services in preparation for elementary school. This definition does not include incidental child care, cooperative arrangements among parents, or drop-in or short-term child care provided while parents work part-time or participate in other activities on the premises (e.g., churches, shopping malls, hotels, health spas).
CITATION	As used in Section 2.5, Enforcement, a formal notice to a person that he or she is charged with a violation of this Ordinance, and that penalty is due.
CITY	The City of Burlington, North Carolina, and its extraterritorial planning jurisdiction.
CITY'S JURISDICTION	The land area subject to this Ordinance, including the land area within the corporate limits, the extra-territorial jurisdiction, land subject to a pending application for voluntary annexation, and any land subject to an agreement between the City and other governmental entity that extends planning control to the City.
CITY-MAINTAINED STREET	See "Street, City-Maintained."
CLEAN WATER ACT	As used in Section 7.4, Stormwater, the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 USC 1251, et seq.
CLIMATE CONTROL EQUIPMENT	Heating, ventilation, air conditioning, and similar heating or cooling equipment typically located outdoors.
CLUSTER MAILBOX UNIT	A centralized grouping of individually locked and keyed mailboxes meeting the specifications of the United States Postal Service.
CLUSTER DEVELOPMENT	For the purposes of the WPO, the grouping of buildings to conserve land and minimize stormwater runoff impacts. Non-residential, multi-family, and single-family development can be clustered, and planned and mixed-use development are also considered cluster developments for the purposes of the WPO standards.
COFFEE SHOP	A commercial establishment engaged in the retail sale of coffee, tea, and related beverages for on-site and off-site consumption. Coffee shops may also offer a limited range of food available for on-site or off-site consumption as well as merchandise associated with home consumption of coffee or tea. A coffee shop may also include, as an accessory use, equipment and facilities to prepare coffee beans for consumption. Uses engaged solely in coffee bean processing for off-site consumption are manufacturing uses. Uses that derive the majority of their income from sales of food are restaurant uses.
COLISEUM	A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings. Such uses may or may not include lighting facilities for illuminating the field or stage area, concessions, parking facilities, and maintenance areas.
COLLECTOR STREET	See "Street, Collector."

DEFINITIONS	
COLLEGE OR UNIVERSITY	A public or private, non-profit institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions.
COLLOCATION	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on, under, or within an existing or replacement telecommunications tower, utility pole, building, or other vertical projection.
COLLOCATION, MAJOR **(AMENDED 10.20.20 UDOTA-03-20)**	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on a building's roof, on a building's wall, on a vertical projection not constructed for the provision of wireless telecommunications services, or on a telecommunications tower where the collocation requires "substantial modifications" to the telecommunications tower, as defined in this Ordinance and Section 160D-931 of the North Carolina General Statutes.
COLLOCATION, MINOR **(AMENDED 10.20.20 UDOTA-03-20)**	The placement, installation, modification, or replacement of antenna and related wireless telecommunications equipment on a telecommunications tower that does not require "substantial modifications" and that meets the definition of an "eligible facility request" as defined in this Ordinance and Section 160D-931 of the North Carolina General Statutes.
COLUMN	An upright pillar, typically cylindrical and made of stone or concrete, supporting an entablature, arch, or other structure or standing alone as a monument.
COMMISSION	As used in Section 7.5, Soil Erosion and Sedimentation, means the North Carolina Sedimentation Control Commission.
COMMON LAW VESTED RIGHT	Legal doctrine that recognizes where property owners have reasonably made a substantial expenditure of money, time, labor or energy in a good faith reliance on a permit from the government, that they acquire "vested rights" or a protected right to complete the development of their land as originally begun despite any changes in the zoning on the property.
COMMON PLAN OF DEVELOPMENT	As used in Section 7.4, Stormwater, a construction or land disturbing activity is part of a larger common plan of development if it is completed in one or more of the following ways: • In separate stages • In separate phases • In combination with other construction activities It is identified by the documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, plats, blueprints, marketing plans, contracts, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot. It can include one operator or many operators.

DEFINITIONS	
COMMON PROCEDURE	Actions undertaken by City staff or requirements of applicants that are uniformly applied to all types of development applications reviewed and decided under this UDO.
COMMUNITY CENTER	A public building to be used as a place of meeting, recreation, or social activity and not operated for profit.
COMMUNITY CHARACTER	The sum or combined effect of the attributes and assets that make the City unique and that establish the City's "sense of place." Attributes include the resident population, local institutions, visual characteristics, natural features, and shared history.
COMMUNITY GARDEN	A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person.
COMPLETE APPLICATION	A complete application is one that: 1. Contains all information and materials established by the Planning Director as required for submittal of the particular type of application; 2. Is in the form established by the Planning Director as required for submittal of the particular type of application; 3. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance; and 4. Is accompanied by the fee established for the particular type of application. An application is not considered as submitted until it is determined to be a complete application.
COMPLETION OF CONSTRUCTION OR DEVELOPMENT	As used in Section 7.5, Soil Erosion and Sedimentation, no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
COMPREHENSIVE PLAN (AMENDED 10.20.20 UDOTA-03-20)	A comprehensive plan that has been officially adopted by the City Council in accordance with Section 160D-501.
COMPREHENSIVE PLAN AMENDMENT	An amendment to the adopted comprehensive plan, including the future land use map.
COMPUTER RELATED SERVICE	A commercial establishment engaged in diagnosis and repair of personal computers and associated peripherals, including printers, network equipment, monitors, and related equipment. Such uses may also procure replacement parts and construct computer components or systems for clients. Limited sale of new or reconstructed computers and computer equipment is an accessory use. Manufacture or assembly of computer systems on an industrial scale or for resale to members of the general public is a light manufacturing use.
CONCEPT PLAN (AMENDED 12.3.19 UDOTA-01-20)	A plan for development intended solely for illustrative purposes to assist a review authority in its consideration of a proposed development. A concept plan may, but does not necessarily need to include, the detailed elements typically found in a site plan (for example, detailed locations of buildings, location of off-street parking, location of landscaping, etc.).
CONDITION OF APPROVAL	A limitation or stipulation on the range of allowable uses, density, intensity, configuration, or operational parameters of new development or redevelopment. A condition may be proposed by an applicant, a staff member, or a review authority that must be accepted by an applicant and the City to become binding.
CONDITIONAL ZONING (AMENDED 10.20.20 UDOTA-03-20)	A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

DEFINITIONS	
CONDITIONAL ZONING DISTRICT **(AMENDED 1.4.22 UDOTA-1-22)**	A type of zoning district subject to one or more conditions included as part of the legislative approval by the City Council that establishes the conditional zoning district. Conditions may address dimensional standards, development standards, subdivision requirements, or other elements, as permitted by this Ordinance.
CONDOMINIUM	A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).
CONE OF ILLUMINATION	The detectable spread of illumination from a source of exterior lighting.
CONFERENCE CENTER	A building or group of buildings designed for meetings, lectures, or conferences often consisting of a large hall as well as a number of smaller lecture rooms and related facilities including catering, parking, and storage.
CONICAL SURFACES	As used in the Airport Height Overlay (AHO) District standards, a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
CONICAL ZONES	As used in the Airport Height Overlay (AHO) District standards, the conical zone is established on the area that commences at the periphery of the horizontal zone and extends outward therefrom for a distance of 4,000 feet and upward to a slope of 20:1.
CONSERVATION AND DEVELOPMENT AREA	The two portions of a conservation subdivision. The conservation area is the portion of the land protected from development and the development area is the portion of the subdivision utilized for development purposes. Agricultural activities may take place in either or both portions.
CONSERVATION SUBDIVISION	The division of a tract of land into two or more lots, building sites, or other divisions along with additional land area set aside as open space for conservation and/or recreation purposes in accordance with Section 6.10, Conservation Subdivision.
CONSTRUCTION	The erection of any building, structure, on-site improvement, or any preparations (including land disturbing activities) for the same, regardless whether the site is presently improved, unimproved or hereafter becomes unimproved by "demolition," destruction of the improvements located thereon by fire, windstorm or other casualty.
CONSTRUCTION DRAWINGS	Technical diagrams, drawn to scale, depicting the placement and configuration of buildings, structures, site features, and infrastructure.
CONSTRUCTION-RELATED USE	A building or structure in place on a temporary basis to aid in the completion of a construction project. Such uses can include mobile offices, storage containers, fencing, or equipment storage.
CONSULTANT	As used in Section 7.4, Stormwater, a person who is hired to provide professional advice to another person.
CONTAINERIZED STOCK	Trees or other vegetation delivered for planting or establishment in individual or group containers.
CONTIGUOUS	See "Abutting."
CONTINUANCE	The adjournment or postponement of review or a decision on an application for development approval to a specified future date.

DEFINITIONS	
CONTINUING CARE RETIREMENT COMMUNITY	A retirement community configured as a single unified campus that includes independent living dwellings, assisted living facilities, and skilled nursing facilities that are owned and operated by a private company that provides a continuum of care to residents of the community. It may include on-site dining, medical care, and recreation and social facilities in addition to guest lodging and employee housing.
CONTRACT PURCHASER	A person who has entered into a contract with another party to purchase real property, but who has not yet settled on the purchase.
CONTRACTOR SERVICES/YARD	Offices for building, heating, plumbing, or electrical contractors, and related storage facilities.
CONVENIENCE STORE	A retail establishment which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline and/or fast food may also be offered for sale but only as a secondary activity of a convenience store and subject to the standards of this Ordinance. If vehicular maintenance and service are provided, the establishment is not classified as a convenience store.
CONVENTION CENTER	A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption. Similar structures with a capacity of less than 500 people are auditorium or conference center uses.
CONVENTIONAL ZONING DISTRICT (AMENDED 10.20.20 UDOTA-03-20)	A designation or classification applied to certain lots or tracts as shown on the Official Zoning Map. Conventional zoning districts specify the broad range of allowable land use types permitted on lots or tracts within the particular district. The conventional zoning district standards also specify the applicable dimensional requirements for lots and buildings as well as any unique provisions that apply to solely lands in the particular district.
COPING	A finishing or protective course of masonry or cap of metal located at the top of a brick, stone, or masonry wall.
CORNICE	Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.
CORPORATE LIMITS	The legal name that refers to the boundaries of a municipal corporation.
CORRECTIONAL FACILITY	Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Such uses may include cafeterias, housing for facility staff, outdoor storage and maintenance areas, recreational areas, agricultural facilities, and facilities for the production of goods or materials produced for sale.
COUNTY	Alamance County, North Carolina, or Guilford County, North Carolina, as appropriate.
COURTYARD	An open, unoccupied space, other than a required yard, on the same lot as a building and bounded on two or more sides by a building on the same lot.
COURT-ORDERED SUBDIVISION	The division of land between two or more parties as ordered as part of a settlement imposed by the judicial system.
COVENANT	A binding written agreement between two or more private parties regarding the use, occupancy, or configuration of development that runs with the land.

DEFINITIONS	
CO-WORKING SPACE	A land use that serves as a shared workspace for employees of different organizations. Co-working spaces consist of private, self-contained offices as well as shared or common office workspaces available for rent by more than one individual. Co-working spaces may include shared administrative staff, document production, presentation equipment, storage, kitchens, or private meeting rooms.
CRITICAL AREA	See "Watershed Critical Area."
CUL-DE-SAC STREET	See "Street, Cul-de-Sac."
CULTURAL FACILITY	Establishments such as zoological gardens, conservatories, planetariums, or other similar uses of an historic, educational, or cultural interest, which are not operated for profit.
CUPOLA	A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.
CURB	A constructed element used to stabilize paving, gutter, planting areas, or sidewalks.
CURVILINEAR WALL FEATURE	A portion of a building's exterior wall that is curved or arced relative to the primary wall plane.
D	
DAM	A barrier, whether constructed or natural that holds back water.
DEAD-END STREET	See "Street, Dead-End."
DECORATIVE GLASS	Glass located on an exterior wall of a building that may be transparent, semi-transparent, or opaque.
DECK	A structure, without a roof, directly adjacent to a principal building which has an average elevation above finished grade.
DEDICATION	The act of giving, donating, or dedicating land or infrastructure improvements to a unit of government for their operation and maintenance.
DEED RESTRICTION	A written private agreement that restricts the use, occupancy, or configuration placed upon the title of real estate often by the developer.
DEMOLITION	Complete or constructive removal of a building or portion of a building on any site.
DEMOLITION BY NEGLECT	The destruction of a historic building, property, or landmark through abandonment or lack of maintenance, or the gradual deterioration of a building when routine or major maintenance is not performed.
DEPARTMENT	As used in Section 7.4, Stormwater, the North Carolina Department of Environmental Quality. As used in Section 7.5, Soil Erosion and Sedimentation, the North Carolina Department of Environmental Quality.
DESIGN MANUAL, STORMWATER **(AMENDED 10.20.20 UDOTA-03-20)**	As used in Section 7.4, Stormwater, the stormwater design manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standard laws.
DESIGNEE	A person selected or designated to carry out a duty or role.
DETACHED CARPORT OR GARAGE **(AMENDED 3.17.20 UDOTA-02-20)**	An accessory structure that is not physically attached or connected to a principal structure that is typically used for the storage of automobiles or equipment.

DEFINITIONS	
DETENTION BASIN	Surface storage basins or facilities that provide flow control through attenuation of stormwater runoff. They also facilitate some settling of particulate pollutants. Detention basins are normally dry and in certain situations the land may also function as a recreational facility.
DETERMINATION (AMENDED 10.20.20 UDOTA-03-20)	A determination, made in writing, by the Zoning/Subdivision Administrator, City Engineer, Transportation Director, or Stormwater Administrator regarding the proper application of provisions in the UDO, vested rights, the boundaries on the Official Zoning Map, or a prior-approved condition of approval.
DEVELOPER (AMENDED 10.20.20 UDOTA-03-20)	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 (AMENDED 10.20.20 UDOTA-03-20)	Development means any of the following: [1] The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; [2] Excavation, grading, filling, clearing, or alteration of land; [3] The subdivision of land, as defined in Section 160D-802 of the North Carolina General Statutes; or [4] The initiation or substantial change in the use of land or the intensity of the use of land. For the purposes of the WPO, development includes any land-disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or that otherwise decreases the infiltration of precipitation into the soil. As used in the riparian buffer standards, development has the same meaning as is defined in Rule 15A NCAC 2B .0202(23). As used in Section 7.4, Stormwater, any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration or precipitation into the soil.
DEVELOPMENT AGREEMENT	A written agreement between the City and a developer or applicant that sets down the rights and responsibilities of each party as pertaining to a single development.
DEVELOPMENT ENTRY POINT	A vehicular access point providing ingress or egress to an individual neighborhood or development.
DIAMETER AT BREAST HEIGHT (DBH)	Measurement for determining the size of existing trees to be credited towards landscaping requirements or for violations of this Ordinance. DBH is the measurement of the diameter of an existing tree trunk taken at a height of 4 ½ feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.
DIRECTOR	As used in Section 7.3, Riparian Buffers, the Director of the Division of Water Resources of the North Carolina Department of Environmental Quality. As used in Section 7.5, Soil Erosion and Sedimentation, the Director of the Division of Energy Mineral and Land Resources of the Department of Environmental Quality.
DISCHARGE POINT	As used in Section 7.5, Soil Erosion and Sedimentation, that point at which storm water runoff leaves a tract of land.

DEFINITIONS	
DISPOSAL	For the purposes of the FHO, 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 ground water.
DISTRIBUTED ANTENNA SYSTEM (DAS) NODE	Wireless telecommunications equipment that includes one or more antennas mounted on a support structure (such as a utility pole, building, or other vertical projection) which is connected via cable or wirelessly to an equipment cabinet on site that is joined via cable to the internet and/or other communication network. Applications for the establishment of a DAS node are reviewed and decided in accordance with the procedures for establishment of a small wireless facility.
DISTRICT	As used in Section 7.5, Soil Erosion and Sedimentation, the Alamance or Guilford Soil and Water Conservation District created pursuant to Chapter 139, of the North Carolina General Statutes.
DITCH (OR CANAL)	As used in the riparian buffer standards, a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
DIVISION OR DWR (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.3, Riparian Buffers, and Section 7.4, Stormwater, the North Carolina Division of Water Resources in the North Carolina Department of Environmental Quality.
DORMER WINDOW	A window that projects vertically from a sloping roof.
DOUBLE FRONTAGE LOT	See "Lot, Double Frontage."
DRIVE AISLE	A vehicular accessway within a surface parking lot or a parking structure.
DRIVE THROUGH	A facility designed to enable a person to transact business while remaining in a motor vehicle.
DRIVEWAY	The portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not a part of the vehicle accommodation.
DRIVEWAY MEDIAN	A constructed device, whether raised or lowered from grade level, located within a driveway or drive aisle that is used to control traffic direction or limit turning movements.
DROUGHT TOLERANT TREE	See "Tree, Drought Tolerant."
DRUG/ALCOHOL TREATMENT	Inpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.
DUPLEX DWELLING	A single detached dwelling on one lot that contains two dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.
DWELLING (AMENDED 10.20.20 UDOTA-03-20)	Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses or appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose.
DWELLING UNIT (AMENDED 10.20.20 UDOTA-03-20)	A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DEFINITIONS

E

EASEMENT	The right to use or occupy the real property of another owner for a specifically identified purpose. An easement is a recognized interest in real property, but legal title to the underlying land is retained by the owner granting the easement.
EAVE	The projecting lower edges of a roof that overhangs the wall of a building.
EGRESS	An exit from a building or site.
ELECTRIC VEHICLE CHARGING STATION	An off-street parking space that is served by an electrical component assembly or cluster of component assemblies (battery charging station) designed and intended to transfer electric energy, by conductive or inductive means, from the electric grid or other off-board electrical source to a battery or other energy storage device within an electric vehicle.
ELECTRICAL OR PLUMBING FABRICATION	An industrial establishment operated by a contractor, supplier, or distributor engaged in the fabrication and assembly of plumbing fixtures, electrical fixtures, HVAC ducting and equipment, fireplaces, or similar household or commercial features for off-site installation.
ELECTRONIC GAMING OPERATION (AMENDED 12.3.19 UDOTA-01-20)	A commercial establishment providing patrons with the opportunity to compete against others for cash or other prizes in games where the outcome is based on skill, not chance.
ELECTRONIC MESSAGE BOARD	See Table 5.6.J, Sign Standards by Sign Type.
ELEVATED BUILDING	A building without a basement that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
ELEVATION CERTIFICATE	A written certificate of the elevation of a building or structure located in a special flood hazard area used to determine the proper flood insurance premium rate for the building.
ELIGIBLE FACILITY REQUEST (AMENDED 10.20.20 UDOTA-03-20)	An application for the installation of new or replacement antennas and related wireless telecommunications equipment on an existing telecommunications tower. An eligible facilities request may include increasing the height and/or replacement of an existing telecommunications tower but shall not include any activities that constitute a "substantial modification" as defined in this Ordinance and Section 160D-931 of the North Carolina General Statutes. Eligible facility requests are reviewed and decided in accordance with the procedures for a minor collocation.
EMERGENCY MANAGEMENT COMMISSION (EMC)	As used in Section 7.4, Stormwater, the North Carolina Environmental Management Commission.
EMS STATION	A facility housing emergency medical service personnel and equipment intended for provision of out-of-hospital acute medical care, transport to definitive care, and other medical transport to patients with illnesses and injuries which prevent the patient from transporting themselves. Such uses may also include living quarters for EMS personnel, emergency operations centers, storage, and vehicle maintenance facilities.

DEFINITIONS	
ENCROACHMENT	The location of a building, structure, or portion of a building or structure in an open space, setback, yard, or other area typically required to remain free of buildings or structures. In flood prone areas, an encroachment is 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.
ENERGY DISSIPATER	As used in Section 7.5, Soil Erosion and Sedimentation, a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
ENTABLATURE	A horizontal, continuous lintel on a classical building supported by columns or a wall, comprising the architrave, frieze, and cornice.
ENTRANCE, PRIMARY	See "Primary Entrance."
EPHEMERAL STREAM	As used in the riparian buffer standards, a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.
EQUIPMENT AND TOOL RENTAL	A commercial establishment that offers, for rent, a variety of hand tools, electric tools, outdoor equipment, articles for parties such as tables, chairs, and tents. Incidental sales of related equipment may be permitted as an accessory use. Such uses include on-site repair and maintenance facilities for rental equipment owned by the establishment. Repair of items owned by others is a repair service use.
EQUIPMENT CABINET	A non-habitable structure, such as a box, enclosure, vault, shelter, or pedestal, typically located above ground, that contains radios, computers, or other equipment necessary for the transmission or reception of wireless telecommunication signals.
EQUIPMENT COMPOUND	An area containing wireless telecommunications equipment serving antennas on a nearby telecommunications tower, utility pole, building, or other vertical projection. An equipment compound is commonly fenced or surrounding by walls that limit access to members of the general public. Nothing shall limit an equipment compound from being located within a building, on the roof of a building, or underground.
EROSION	As used in Section 7.5, Soil Erosion and Sedimentation, the wearing away of land surfaces by the action of wind, water, gravity, or any combination thereof.
EROSION CONTROL MEASURE	A device which controls the soil material within the land area under responsible control of the person conducting a land-disturbing activity.
EROSION CONTROL PERMIT	A permit associated with land-disturbing activity that approves certain actions designed to inhibit erosion or limit accumulation of sediment in streams or on other lands outside the area of disturbance.
ESTABLISHED GRADE	See "Grade, Established."
EVENT VENUE	A commercial establishment and associated grounds engaged in the hosting and production of pre-planned events like weddings, corporate parties, or reunions. Typical accessory uses include kitchens or meal preparation space, limited overnight accommodations, photography studios, facilities to accommodate live or recorded music, on- and off-site parking, and outdoor recreation facilities.
EVERGREEN TREE	See "Tree, Evergreen."

DEFINITIONS	
EXEMPTION	A use, site feature, or development condition that is exempted authorized to deviate from otherwise applicable requirements.
EXISTING DEVELOPMENT	Those projects that are built or those projects with an established a vested right established in accordance with Section 1.12, Vested Rights, as of the effective date of this Ordinance. As used in the riparian buffer standards, existing development means development, other than that associated with agricultural or forest management activities that meets one of the following criteria: 1. It either is built or has established a vested right based on statutory or common law, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or 2. It occurs after the compliance date set out in Sub-Item (4) (d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.
EXISTING TREE(S)	Trees or other woody vegetation that exist and are retained on a development site.
EXPANSION	An increase in the floor area of an existing structure or building, or the increase of area of a use.
EX-PARTE COMMUNICATION	Any communication between a member of a decision-making body and another person involved in a development application that is made without the presence or knowledge of the other members of the same decision-making body.
EXPEDITED SUBDIVISION (AMENDED 10.20.20 UDOTA-03-20)	A subdivision of three or fewer lots comprised of more than five acres in accordance with Section 160D-802 of the North Carolina General Statutes.
EXTERIOR ARCHITECTURAL FEATURES	Includes the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size and location of all such signs. Such "exterior features" shall include historic signs, color and significant landscape, archaeological and natural features of the area.
EXTERIOR LIGHTING	Illumination of a building, parking lot, or site feature.
EXTRA TERRITORIAL JURISDICTION	The land area located outside the corporate limits of a municipality, but still subject to the planning and zoning laws associated with the municipality.
EXTRACTIVE INDUSTRY	A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, hydraulic fracturing, and similar activities. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.
EYEBROW WINDOW	A low dormer window with no sides located on the slope of a roof where the roofing material is carried over the top of the window without interruption.

DEFINITIONS

F

FACADE	See "Building Façade."
FAÇADE, FRONT	The exterior façade of a building where the primary or front entrance is located. Typically, the front façade faces the street from which the building derives its street address.
FAÇADE, REAR	The exterior façade of a building that is opposite the front façade.
FAÇADE, SIDE	The exterior façade of a building perpendicular to the front façade.
FAIRGROUNDS	A public or private use comprised of open areas and permanent and/or temporary buildings where fairs, carnivals, circuses, or other exhibitions are held. Such uses may include other occasional or incidental activities such as expositions, farmer's markets, informal flea markets, and demonstrations.
FALSE (OR OPAQUE) WINDOWS	An exterior building material provided to replace or approximate a window.
FAMILY **(AMENDED 3.4.21 UDOTA-01-21)**	One or more persons related by blood, adoption or marriage living and cooking together as a single housekeeping unit. The number of persons, but not exceeding a total of three unrelated persons, living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage, shall be deemed to constitute a family.
FAMILY CARE HOME	A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. A disabled person is a person with a temporary or permanent physical, emotional, or mental disability including but not limited to an intellectual disability, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in Section 122C-3(11)b of the North Carolina General Statutes.
FAMILY HEALTH CARE STRUCTURE	A transportable residential structure that is primarily assembled at a location other than its site of installation and provides an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.
FARMERS MARKET	A principal use which includes the sale of horticulture or agriculture products, including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider, and similar agriculture products.
FASCIA	A fascia is a board or other exterior material provided at the edge of a building where the roof meets the exterior wall. When gutters are provided, they are typically mounted to the fascia.
FEE	An amount charged in accordance with the regularly adopted fee schedule of the City.
FEE-IN-LIEU	See "In-Lieu Fee."
FENCE OR WALL	A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal, or similar material used as a boundary or means of protection, retention, or confinement, but not including a hedge or vegetation.
FENCE PERMIT	A development review procedure associated with the erection, establishment, or alteration of a fence or other structure designed to obstruct movement, vision, or light from one piece of land to another.
FENESTRATION	The arrangement of windows, doors, and false casements on a building's façade.

DEFINITIONS	
FINAL PLAT	A plan or drawing recorded in the office of the register of deeds that identifies the metes and bounds as well as all applicable conditions applied to a lot or group of lots that have been subdivided.
FINANCIAL GUARANTEE	See "Performance Guarantee."
FINANCIAL SERVICE	An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial services may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only. Financial services may include drive-through facilities.
FINE	A sum of money imposed on a violator as punishment for violation of law.
FINISHED SIDE OF FENCE	The side of a fence configured for the best possible appearance that does not include structural supports or exterior materials with imperfections.
FINS	A decorative or structural device consisting of a series of narrow vertical projections or ribs along a building's façade that provide screening to windows or that conceal structural supports that provide rigidity to the walls or support the roof.
FIRE HYDRANT	A connection point to a public water supply system used by firefighters to access water as a part of fire suppression.
FIRE LANE	A lane or designated area in a parking lot or on a street that is reserved for firefighting equipment or staging of people during a fire and is not intended for the parking of vehicles or storage.
FIRE PROTECTION SYSTEM	A fire hydrant, water storage tank, or connection to a building's sprinkler system, typically referred to as a standpipe, all used for the purposes of providing water for fire suppression.
FIRE/EMS/POLICE STATION	A facility that serves as the base of operations for a fire company, police precinct, sheriff's office, or emergency medical technician operation. Such facilities may also include living quarters for personnel, equipment storage, and vehicular maintenance areas.
FLAG	See Table 5.6.J, Sign Standards by Sign Type.
FLAG LOT	See "Lot, Flag."
FLAGPOLE	A freestanding structure or structure attached to the wall or roof of a building that is used to display flags.
FLEA MARKET	A market held in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. A farmer's market, where food items predominate, is different than a flea market. This also differs from a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items.
FLEX SPACE	Buildings designed to accommodate a combination of offices (e.g., service establishments and contractor's offices), wholesale establishments, warehousing/distribution, industrial services, and light manufacturing, with the exact proportions of each use being subject to user needs over time. Such uses are treated as principal uses and subject to the standards and limitations applicable to such uses—e.g., parking, and are included in the total gross floor area if located on the same lot.

DEFINITIONS	
FLOOD BOUNDARY AND FLOODWAY MAP	An official map of the City, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas 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	An official map of the City, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.
FLOOD INSURANCE	The insurance coverage provided under the National Flood Insurance Program.
FLOOD INSURANCE RATE MAP	An official map of the City, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.
FLOOD INSURANCE STUDY	An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in the City 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 OR FLOODING	A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.
FLOOD ZONE	A geographical area on the Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
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	A permit that is required, in conformance with the provisions of this Ordinance, prior to the commencement of any development activity in a floodplain.
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.
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.
FLOOR	The top surface of an enclosed area in a building, including basement, such as, top of slab in concrete slab construction or top of wood flooring in frame construction.
FOOD TRUCK **(AMENDED 10.20.20 UDOTA-03-20)**	A motorized vehicle that is designed to be readily moved and operated for the purpose of preparing and or selling food and or non-alcoholic beverages to the general public on a recurring basis.
FOOTCANDLE	A unit of measure of the intensity of light falling on a surface. It is often defined as the amount of illumination the inside surface of a one-foot-radius sphere would be receiving if there were a uniform point source of one candela in the exact center of the sphere. One footcandle is equal to one lumen per square foot.
FOOTPRINT	See "Building Footprint."

DEFINITIONS	
FORESTRY ACTIVITY	An activity related to plating, maintaining, or removing trees as part of a forestry management plan or bona fide farming activity.
FRATERNAL CLUB OR LODGE	A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.
FREEBOARD	The additional amount of height added to the Base Flood Elevation (BFE) to account for uncertainties in the determination of flood elevations. The freeboard requirement plus the Base Flood Elevation equals the Regulatory Flood Protection Elevation.
FRONT FAÇADE	See "Façade, Front."
FRONTAGE STREET	See "Street, Frontage."
FUEL OIL/BOTTLED GAS DISTRIBUTOR	An establishment that stores and distributes fuel oil or bottled gases such as propane, oxygen, or liquid petroleum in bulk quantities for wholesale sale or distribution to retail outlets or end consumers at the point of use. A use engaged in sale of automobile fuel is a retail use.
FUNCTIONALLY DEPENDENT FACILITY	A use or structure 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.
FUNERAL-RELATED SERVICE	A commercial establishment engaged in the provision of services related to funeral services for humans or pets. Such uses may provide embalming, cremation, and memorial services. Chapels and storage areas are accessory uses. Uses for the internment of human or animal remains are park and open space uses.
G	
GABLE	A triangular area of an exterior wall formed by two sloping roofs.
GALLERY	A balcony or platform on an upper floor that projects from the primary wall plane of the building that is open underneath.
GARAGE OR YARD SALE	A sale conducted by an occupant of a residence alone or in cooperation with neighbors conducted for the purpose of selling surplus household items for profit or for charitable purposes. Such sales are usually conducted from a garage associated with the residence or from the yard of the residence. Garage or yard sales may be distinguished from flea markets by the number of days of sale.
GAS CONVERSION	An industrial use engaged in the conversion of the heat or gaseous emissions from the decomposition of organic matter into fuel, chemicals, and/or electricity for off-site use.
GATEWAY CORRIDOR	A portion of a street corridor and the lots that front it as designated in the City's adopted policy guidance where additional design or development standards are applied. Typically gateway corridor areas are designated as overlay zoning districts.
GATHERING AREA (OR PLACE)	A formal or informal area intended for or used by the general public to gather or congregate together for interaction or recreation.
GENERAL ASSEMBLY	The General Assembly for the State of North Carolina. Also referred to as the Legislature.

DEFINITIONS	
GENERAL INDUSTRIAL SERVICE	Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products, including machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; laundry, dry-cleaning, and carpet cleaning plants; film processing; and general industrial service uses. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Few customers, especially the general public, come to the site.
GENERAL STATUTES	A statute is a written law passed the General Assembly that sets forth general propositions of law that courts apply to specific situations.
GLARE	The effect produced within the visual field by a high intensity or insufficiently shielded light source that is significantly brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance or visibility of objects.
GLAZING	The portion of an exterior building surface occupied by glass or windows. Also referred to as transparency.
GOLF COURSE	A tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course, may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.
GOLF DRIVING RANGE	A commercial establishment used by persons practicing their golf swing or putting capability. A driving range is an area on which golf players do not walk, but onto which they drive golf balls from a common driving tee. A driving range may also include a putting green.
GOOD CAUSE	Legally adequate or substantial grounds or reason to take a certain action based upon the circumstances of each individual case.
GOOD FAITH (AMENDED 10.20.20 UDOTA-03-20)	Sincere conduct free from malice or a desire to defraud others.
GOVERNMENT ADMINISTRATION/ OFFICE	An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.
GOVERNMENT MAINTENANCE, STORAGE, DISTRIBUTION	A facility housing government shops, maintenance and repair centers, equipment, and outdoor storage yards.
GRAB SAMPLE	As used in Section 7.4, Stormwater, an individual sample collected instantaneously. Grab samples that will be directly analyzed or qualitatively monitored must be taken within the first 30 minutes of discharge.
GRADE, ESTABLISHED	The ground elevation at a specific point on a site after completion of development activity or prior to development activity on a vacant site.
GRADING	Excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
GRATE	Metal, wood, or plastic configured to cover or obscure an opening in a wall, roof, or the ground.
GREEN ROOF	The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.
GREEN WALL	See "Wall, Green."

DEFINITIONS	
GREENWAY	Public open space under the control and maintenance of the City which has been designated on an officially adopted greenway or open space plan and developed in accordance with the adopted greenway or open space plan.
GREENWAY/ HIKING TRAILS	A strip or corridor of undeveloped land set aside for recreational use or environmental protection that includes an improved trail or walking/bicycle facility. For the purposes of the riparian buffer standards, pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.
GROCERY STORE	An establishment engaged in retail and/or wholesale sale of food, foodstuffs, sundries, or other common household items to members of the public.
GROSS FLOOR AREA	See Section 8.3.G, Gross Floor Area (GFA).
GROUND COVER	Low growing plants such as grasses, ivy, creeping bushes and similar decorative plantings as well as mulch, pinestraw, or other similar materials used to cover the ground within required landscaping areas. As used in Section 7.5, Soil Erosion and Sedimentation, any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
GROUND-BASED MECHANICAL EQUIPMENT	Utility or other equipment of a mechanical nature that is mounted on or below grade on the site it serves.
GROUP HOME	A residential facility (such as an orphanage, shelter, crisis center) with support and supervisory personnel that provides temporary room and board, housekeeping, personal care, or rehabilitation services for more than six persons needing emergency or post-incarceration services (but not including those with mental illness who are dangerous to themselves or others).
GYMNASIUM/ FITNESS CENTER	A facility where members or nonmembers use equipment or space for the purpose of physical exercise. Such uses may include indoor swimming pools, athletic courts, tracks, or other similar features. Retail sales of hand-held fitness equipment, clothing, or health foods may occur as an accessory use.
H	
HABITABLE SPACE	A space in a building for living, sleeping, eating, or cooking, or used as a home occupation.
HAIR, NAILS, AND SKIN-RELATED SERVICES	A commercial establishment engaged in the provision of services pertaining to hair care, hair styling, hair removal, nail care, makeup, facial treatments, tanning, massage therapy, and similar cosmetic treatments. Such uses may or may not include other spa or salon facilities such as showers, baths, and the incidental sales of food for on-site consumption and personal skin or hair care products.
HALF STREET	See "Street, Half."
HALFWAY HOUSE	A licensed home for juveniles or adult persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents back into society, enabling them to live independently.

DEFINITIONS	
HARDSHIP	Special or specified circumstances that place an unreasonable or disproportionate burden on one applicant or landowner over another.
HAZARD OF NAVIGATION	An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.
HAZARDOUS PRODUCTION MATERIAL	A solid, liquid, or gas that has a degree rating in health, flammability, or reactivity of Class 3 or 4 as ranked by the National Fire Protection Association's Document 704 and that is used directly in research, laboratory, or production processes that have as their end product materials that are not hazardous, as defined in the North Carolina Building Code, Volume V – Fire Prevention.
HAZARDOUS SUBSTANCE	As used in Section 7.4, Stormwater, any substance designated in 40 CFR Part 116 pursuant to Section 311 of the Clean Water Act.
HAZARDOUS WASTE FACILITY	For the purposes of the FHO, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
HEAVY EQUIPMENT SALES, RENTAL, AND REPAIR	Premises on which new or used heavy equipment (tractors, loaders, excavators, backhoes, cranes, lifts, rollers and similar devices) are displayed for sale, lease, or rental. On-site repair and service to heavy equipment is also provided.
HELICOPTER LANDING PAD	An area, either on ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and which may include auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.
HELISTOP	An area of land, water, or structural surface designed for discharge or pick-up of passengers or cargo from or by helicopters, but excluding field service or maintenance.
HIGH INTENSITY LED	One or more light emitting diodes that are optimized for providing an extra-bright, highly visible light.
HIGH PRESSURE SODIUM LAMP	A lamp of lightbulb that uses sodium under pressure to produce a broad spectrum of visible light for the purposes of providing exterior illumination.
HIGH QUALITY WATERS	As used in Section 7.5, Soil Erosion and Sedimentation, those classified as such in 15A NCAC 2B.0101(e) (5) - General Procedures, which is incorporated herein by reference to include further amendments pursuant to Section 150B-14(c) of the North Carolina General Statutes.
HIGH QUALITY WATER ZONE	As used in Section 7.5, Soil Erosion and Sedimentation, areas within one mile of and draining to a High Quality Water.
HIGH VALUE TREE	For the purposes of the riparian buffer standards, a tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.
HIGH-DENSITY PROJECT (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, any project that exceeds the low-density threshold for built-upon area.
HIGHEST ADJACENT GRADE	The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
HIGHLY TOXIC MATERIAL	A material that produces a lethal dose or lethal concentration within those categories as defined by the Code of Federal Regulations Title 29, CFR 1910.1200, as defined in the North Carolina Building Code, Volume V – Fire Prevention.

DEFINITIONS	
HISTORIC DISTRICT	An area designated by the City or other governmental agency that contains buildings, structures, or places that have a special character and ambiance based on one or more of the following: 1. Historical and/or archaeological value; 2. Notable architectural features representing one or more period or styles of architecture of an era of history; or 3. The cultural and aesthetic heritage of the community and which area constitutes a specific physical area of such significance of integrity of design, setting, materials, feeling and association to warrant its conservation, preservation, and protection from adverse influences.
HISTORIC PRESERVATION COMMISSION	A group of persons knowledge about historic landmarks, properties, or architecture responsible for considering applications for certificates of appropriateness or other development activities within historic districts on historic sites.
HISTORIC PROPERTY	Any site, building, structure, area, or artifact that is so designated by ordinance by the City Council.
HISTORIC STRUCTURE	Any structure that is: 1. Listed individually in the National Register of Historic Places (a listing maintained by the US 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 state inventory of historic places; 4. Individually listed on a local inventory of historic places in communities with a Certified Local Government (CLG) Program; or 5. Certified as contributing to the historic significance of a historic district designated by a community with a Certified Local Government (CLG) Program. Certified Local Government Programs are approved by the US 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.
HOLIDAY DISPLAY	Lights or other exterior display in recognition of a holiday, tradition, or event.
HOME OCCUPATION	Any activity carried out for gain by a resident and conducted within the resident's dwelling unit or an allowable accessory structure.
HOME OFFICE	The use of a portion of a principal residence for conducting office or commercial-related activity.
HOMEOWNERS' ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
HORIZONTAL FAÇADE MODULATION	Projections, recesses, ribs, fins, or building wings distributed evenly across the façade of a building.
HORIZONTAL SURFACE	As used in the Airport Height Overlay (AHO) District standards, a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

DEFINITIONS	
HORIZONTAL ZONE	As used in the Airport Height Overlay (AHO) District standards, the horizontal zone is established by swinging arcs of 10,000 feet radii from the center of the end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
HOSPITAL	An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by State law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.
HOTEL OR MOTEL	A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis. Hotels or motels may include an associated eating establishment, conference facilities, and on-site recreational amenities. Hotels or motels regularly offering extended duration stay facilities to patrons are extended stay facilities. Hotel, motel, resorts, lodges, and similar overnight lodging uses are to be considered synonymous uses.
HUMAN-SCALED DEVELOPMENT	Features of a building or built environment that are sized and configured in accordance with the typical human frame. Human-scale development is most often configured for observation and recognition by people who are walking.
I	
ILLICIT DISCHARGE	Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges pursuant to an NPDES permit (other than the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System Permit), allowable non-stormwater discharges, and discharges resulting from fire-fighting activities.
IMPERVIOUS SURFACE **(AMENDED 10.20.20 UDOTA-03-20)**	Any material that prevents or reduces the infiltration of stormwater into the soil as it entered in natural conditions prior to development.
IMPOUNDED VEHICLE	A private vehicle that is being stored in a controlled location pending action by the vehicle's owner.
IMPROVEMENT	The construction of buildings and the establishment of basic services and amenities associated with development, including, but not limited to streets and sidewalks, parking areas, water and sewer systems, drainage system, property markers and monuments, recreation facilities (i.e., lakes, swimming pools, tennis courts, golf courses, riding stables, club houses, cabanas, marinas, docks and the like) and other similar construction or establishment.
INDOOR ATRIUM	An interior court enclosed by building walls with or without a roof.
INDOOR COMMERCIAL RECREATION **(AMENDED 1.4.22 UDOTA-1-22)**	A commercial establishment located entirely indoors that provides recreational, amusement, and entertainment opportunities for patrons, including, but not limited to, activities such as billiards, bingo, bowling, video games, escape rooms, fortune tellers, skating rinks, laser tag, trampolines, and climbing walls.
INDUSTRIAL ACTIVITY	As used in Section 7.4, Stormwater, industrial activities shall mean all industrial activities as defined in 40 CFR 122.26.

DEFINITIONS	
INFILL	The process of developing vacant or under-used parcels within existing developed areas that are already largely developed.
INGRESS	Access or entry to a building or site.
IN-LIEU FEE	Monetary compensation offered by a landowner or applicant as an alternative to provision of some other required site or development feature.
INTERMITTENT STREAM	For the purposes of the riparian buffer standards, a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
INTERNALLY ILLUMINATED	An awning, sign, or canopy with an internal source of illumination.
INTERNATIONAL BUILDING CODE	The model building code developed by the International Building Code Council.
INTERSTATE	See "Street, Interstate."
ITINERANT MERCHANT SALES	An individual or business offering goods or services for sale at retail to members of the general public either in their homes, their place of business, or from a vehicle on a lot with an established use or a vacant lot.
J	
JORDAN NUTRIENT STRATEGY (JORDAN WATER SUPPLY NUTRIENT STRATEGY)	For the purposes of the riparian buffer standards, the set of Rules in 15A NCAC 2B .0262 through .0273 and .0311(p).
JORDAN RESERVOIR	For the purposes of the riparian buffer standards, the surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).
JORDAN WATERSHED	For the purposes of the riparian buffer standards, means all lands and waters draining to B. Everett Jordan Reservoir.
JUNKYARD	See "Salvage or Junkyard."
JURISDICTION	The official power to make legal decisions and judgements. The term can also be used to describe the geographic boundaries of a municipal corporation or the extent over which a particular agency has control.
JURISDICTIONAL STREAM	A stream or other waterbody that meets the definition of "waters of the United States" or "waters of the State," and is thus subject to the jurisdiction of the US Army Corps of Engineers or the NC Department of Environmental Quality.
JUST CAUSE	Legitimate cause; legal or lawful ground for action.
K	
KENNEL	A facility where dogs, cats, or other domestic animals over six months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. The facility may be indoors, outdoors, or both.
L	

DEFINITIONS	
LABORATORY	An institutional use type engaged in the analysis, testing, identification, or research of chemicals, compounds, tissue, animals, or equipment.
LAKE OR NATURAL WATERCOURSE	As used in Section 7.5, Soil Erosion and Sedimentation, any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
LAND TRUST	A legal agreement in which a property owner transfers the title to a property to a trustee. The property owner is typically the beneficiary and directs the trustee in all matters relating to the management of the property, as outlined in the trust agreement or deed.
LAND-DISTURBING ACTIVITY	As used in Section 7.5, Soil Erosion and Sedimentation, any use of the land by any person in residential, industrial, education, institutional, or commercial development, 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.
LANDFILL	A facility for the disposal of solid waste other than compost on land in a sanitary manner in accordance with Chapter 130A, Article 9, of the North Carolina General Statutes.
LANDOWNER **(AMENDED 10.20.20 UDOTA-03-20)**	The holder of the title to land in fee simple. Absent evidence to the contrary, the City may rely on county tax records to determine the landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as their representative for the purpose of making applications for development approvals.
LANDSCAPE FABRIC	A geotextile material used to control weeds by inhibiting their exposure to sunlight.
LANDSCAPE ISLAND	The portion of a parking lot intended for landscaping material and pervious surfaces.
LANDSCAPE STRIP	Linear landscape islands located between two parallel rows of off-street parking spaces.
LANDSCAPING	The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and objects designed and arranged to produce an aesthetically pleasing effect.
LARGE FORMAT RETAIL	A retail establishment consisting of a single or multiple tenants in one or more buildings totaling 70,000 square feet or more in area with 70 percent or more of the total floor area occupied by retail sales activities.
LAUNDRY AND CLEANING SERVICE	A commercial establishment engaged in the cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents. Such uses may provide cleaning and laundering services on-site or in off-site locations.
LIBRARY	A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.
LIGHT TRESPASS	Unwanted light that shines from one lot to another.
LIGHTING PLAN	A graphic deposition of proposed exterior lighting fixture locations, height, anticipated luminance, and cones of illumination.
LIMITED USE ZONING DISTRICT **(AMENDED 1.4.22 UDOTA-1-22)**	A type of zoning district that is largely parallel in nature to a conventional zoning district except that it is subject to one or more conditions included as part of the legislative approval by the City Council that establishes the limited use zoning district. Conditions are limited solely to a reduction in the range of allowable uses from those permitted in the parallel conventional district.

DEFINITIONS	
LIVE/WORK DWELLING	A structure or portion of a structure combining a dwelling unit with an integrated non-residential work space typically used by one or more of the residents. The non-residential work space is found on the building's ground floor.
LOADING SPACE (FACILITY)	Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and not considered as part of the minimum required off-street surface parking.
LOCAL GOVERNMENT	As used in Section 7.5, Soil Erosion and Sedimentation, any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of the Act.
LOCAL STREET	See "Street, Local."
LOT	A parcel of land not divided by streets that is or will be occupied by a building and its accessory building(s) or an open air use of land, together with all required yard and other required open spaces, with all forms of required access and necessary utilities.
LOT FRONTAGE (AMENDED 10.20.20 UDOTA-03-20)	For the purposes of the subdivision regulations, the distance for which the front boundary line of a lot and the street line are coincident. In the case of corner lots, this shall be the lot line adjacent to the street from which the lot obtains its street address.
LOT OF RECORD (EXISTING LOT)	A lot or tract of land that is either part of a subdivision or identified by a set of metes and bounds that has been recorded in the office of the Register of Deeds for the county where it is located prior to the effective date of this Ordinance. For the purposes of the WPO, a lot of record that has been recorded prior to March 5, 1996.
LOT DEPTH	See Section 8.3.C.1.b, Lot Depth.
LOT WIDTH	See Section 8.3.C.1.c, Lot Width.
LOT, CORNER	See Section 8.3.C.3.a, Corner Lot.
LOT, DOUBLE FRONTAGE	A lot with frontage on streets located at the front and rear of the lot.
LOT, FLAG	An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm. Further, in cases where a minimum lot width is prescribed, the arm is less than the presumptive minimum required lot width.
LOT, THROUGH	A lot having frontage on two parallel or approximately parallel streets.
LOTS	For the purposes of the subdivision regulations, a parcel, piece, portion or tract of land separated from other parcels, pieces, portions and tracts of land by description on a subdivision plat or any plat recorded or to be recorded in the office of the Register of Deeds or any description by metes and bounds or other means.
LOUVERS	A set of angled slats or flat strips fixed or hung at regular intervals in a door, shutter, or screen to allow air or light to pass through.
LOW-DENSITY PROJECT (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, a project that has no more than twenty-four percent built-upon area (BUA) for all residential and non-residential development.
LOWEST ADJACENT GRADE	The elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.
LOWEST FLOOR	For the purposes of the FHO, 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 this Ordinance.

DEFINITIONS	
LUMEN	A quantitative unit measuring the amount of light emitted by a light source.
LUMINOUS TUBE LIGHTING	Tubing, whether flexible or rigid, mounted to a building wall or other building feature for the purposes of providing illumination, security, attracting attention, or displaying a message.
M	
MAJOR MODIFICATION (AMENDED 10.20.20 UDOTA-03-20)	A significant deviation in an application, proposed development, or portion of a development that impacts the operation, appearance, function, value, or compatibility of proposed development with its surroundings. A change in the meaning or language of a legal document, such as a contract, agreement, or approval that is made by one party to the document without the consent of the other after it has been signed or completed.
MAJOR VARIANCE (WATERSHED)	A variance from the minimum statewide watershed protection rules that results in the relaxation by a factor of greater than 10 percent of any of the management requirements. Major variances shall be approved by the North Carolina Environmental Management Commission after initial review and recommendation from the City of Burlington. The Stormwater Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption.
MAKERSPACE	A collaborative workspace that includes shared tools, workspaces, technology, and knowledge in order to assist participants working alone or with collaborators to create and produce ideas, products, and services. Makerspaces can be formed for the purpose of instruction, creation of material for sale, or a combination of the two.
MANUFACTURED DWELLING (HOME) (AMENDED 10.20.20 UDOTA-03-20)	A factory-built structure, transportable in one or more sections, that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. This includes any structure with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.), as amended. This does not include recreation vehicles.
MANUFACTURED DWELLING PARK	A commercial use where land is divided into individual leaseholds but not individual lots owned in fee simple that are intended for occupation by individual manufactured homes. Manufactured dwelling parks may include shared or individual accessways, recreation facilities, and other shared accessory uses like laundries, storage, or refuse collection areas.
MANUFACTURED HOME PARK OR SUBDIVISION (AMENDED 3.17.20 UDOTA-02-20)	As used in Section 3.20.C, Flood Hazard Overlay (FHO) District, means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

DEFINITIONS	
MANUFACTURING, HEAVY	Uses that tend to require large amounts of bulk or unrefined materials which are typically processed and stored outdoors on the site. These uses require a significant amount of energy for the processing of raw materials, and are likely to generate significant noise, vibration, dust, glare, heat, odor, smoke, truck traffic, in the immediate vicinity of the use. Heavy manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants.
MANUFACTURING, LIGHT	Uses that involve indoor processing or assembly of finished or partially finished goods and do not require large stockpiles of raw material. Processing and storage activities take place solely within enclosed buildings, which helps limit (but does not completely prevent) the creation of noise, vibration, dust, glare, heat, odor, and smoke. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.
MAP AMENDMENT	See "Rezoning."
MARKET VALUE	For the purposes of the FHO, 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.
MASTER PLAN	A conceptual plan associated with an application to establish a planned development district that sets out the general location, type, and configuration of proposed development within the district.
MATERIAL RETURN	The continuation of one or more exterior building materials on one building façade beyond an inside or outside building corner to a logical termination point on a different wall plane.
MATURE TREE	A tree that has reached more than one-third of its expected maximum size.
MAXIMUM EXTENT PRACTICABLE	No feasible or practical alternative exists, as determined by the City, and all possible efforts to comply with the standards or regulation to minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining "maximum extent practicable."
MEAN SEA LEVEL	The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

DEFINITIONS	
MECHANICAL EQUIPMENT	Equipment and fixtures used for HVAC, fabrication, assembly, or production purposes.
METAL FABRICATION	An industrial establishment engaged in the production, assembly, and configuration of metal products through the use of mechanical presses, forms, welding, grinding, and other mechanical processes that form, join, or alter the shape of metal but that do not include the creation or production of metal.
MICROBREWERY OR MICRODISTILLERY **(AMENDED 1.4.22 UDOTA-1-22)**	An establishment engaged in the production, packaging, distribution, or sales (whether at retail or wholesale) of malt beverages, wine or spirits for distribution, retail, or wholesale both on and off-premise. A microbrewery is a facility that produces less than 15,000 barrels of beer per year and sells the majority of the beer it produces for off-site resale and consumption. A microwinery produces less than 100,000 gallons of wine per year. A microdistillery produces less than 15,000 gallons of alcoholic spirits per year. Accessory uses may include the serving of food for on-site consumption, a taproom, seating areas, ancillary sales of related merchandise, event space, and warehouse space for stored product.
MICRO-WIRELESS FACILITY	A wireless telecommunications facility that is no larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that may have up to one exterior antenna, no longer than 11 inches.
MINOR MODIFICATION **(AMENDED 10.20.20 UDOTA-03-20)**	An insignificant deviation in an application, proposed development, or portion of a development that does not impact the operation, appearance, function, value, or compatibility of proposed development.
MINOR VARIANCE (WATERSHED)	A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 10 percent of any management requirements.
MINOR WORK	Development activity associated with a historic structure, historic site, or historic landmark that is more significant than normal maintenance, but not so significant as to require consideration by the Historic Preservation Commission.
MIXED USE DEVELOPMENT **(AMENDED 3.4.21 UDOTA-01-21)**	A format that integrates some combination of residential, commercial, industrial, or institutional use types in one single building or within one single development. Mixed use development may include different use types within the same building or different use types within the same development that is comprised of multiple buildings.
MOBILE HOME **(AMENDED 10.20.20 UDOTA-03-20)**	A detached residential dwelling unit constructed prior to July 15, 1976 that does not bear a certification of compliance with National Manufactured Housing Construction and Safety Standards Act of 1974. A mobile home is designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and similar features. Mobile homes are typically 16-feet-wide or less.
MOBILE HOME PARK	A commercial use where land is divided into individual leaseholds but not individual lots owned in fee simple that are intended for occupation by individual mobile, manufactured, or modular homes. Mobile home parks may include shared or individual accessways, recreation facilities, and other shared accessory uses like laundries, storage, or refuse collection areas.
MOLDING	An ornamentally shaped outline as an architectural feature, especially in a cornice.

DEFINITIONS	
MONUMENT	A permanent marker, typically inserted into the ground, showing the location of a lot line, lot corner, or other demarcation associated with a lot or right-of-way.
MOTEL	See "Hotel or Motel."
MOTOR VEHICLE	Every self-propelled vehicle designed to run upon the highways and every vehicle designed to run upon the highways that is pulled by a self-propelled vehicle.
MULTI-BUILDING DEVELOPMENT **(AMENDED 1.4.22 UDOTA-1-22)**	A development consisting of two or more principal structures on one or more lots that is planned, organized, and operated as a single development for the purposes of the development standards.
MULTI-FAMILY DEVELOPMENT **(AMENDED 12.3.19 UDOTA-01-20)**	A development that includes three or more dwelling units configured in on or more buildings on the same lot or development site. The development includes shared parking areas, shared open spaces around the development, active recreation features, and centralized waste/refuse collection facilities.
MULTI-FAMILY DWELLING **(AMENDED 12.3.19 UDOTA-01-20)**	A structure containing three or more dwelling units that are not located on individual lots. Units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings. Multi-family dwellings include what are commonly called apartments, or condominium units, but not single-family attached dwellings.
MULTI-USE PATH	a form of infrastructure that supports multiple recreation and transportation opportunities, such as walking, bicycling, inline skating and people in wheelchairs. Paths re typically surfaced with asphalt, concrete, or firmly packed crushed aggregate.
MULTIPLE LOT DEVELOPMENT	Developments that include two or more buildings on two or more lots that is planned, organized, and managed as a single development for the purposes of the development standards.
MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)	As used in Section 7.4, Stormwater, municipal separate storm sewer system (MS4), pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) Owned or operated by the United States, a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act (CWA) that discharges to waters of the United States or waters of the State; (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined in 40 CFR 122.2.
MURAL	A painting or other work of art executed directly on a wall.
MUSEUM	A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food to the public.

DEFINITIONS

N

NATIONAL FLOOD INSURANCE PROGRAM	A program operated by the Federal Emergency Management Agency that provides flood insurance for development within areas within a community that are susceptible to flooding and establishes a set of standards for development as a condition of participation in the program.
NATIVE TREE	See "Tree, Native."
NATURAL EROSION	As used in Section 7.5, Soil Erosion and Sedimentation, the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
NATURAL HERITAGE AREA	A site designated by federal government to encourage historic preservation of the area and an appreciation of the history and heritage of the site.
NEIGHBORHOOD INFORMATION MEETING	A meeting conducted by the applicant of a proposed development with those in the area around the proposed development.
NEON LIGHTING	See "Luminous Tube Lighting."
NEW CONSTRUCTION	For the purposes of the FHO, structures for which the "start of construction" commenced on or after the effective date of the original version of the City's flood damage prevention ordinance, and includes any subsequent improvements to such structures.
NEW DEVELOPMENT	For the purposes of the riparian buffer standards, any development project that does not meet the definition of existing development set out in this Ordinance.
NIGHTCLUB OR DANCE HALL	Any establishment, whether public or a private club, serving a predominantly adult clientele, and whose primary business is the sale of alcoholic beverages, including beer and wine, for consumption on the premises in conjunction with dancing or live performances, and which sets a minimum age requirement for entrance. An establishment is not a nightclub if the establishment: (1) has a Class A restaurant license from the State of North Carolina; (2) maintains a full service restaurant on its premises at all times when it is open to the public for business; or (3) provides facilities for seating not less than 40 persons simultaneously at tables for the service of meals. The establishment is also not a nightclub if the establishment allows entrance at all times to any person regardless of age.
NONCONFORMING LOT	A lot of record that that was lawful at the date on which it was established, but does not conform to the current dimensional requirements of the zoning district in which it is located.
NONCONFORMING SIGN	Any sign that was lawfully established, but does not meet the standards of this Ordinance.
NONCONFORMING SITE OR SITE FEATURE **(AMENDED 1.4.22 UDOTA-1-22)**	A site that was legally established, but that is not presently in full compliance with elements of this Ordinance pertaining to landscaping, lighting, access and on-site circulation, parking areas, and screening.
NONCONFORMING STRUCTURE	A structure that was lawful on the date on which it was established, but does not conform to current dimensional, elevation, location, or other requirements of this Ordinance.
NONCONFORMING USE	A use type which was lawful on the date on which it was established, but is now no longer a permitted use of that lot, building, or structure under this Ordinance. A use that when established did not require a special use permit, but now requires a special use permit shall be considered a nonconforming use until special use permit approval is obtained.

DEFINITIONS	
NONCONFORMITY	Any land use, development, structure, or site, including any lot of record, that was legally established, but that is not presently in full compliance with the provisions of this Ordinance.
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.
NON-PRECISION INSTRUMENT APPROACH ZONE	As used in the Airport Height Overlay (AHO) District standards, the inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
NON-STRUCTURAL SCM (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, non-structural stormwater control measures (SCM) are preventive actions that involve management and source controls such as: (1) Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space, provide buffers along sensitive water bodies, minimize impervious surfaces, and/or minimize disturbance of soils and vegetation; (2) Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure; (3) Education programs for developers and the public about minimizing water quality impacts; and (4) Other measures such as minimizing the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance, and spill prevention.
NORTH CAROLINA BUILDING CODE	The most-recently adopted construction code for buildings adopted by the North Carolina Department of Insurance.
NOTICE OF PUBLIC HEARING	The formal legal notification of a public hearing on a proposed development application. A "published notice" is one required to be printed in a newspaper of general circulation. A "mailed notice" is one delivered to specified individuals by US Mail. A "posted notice" is a sign posted on or near the property subject to the application.
NOTICE OF VIOLATION	A notice indicating a violation of this Ordinance.
NURSING HOME	An institution that is licensed or approved to provide health care under skilled medical supervision for 24 hours a day.
O	
OATH	The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in like cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."
OBSTRUCTION	As used in the Airport Height Overlay (AHO) District standards, an obstruction is any structure, growth or other object, including a mobile object, that exceeds a limited height set forth in the AHO standards.
OCCUPANCY	The act, state, or condition of holding, possessing, residing, or otherwise using a premises, lot, site, building, or dwelling.

DEFINITIONS	
OFFICE, MEDICAL	A room or group of rooms used for the purpose of providing medical care or treatment, including therapeutic services and counselling. Examples of medical offices include physicians, dentists, ophthalmologists, chiropractors, psychologists, and similar medical specialists. Medical offices may or may not include laboratories, medication sales, and physical therapy facilities as an accessory use. Use types where medical professionals from differing firms or practices provide services or where patients receive treatment or services beyond the scope of a typical office visit are health care uses.
OFFICE, PROFESSIONAL	A room or group of rooms used for conducting the affairs of a business, profession. Examples of professional offices include offices for lawyers, accountants, engineers, architects, and similar professions. Professional offices may include a shared kitchen, lobby area, meeting rooms, and document production areas.
OFFICE, SALES AND SERVICE	A room, or group of rooms used for conducting the affairs of a general business establishment, including financial services or sales of real estate or other personal property, but not professional services. Examples of sales and service office uses include offices for retail and wholesale establishments, banking services, investment banking, stock brokerage, investment services, credit card services, real estate sales, artwork, artifacts, or other specialized items.
OFFICIAL ZONING MAP	The Official Zoning Map upon which the boundaries of various zoning districts are drawn and which is an integral part of this Ordinance.
OFF-SITE VIEWS	Views of or into a development site from off-site locations such as other lots, rights-of-way, or locations within the public realm.
ON-CENTER SPACING	Placement of landscape material in a regularly-spaced pattern of equal distance between plants.
ONE YEAR, 24-HOUR STORM (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.
ON-SITE SEWAGE DISPOSAL SYSTEM	A wastewater treatment system serving an individual lot or site.
OPACITY	A measurement indicating the degree of obscuration of light or visibility.
OPAQUE	A building, structure, building material, vegetation, or other site feature that forms a solid visual barrier.
OPEN AIR USE OF LAND	A use type that does not include any habitable buildings or structures.
OPEN SPACE SET-ASIDE	Land or water areas within the site designated for a particular development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development, but not including any lands occupied by streets, street rights-of-way or off-street parking.
ORDINANCE	A legislative enactment of the City of Burlington, North Carolina.
ORDINARY REPAIRS AND MAINTENANCE	Work done on a sign or structure to prevent deterioration or to replace any part thereof in order to correct any deterioration, decay or damage to any part thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

DEFINITIONS	
OTHER RETAIL USE	Commercial enterprises that provide goods at retail directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Examples include stores selling, leasing, or renting consumer, home, and business goods such as art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries and food sales, hardware, home improvements, household products, jewelry, pets, pet food, plants, printed material, stationary, and videos. Retail establishments meeting the threshold requirements for large format retail are treated as large format retail uses.
OUTDOOR COMMERCIAL RECREATION	A commercial establishment located entirely primarily outdoors that provides recreational, amusement, and entertainment opportunities for patrons, including activities such as: water parks, miniature golf, go cart racing, obstacle or ropes courses, zip lines, paintball, mechanical rides, and similar attractions. Outdoor commercial recreation uses may include buildings or structures that also provide indoor recreational activities.
OUTDOOR DINING AND SEATING (AMENDED 3.17.20 UDOTA-02-20)	Any accessory use that allows outdoor dining and/or seating in the public right-of-way.
OUTDOOR DISPLAY	The keeping of any goods, merchandise, or vehicles, in an unroofed area for marketing or sales purposes.
OUTDOOR SEASONAL SALES	The temporary sale of goods or products associated with the season or a cultural event, such as the sale of Christmas trees, pumpkins, or seasonal produce. Such sales typically take place outdoors and in locations not devoted to such sales for the remainder of the year.
OUTDOOR STORAGE	The keeping, in an unroofed area, of any goods or materials, particularly goods and materials that have a large size, mass, or volume and are either not easily moved or carried or require a mechanical lifting device (e.g., non-bagged mulch and lumber). This use does not include a junkyard or recycling facility, vehicle fleet storage, or the display and storage of vehicles as part of an automobile sales or rental use.
OUTFALL	As used in Section 7.4, Stormwater, the point of wastewater or stormwater discharge from a discrete conveyance system(See also "point source discharge" of stormwater).
OUTPARCEL	A lot located within a multi-tenant development (e.g., a shopping center) which may or may not have access from a public road abutting the development. The lot is treated as part of the larger development with respect to applicable yard and dimensional requirements.
OUTPATIENT TREATMENT FACILITY	A small-scale facility where patients are admitted for examination and treatment by one or more physicians, dentists, or psychologists on a short-term basis. Patients may or may not receive care or lodging overnight, but the facility is not intended for long-term overnight care. Such facilities may include sleeping rooms for care workers and members of patient's families.
OVERHANG	The edge of a roof or upper building story projecting outwards.

DEFINITIONS	
OVERLAY ZONING DISTRICT (AMENDED 10.20.20 UDOTA-03-20)	A zoning district designation that is applied over one or more previously established conventional or conditional zoning district designations. Overlay districts modify the existing zoning district provisions by either adding additional regulations or providing greater flexibility in deviations from the existing applicable standards. Typically, when overlay district standards conflict with the underlying conventional or conditional zoning district standards, the overlay zoning district standards control.
OWNER (AMENDED 10.20.20 UDOTA-03-20)	The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property (see also "landowner").
OWNER ASSOCIATION	An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The owners' association is responsible for maintaining and enhancing the shared private infrastructure (e.g., stormwater, streets, and sidewalks) and common elements such as recreation areas.
P	
PACKAGING AND PRINTING SERVICES	A commercial establishment providing printing, faxing, copying, document binding, photographic processing, packing, mailbox, mailing, and related services. Printing, document production, and processing services may be provided either on- or off-site. Such uses may also provide computer terminals, copiers, and similar equipment for self-service use by customers.
PAD SITE	See "Outparcel."
PARAPET WALL	See "Wall, Parapet."
PARENT	As used in Section 7.5, Soil Erosion and Sedimentation, an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
PARENT PARCEL	A tract of land further subdivided into one or more additional lots.
PARK (PUBLIC OR PRIVATE)	Land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks.
PARK AND RIDE FACILITY	Parking facilities close to or connected with public transport facilities that allow commuters and other transit users to leave their private vehicles and transfer to a bus, rail, ferry, or carpool for the remainder of the journey.
PARK LAND	Land intended for development as a public park or recreation area.
PARKING AREA	See "Parking Lot."
PARKING LOT	The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.
PARKING LOT CONNECTION	Vehicular access provided between the vehicular use areas of two or more development sites or parcels of land intended to allow travel between the sites without the use of a street.
PARKING LOT STEM	A point of ingress into a parking lot from a street. A parking lot stem does not accommodate parking areas or access to drive aisles within its minimum length.

DEFINITIONS	
PARKING OF HEAVY TRUCKS, TRAILERS, OR MAJOR RECREATIONAL EQUIPMENT	The temporary storage of motor vehicles over 10,000 pounds of gross vehicle weight and associated trailers or equipment, including recreational vehicles or campers.
PARKING PLAN	A plan or diagram prepared by an applicant for development that depicts the required and provided number of parking spaces (if different from the required number of parking spaces. The plan also shows points of vehicular ingress and egress, drive aisles, the locations of parking lot landscaping islands, pedestrian circulation features, and off-street loading facilities.
PARKING SPACE	A location where an automobile or passenger truck is temporarily stored, whether on-street or off-street.
PARKING SPACE, REVERSE ANGLE	On-street parking spaces configured at an angle to the direction of travel for the street where located. Vehicles back into reverse angle parking spaces.
PARKING STRUCTURE	A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.
PARKING STUDY	An analysis of the minimum number of off-street parking spaces necessary to serve a proposed use type.
PASSENGER TERMINAL	A facility that receives and discharges passengers and at which facilities and equipment required for their operation are provided. Examples include terminals for bus, trolley, taxi, railroad, shuttle van, or other similar vehicular services.
PASSIVE OPEN SPACE SET-ASIDE	Open space areas designated for passive recreation uses including walking trails, pathways, gazebos, picnic areas, fountains, and similar areas. Such areas may also include undisturbed natural vegetation.
PATIO **(AMENDED 1.4.22 UDOTA-1-22)**	An improved area, located at or below grade, with a paved or otherwise improved surface typically used for dining, gathering, recreation, or leisure activity. A patio may be covered or uncovered, but does not include walls that support a roof.
PEDESTRIAN LIGHTING	Exterior lighting scaled to pedestrians.
PEDESTRIAN WALKWAY	An on-site pedestrian access way connecting building entrances, parking areas, and the larger sidewalk network around the site.
PEDIMENT	The triangular upper part of the front of a building in classical style, typically surmounting a portico of columns.
PENALTY	Punishment for violation of a law or rule.
PENNANT	A lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
PERENNIAL STREAM	Streams located on United States Geological Survey (USGS) maps shown as solid blue lines. For the purposes of the riparian buffer standards, a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

DEFINITIONS	
PERENNIAL WATERBODY	For the purposes of the riparian buffer standards, a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
PERFORMANCE GUARANTEE (AMENDED 10.20.20 UDOTA-03-20)	Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or required private site feature prior to issuance of a building permit, final plat, or other development approval.
PERIMETER BUFFER	See "Buffer, Perimeter."
PERIMETER PARKING LOT LANDSCAPING	Required landscaping located around the perimeter of a parking lot.
PERSON (AMENDED 10.20.20 UDOTA-03-20)	An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. As used in Section 7.5, Soil Erosion and Sedimentation, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
PERSON CONDUCTING LAND-DISTURBING ACTIVITY	Any person who may be held responsible for violation of any regulations governing land-disturbing activity, unless expressly provided otherwise. As used in Section 7.5, Soil Erosion and Sedimentation, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.
PERSON RESPONSIBLE FOR THE VIOLATION	As used in Section 7.5, Soil Erosion and Sedimentation: (1) The developer or other person who has or holds himself out as having financial or operation control over the land-disturbing activity; or (2) The landowner or person in possession or control of the land that has directly or indirectly allowed the land-disturbing activity, or benefited from it or failed to comply with a duty imposed by any provision of this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.
PERSONAL PROPERTY	All forms of property, except real property.
PERVIOUS	A substance that allows water to pass through it.
PHARMACY	A commercial establishment engaged in the storage, preparation, and sale of drugs and other medications to customers at retail. Pharmacy uses may also offer a wide variety of food, household goods, or other personal products for sale. A pharmacy may also incorporate a medical technician who provides on-site medical assistance and counselling to patrons. Pharmacies that exceed the floor area thresholds for large format retail uses shall be considered as a large format retail use.
PHASE	The discrete portion of a proposed development.
PHASE OF GRADING	As used in Section 7.5, Soil Erosion and Sedimentation, one of two types of grading: rough or fine.
PILASTER	A rectangular column with a capital and base that is attached or affixed to a wall as an ornamental design feature.

DEFINITIONS	
PLAN	As used in Section 7.5, Soil Erosion and Sedimentation, an erosion and sedimentation control plan.
PLANNED DEVELOPMENT	An area of land under unified ownership or control to be developed and improved as a single entity under a planned development master plan in accordance with this Ordinance.
PLANNING AND ZONING COMMISSION (P&Z)	An advisory body responsible for making recommendations on certain applications for development approval to the City Council. The Planning and Zoning Commission also makes special studies of land use and assists in the preparation and revision of the comprehensive plan.
PLANTING SEASON	The dormant time of the year for trees beginning with leaf drop and ending with bud break; generally late fall to early spring.
PLANTING STRIP	Required landscaping material configured in a linear strip.
PLAT	A surveyed map or plan for a parcel of land.
PLAY EQUIPMENT	Recreational equipment, whether temporary or permanent, placed for the exercise and enjoyment of persons on the site of a different principal use.
PLAY STRUCTURE	A non-habitable structure intended for recreational purposes.
PLAZA	An open space at the intersection of important streets or adjacent to important structures, set aside for civic purposes and commercial activity, which may include parking, consisting of durable pavement, and formal landscaping or tree plantings.
PLOT PLAN	A simple drawing or sketch depicting compliance with one or more requirements of this Ordinance.
POCKET NEIGHBORHOOD	A cohesive development of at least four but no more than 12 single-family detached dwellings, each on their own lot, located around a common open space and served by either on-street, on-site, or shared off-street parking. Each home fronts the common open space, and is configured with a front porch and windows on the front facade.
POINT SOURCE DISCHARGE OF STORMWATER	As used in Section 7.4, Stormwater, any discernible, confined and discrete conveyance including, but not specifically limited to, any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure from which stormwater is or may be discharged to waters of the State.
POLICE /FIRE TRAINING FACILITY	A facility that includes equipment and structures used to train police, fire, and other emergency services personnel in the execution of their duties. Such facilities may include meeting rooms, gun ranges, burn rooms, training structures, and mobile training facilities.
POOL HALL	A commercial establishment providing one or more tables for use by patrons to play billiards. Such uses may include darts or other games and may include the accessory sale of food or beverages. A pool hall earns at least 50 percent of its revenue from billiards or other games and not the accessory sale of food or beverages.
PORCH **(AMENDED 1.4.22 UDOTA-1-22)**	A covered or uncovered projection (can be glazed or screened) from the main wall of a building, located at or above grade, that provides ingress or egress to a building but is not used for livable space.
PORTABLE STORAGE CONTAINER	A moveable container intended for storage of personal property, waste, or debris, that is brought to a site on a temporary basis.
PORTICO	A large porch usually with a pediment usually associated with an entrance, supported by columns.
POST OFFICE	An office or station of a government postal system at which mail is received and sorted, from which it is dispatched and distributed, and at which stamps are sold or other services rendered.
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.

DEFINITIONS	
PRE-APPLICATION CONFERENCE	A meeting or conference conducted by a potential applicant for a permit or development approval and City staff for the purposes of discussing a potential application or City rules regarding development.
PRECISION INSTRUMENT APPROACH ZONE	As used in the Airport Height Overlay (AHO) District standards, the inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
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.
PRELIMINARY PLAT	A drawing or plan showing the proposed organization of lot boundaries, streets, public infrastructure, open space, and other site configuration features associated with a proposed development.
PRESERVATION	The act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
PRIMARY BUILDING WALL	See "Wall, Primary."
PRIMARY CONSERVATION AREA	The portion of a conservation subdivision required to be included within the conservation or set-aside area where development will not take place.
PRIMARY ENTRANCE	The place of ingress and egress to a building, parcel, or development used most frequently by the public.
PRIMARY ROOF RIDGELINE	The longest ridgeline on a building with a pitched roof.
PRIMARY SURFACE	As used in the Airport Height Overlay (AHO) District standards, a surface longitudinally centered on the runway. The primary surface extends 200 feet beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 1,000 feet for all runways at the Burlington-Alamance Regional Airport.
PRIMARY WALL PLANE	See "Wall Plane, Primary."
PRIME AGRICULTURAL LAND	Resource land best suited for agricultural activity.
PRINCIPAL BUILDING	See "Principal Structure."
PRINCIPAL STRUCTURE	A structure in which is conducted the principal use(s) of the lot on which it is located.
PRINCIPAL USE	A primary or predominate use of a lot or parcel.
PRINCIPALLY ABOVE GROUND	For the purposes of the FHO, a condition where at least 51 percent of the actual cash value of the structure is above ground.
PRIVATE STREET	See "Street, Private."
PRODUCE STAND	A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the same parcel of land where the stand is located. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold. Such uses also include "pick your own" establishments where customers gather their own produce from the fields for purchase and off-site consumption.
PROFESSIONAL ENGINEER	A civil, structural, or traffic engineer licensed by the State of North Carolina.
PROJECTION	Habitable space projecting outwards from the main wall of a building.

DEFINITIONS	
PROTECTED TREE	See "Tree, Protected."
PROTOTYPICAL ARCHITECTURE	Exterior building materials and architecture that is standardized for a particular use type or franchise operation.
PSYCHIATRIC TREATMENT FACILITY	Inpatient facility which provides care for persons with psychiatric problems and which may include outpatient follow-up care to the facility's patients.
PUBLIC ART	Art, in any media, that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all.
PUBLIC CONVENIENCE CENTER/TRANSFER STATION	A publicly-owned and operated facility for the purposes of collection of trash and waste for relocation to a sorting facility or permanent long term storage location.
PUBLIC GATHERING AREA	See "Gathering Area."
PUBLIC HEARING, LEGISLATIVE	A public hearing held for the purpose of soliciting public comments on a proposed development application. Reasonable time limits on speakers may be imposed and responsible decorum maintained. However, unlike quasi-judicial hearings, there is no requirement for oaths, no limits on expression of personal opinions, and no limit on discussing the matter outside the context of the hearing.
PUBLIC HEARING, QUASI-JUDICIAL	A public hearing involving the legal rights of specific parties conducted by the City Council or the Board of Adjustment based on evidence and sworn testimony presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and involve findings of fact and conclusions of law made by the review authority.
PUBLIC INFRASTRUCTURE	Infrastructure or facilities (such as water lines, sewer lines, streets, storm drainage, sidewalks, trails, etc.) owned by the public and intended for use by the public.
PUBLIC MEETING	A gathering of City officials and interested members of the public to discuss an action of the City or consider a development application. Unlike a public hearing, no prior public notification is required for a public meeting, and the acceptance of testimony from meeting attendees is at the discretion of the review authority conducting the public meeting.
PUBLIC REALM	Land, buildings, and structures owned by the government or a governmental entity that is made available for use by all persons.
PUBLIC RIGHT-OF-WAY	For the purposes of the communications use-specific standards, a right-of-way owned, leased, or operated by the City, but not including any street or alley that is a part of the State highway system.
PUBLIC SAFETY 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.
PUBLIC STREET	See "Street, Public."
PUSH CART (AMENDED 10.20.20 UDOTA-03-20)	Any non-motorized piece of equipment designed to be readily moved from which a vendor prepares and or sells food and or non-alcoholic beverages to the general public on a recurring basis.
Q	
QUADRIPLEX DWELLING	A single detached dwelling on one lot that contains four dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.

DEFINITIONS	
QUASI-JUDICIAL	See "Public Hearing, Quasi-Judicial."
QUORUM	The minimum number of council, board, or commission members that must be present in order to conduct official business or take official action.
R	
RACETRACK	A track, whether paved or unpaved, for the competitive racing of automobiles, motorcycles, trucks, tractors, dogs, or horses. Such uses may also include seating for spectators, equipment and staging areas, and concessions areas.
RADII	Curves or bends in a street, sidewalk, greenway, or other travel route.
RAIN GARDEN	See "Bio-retention Cell."
RAW OR SEMI-FINISHED MATERIALS	Products, materials, or components in an original or unrefined state that are altered through the manufacturing process.
REAL PROPERTY	All land, all buildings, all structures, and other fixtures firmly attached thereto.
REAR FACADE	See "Façade, Rear."
REASONABLE ACCOMMODATION	Any change or adjustment to a provision of this Ordinance or condition of approval that would allow an individual with a disability to enjoy equal access to a dwelling, structure or site that is available to other individuals.
RECESS	Habitable space that is recessed inwards from the main wall of a building.
RECORD DRAWING	See "As-Built Plans."
RECREATIONAL VEHICLE (AMENDED 3.17.20 UDOTA-02-20)	A vehicle, which is: 1. Built on a single chassis; 2. 400 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; 4. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and 5. Is fully licensed and ready for highway use.
RECREATIONAL VEHICLE PARK (AMENDED 10.20.20 UDOTA-03-20)	A commercial establishment offering individual spaces or "sites" for short term rental to owners or operators of recreational vehicles. Such uses typically have shared or common restroom, showering, and laundry facilities, and may also include recreational features and incidental sale of food, travel supplies, and recreational vehicle equipment. Rental of an individual site for a period of more than three continuous months, or uses that allow vehicles to be modified in ways that result in permanent, non-mobile structures are considered mobile home parks.
RECYCLING CENTER	A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.
REDEVELOPMENT	Installation of any improvements, new construction, or reconstruction on a lot or site that has pre-existing uses. As used in Section 7.4, Stormwater, any development on previously developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

DEFINITIONS	
REFERENCE LEVEL	The top of the lowest floor for structures within special flood hazard areas designated as Zone A1-A30, AE, A, A99, or AO.
REFORESTATION	The re-establishment of trees or tree canopy cover to land area that was cleared prior to or as part of the development process.
REFORESTATION AREA	The portion of a lot or site designated for the retention of or planting of trees in accordance with the reforestation requirements.
REFUSE COLLECTION CONTAINER	A metal or plastic container used for the collection and temporary storage of refuse or waste for pickup by the City or a solid waste management contractor.
REGISTER OF DEEDS	A public officer designated by Alamance County or Guilford County (as appropriate) to register documents, mainly related to real estate. The register of deeds verifies mortgage ownership and property ownership, such as houses and land, in official record books.
REHABILITATION	The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural and cultural values.
RELIGIOUS INSTITUTION	A structure or place in which worship, ceremonies, rituals, and education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group.
REMEDY	The manner in which a right or law is enforced or satisfied when a violation of the UDO or related law has occurred.
REPAIR SERVICE	An establishment primarily engaged in the provision of repair services for electronics, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer. Repair establishments do not include outdoor storage of goods, materials, or equipment. Repair of cars, trucks, or similar heavy equipment is a vehicle-related establishment.
REQUIRED LANDSCAPE AREA	An area required to be planted with trees, shrubs, or ground cover as required by Section 5.3, Landscaping.
RESEARCH AND DEVELOPMENT	A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of prototypical devices as well as the creation and testing of drugs and compounds, vehicles, equipment, and industrial processes.
RESERVATION	An obligation, shown on a subdivision or site plan, to keep land free from development and available for public acquisition for a stated period of time.
RESERVE FUND	A bank account containing reserve funds for the purpose of maintaining commonly-held land, infrastructure, or facilities.
RESERVE STRIPS	Strips of land that are not developed as a means of limiting or preventing vehicular access.
RESIDENTIAL DEVELOPMENT	Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, and their associated outbuildings such as garages, storage buildings, and gazebos and customary home occupations.
RESIDUALS	Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant, or air pollution control facility permitted under the authority of the Environmental Management Commission.

DEFINITIONS	
RESOLUTION	The official written expression of the opinion or the will of the City Council, Board of Adjustment, Planning and Zoning Commission, or Historic Preservation Commission.
RESTAURANT WITH DRIVE-THROUGH/DRIVE-UP SERVICE	An establishment where meals or prepared food, including beverages and confections, are prepared and made available to customers for on-site or off-site consumption. Seating for on-site consumption of products may be located either indoors or outdoors. The use also includes a window intended to serve patrons who do not leave their vehicles to order, receive, and consume order products. Such uses typically do not include a bar or cocktail lounge.
RESTAURANT, INDOOR AND/OR OUTDOOR SEATING	An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Seating for patrons consuming products on site are located either indoors or outdoors, and the use does not provide drive-through service. Such uses may include a bar or cocktail lounge as an accessory use.
RESTAURANT, INDOOR SEATING	An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Seating for patrons consuming products on site are located solely indoors, and the use does not provide drive-through service. Such uses may include a bar or cocktail lounge as an accessory use.
RESTAURANT, WALK-UP ONLY	An establishment where meals or prepared food, including beverages and confections, are prepared and made available to customers for on-site or off-site consumption. However, ordering and receipt of ordered products take place through a window or other opening that separates restaurant employees from customers. While restroom facilities may be included in a principal or accessory structure, on-site consumption of products takes place solely outdoors or in a structure that is accessory to and detached from the principal building where products are prepared.
RESTORATION	The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.
RETAIL USE, OTHER	Commercial establishments engaged in the retail sale of goods, including, but not limited to: florists, grocery stores, department stores, discount stores, thrift stores, and pawnshops.
RETAINING WALL	A structure, either masonry, metal, or treated wood, designed to prevent the lateral displacement of soil, rock, fill, or other similar material.
RETENTION POND (WET) **(AMENDED 10.20.20 UDOTA-03-20)**	A stormwater control measure consisting of a depression in the land that is designed to capture runoff from a design storm and release it gradually over a specified period of time via a properly designed outlet structure.
REVEGETATION PLAN	A plan depicting the re-establishment or replanting of required vegetation or landscaping material on a lot or site where clearing has taken place in violation of this Ordinance or a condition of approval.
REVERSE ANGLE PARKING SPACE	See "Parking Space, Reverse Angle."
REVERSE FRONTAGE	A lot with two or more street frontages that includes a building or structure that is oriented in a manner that differs from other existing structures or from the development patterns indicated by adopted policy guidance or good planning practice.

DEFINITIONS	
REZONING (AMENDED 10.20.20 UDOTA-03-20)	An amendment to a zoning regulation to change the zoning district that is applied to a specified property or properties. It does not include the initial adoption of a zoning map by City Council or the repeal of a zoning map and re-adoption of a new zoning map for the City's jurisdiction. It does not include 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. It does include the initial application of zoning when land is added to the City's jurisdiction that has previously adopted zoning regulations. It does include the application of an overlay zoning district or a conditional zoning district.
RIBS	See "Fins."
RIGHT-OF-WAY	Shall mean that property located within and adjoining the streets, roads and highways within the City, which rights-of-way are owned by the City or the State or are otherwise maintained by the City or the State.
RIPARIAN BUFFER	A vegetated area proximate to and parallel with a stream that helps shade and partially protect the stream and water quality from the impact of adjacent land uses.
RIVERINE	Terms relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
ROADWAY	The paved portion of right-of-way over which vehicular traffic travels.
ROOF GARDEN	Landscaping material, whether in a formal or informal arrangement located on the roof of a building or structure.
ROOF PITCH	The amount of rise or the vertical increase in elevation over the run or the horizontal distance of a roof.
ROOF PLANES	Portions of a roof constructed at different angles to one another.
ROOF RAKE	The portion of a gabled roof that extends past the exterior wall of the building.
ROOM	Any floor space exceeding 40 square feet enclosed by partitions or walls having cased openings or doors but excluding areas devoted exclusively to kitchen and bath facilities.
ROOMING HOUSE	See "Boarding House."
ROPE LIGHTING	See "Luminous Tube Lighting."
ROUTINE MAINTENANCE	Simple, small-scale activities (usually requiring only minimal skills or training) associated with regular (daily, weekly, monthly, etc.), recurring, and preventative upkeep of a building, equipment, or machine against normal wear and tear. For the purposes of the telecommunications use-specific standards, routine maintenance includes cleaning, repair, and replacement of existing antennas, antenna support structures, wireless telecommunications equipment, equipment cabinets, equipment compounds, telecommunications towers, utility poles, or other vertical projections used to deliver wireless telecommunications services. Activities that result in larger, taller, more visible, more impactful, or additional wireless telecommunications equipment are not considered routine maintenance.
RUNWAY	A defined area on an airport prepared for landing and takeoff of aircraft along its length.
RUNWAY 24	See "Non-Precision Instrument Approach Zone."
RUNWAY 6	See "Precision Instrument Approach Zone."

DEFINITIONS	
RURAL CHARACTER	Patterns of land use and development in which open space, the natural landscape, and vegetation predominate over the built environment.
S	
SALVAGE OR JUNKYARD	An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places where salvaged house wrecking or structural steel materials are stored, handled, and sold. This definition includes automobile wrecking or automobile wrecking yards and establishments for the sale, purchase, or storage of second-hand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded, or salvaged materials incident to manufacturing activity on the same site where such processing occurs.
SCENIC CORRIDOR	The portion of a street subject to additional standards intended to protect or preserve the appearance of the land along the designated corridor from development that blocks or is inconsistent with the established character.
SCHOOL, ELEMENTARY/MIDDLE/HIGH	A public or private school offering general, technical, or alternative instruction at the elementary, middle, and/or high school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.
SCHOOL, VOCATIONAL	An educational institution providing secondary or post-secondary education designed to provide vocational education, or technical skills required to perform the tasks of a particular and specific job or trade.
SCREENING WALL	A wall, whether part of habitable space or not, that interrupts off-site views into a site.
SECONDARY BUILDING WALL	See "Wall, Secondary."
SECONDARY CONSERVATION AREA	The portion of a conservation subdivision containing resources to be retained as conservation land or open space after development that is not as imperative to retain as the primary conservation land.
SECONDARY ENTRANCE	An entrance into a building located on a side or rear building façade.
SECURITY LIGHTING	Exterior illumination of a building, parking area, or other site feature for the purposes of security.
SEDIMENT	As used in Section 7.5, Soil Erosion and Sedimentation, solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

DEFINITIONS	
SEDIMENTATION	The process by which sediment resulting from accelerated erosion is transported off-site by land-disturbing activity. As used in Section 7.5, Soil Erosion and Sedimentation, the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
SELF-SERVICE STORAGE, EXTERNAL ACCESS	A storage building or buildings that are divided into sections or compartments for the storage of business or personal items on a temporary or long-term basis only where all units have individual exterior access. Such uses may also include facilities for outdoor storage.
SELF-SERVICE STORAGE, INTERNAL ACCESS	A storage building or buildings that are divided into sections or compartments for the storage of business or personal items on a temporary or long-term basis only where all units are accessed by one or more shared entrances. Such uses do not typically include outdoor storage.
SEMI-PERVIOUS	A material that allows some, but not all, stormwater to flow through it.
SENIOR CENTER	A facility typically for use by citizens of 60 years of age, or older, dedicated to the provision of services, activities, or facilitation of interaction between older citizens and the community at large. Such centers may be publicly owned or operated for a profit.
SEPTIC TANK	An on-site sewage treatment or storage device.
SETBACK	A required distance from a lot line or development boundary for a principal or accessory building and some required site features, as determined in accordance with Section 8.3.D, Setbacks.
SEVERE PRUNING	The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (e.g., 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than 1/3 of the overall circumference of a tree is exposed by pruning cuts.
SHADE TREE	See "Tree, Shade."
SHIELDING (OR SHIELDED)	A light fixture constructed and installed in such a manner that all light emitted by it, either directly from the lamp (bulb) or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal plane of the fixture.
SHORELINE STABILIZATION	For the purposes of the riparian buffer standards, the in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.
SHRUB	A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.
SIDE FAÇADE	See "Façade, Side."
SIDEWALK	A paved area running parallel to the street for the purposes of pedestrian travel and to facilitate pedestrian access to adjacent streets and land.

DEFINITIONS	
SIGHT DISTANCE TRIANGLE	The triangular area formed by a diagonal line connecting two points located at designated locations on intersecting right-of-way lines or a right-of-way line and the curb or a driveway.
SIGN	Any words, lettering, numerals, parts of letters or numerals, figures, phrases, sentences, emblems, devices, designs, trade names or trademarks by which any message is made known, including any surface, fabric or other material or structure designed to carry such devices that are used to designate or attract attention to an individual, a firm, an event, an association, a corporation, a profession, a business or a commodity or product that are exposed to public view. The definition of a sign does not include flags, badges, or insignias of any governmental unit.
SIGN CABINET	A metal enclosure housing sign face displays and methods of internal illumination, when provided.
SIGN FACE AREA	The portion of sign that contains the message being conveyed, as determined in accordance with Section 8.3.M, Signage Measurement.
SIGN HEIGHT	The height to the tallest point of a sign structure, as determined in Section 8.3.M, Signage Measurement.
SIGN PERMIT	A development approval associated with the erection, alteration, continuation, or removal of signage or ancillary features associated with a sign.
SIGN SUPPORT STRUCTURE	The framework and structural support for a sign.
SIGN, AWNING	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, BANNER	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, BILLBOARD	See "Sign, Outdoor Advertising."
SIGN, BOW	A feather flag sign with an elongated mounting post that curves at the top to form a circular shape within which the sign material is mounted.
SIGN, CHANGEABLE COPY	A sign with a portion of the face area that accommodates the regular or occasional manual modification to the message or copy.
SIGN, DILAPIDATED	A sign that is old or that has been poorly maintained that poses a public safety hazard or is difficult to read.
SIGN, ELECTION	See "Sign, Political."
SIGN, FEATHER FLAG	A sign made of fabric or similar material in a curvilinear shape that is mounted to a pole along the long edge of the sign.
SIGN, FENCE WRAP	A temporary sign affixed to fencing surrounding an active construction site.
SIGN, FLASHING	A sign with a message that is intermittently on and off or supplemented with lights that turn on and off in rapid succession.
SIGN, FREESTANDING	See "Sign, Pole."
SIGN, GOVERNMENT	Any temporary or permanent sign erected and maintained for any government purposes.
SIGN, GROUND	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, INCIDENTAL	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, INFLATABLE	A hollow sign that is intended to expand as air is pumped inside of it. Inflatable signs are tethered to the ground or some other structure.
SIGN, MONUMENT	See "Sign, Ground."
SIGN, MOVING	A sign that moves or has moving parts, including but not limited to the sign face area, the sign support structure, or some other element of the sign. Flags and banners are not considered moving signs.
SIGN, OBSOLETE	A sign advertising a use or establishment that is no longer present.

DEFINITIONS	
SIGN, OUTDOOR ADVERTISING	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, POLE	A sign which is placed on or anchored in the ground with one or more supports that are not part of a building or other structure and with open space between the bottom of the sign face area and the grade beneath it.
SIGN, POLITICAL	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, PROJECTING	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, SINGLE POST	A sign affixed to a horizontal cross arm that is mounted to a vertical or upright pole or post.
SIGN, SIDEWALK	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, SUBDIVISION	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, SUPPLEMENTAL	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, SUSPENDED	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, TEMPORARY	See "Sign, Supplemental."
SIGN, TRAFFIC WARNING	Signage devoted to warning motorists, pedestrians, or bicyclists of a potential traffic hazard or other danger.
SIGN, WALL	See Table 5.6.J, Sign Standards by Sign Type.
SIGN, WINDOW	See Table 5.6.J, Sign Standards by Sign Type.
SILTATION	As used in Section 7.5, Soil Erosion and Sedimentation, sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.
SINGLE-FAMILY ATTACHED DWELLING	A dwelling unit that is physically attached to one or more other dwelling units, each on its own lot. Individual lots may or may not be surrounded by a larger tract that incorporates shared parking, recreation features, or access. The larger tract may or may not be owned in common by the landowners of individual lots.
SINGLE-FAMILY DETACHED DWELLING	A dwelling containing one principal dwelling unit meeting the minimum size requirements in the North Carolina Building Code that is occupied by one family and that is not physically attached to any other principal structure on an individual lot. For regulatory purposes, this term does not include manufactured dwellings, mobile homes, or recreational vehicles. An accessory dwelling unit may be within, attached to, or on the same lot as a single-family detached home.
SITE AMENITY	A utility or functional aspect of a site that is designed or configured in some way to be beneficial to pedestrians or aesthetically pleasing.
SITE FEATURES	Structures or elements (not including principal or accessory structures) required or authorized to accompany a development, such as off-street parking, landscaping, exterior lighting, or signage.
SITE PLAN (AMENDED 10.20.20 UDOTA-03-20)	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, but is not limited to, 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.

DEFINITIONS	
SLATS, FENCE	Thin strips of wood, plastic, or other material woven between the components of a chain link-style fence or gate.
SMALL WIRELESS FACILITY (AMENDED 10.20.20 UDOTA-03-20)	A wireless telecommunications facility consisting of an antenna and associated wireless telecommunications equipment installed on a utility pole, public utility pole, building, or other vertical projection not specifically intended for the accommodation of wireless telecommunications facilities (e.g., a traffic signal mast arm, a light standard, sign pole, etc.) that does not exceed the maximum size requirements for such facilities as listed in Section 160D-947 of the North Carolina General Statutes.
SMOOTH-FACED CONCRETE BLOCK	Concrete blocks that do not include adornment or any surface relief.
SOFFIT	The exterior material mounted to the underside of the roof rafters that project past the edge of an exterior building wall.
SOLAR ENERGY SYSTEM	A system consisting of solar panels, modules, and related equipment (e.g., heat exchanger, pipes, inverter, wiring, storage) that collects solar radiation and transfers it as heat to a carrier fluid for use in hot water heating or space heating and cooling, and/or that collects solar energy and converts it into electricity. As an accessory use, a solar energy system is designed to primarily meet on-site demands (but may include transfer of excess electricity to an electric utility grid) and components are typically mounted on the roof(s) of principal or accessory structures, but may be mounted on other parts of structures, or on the ground.
SOLAR FARM	A group or series of photovoltaic (or solar) panels placed to convert solar radiation into usable direct current electricity and provide that electricity to a use on-site or to the larger electrical network. Such uses may include batteries for energy storage.
SOLDIER COURSE	One or more courses of bricks or blocks that are installed within a masonry wall in a vertical instead of horizontal alignment. Soldier courses are often used to denote differing floors of a multi-story building.
SOLID WASTE MANAGEMENT FACILITY	Land, personnel and equipment used in the management of solid waste as defined in Title 15A of the North Carolina Administrative Code.
SPECIAL EVENT	Temporary activities or events conducted by civic, philanthropic, educational, or religious organizations, or activities of a business or organization that is not part of its daily activities and are open to the public. Such activities include, but are not limited to, closeout sales, grand openings, fundraising or membership drives, carnivals, fairs, circuses, and tent revivals.
SPECIAL FLOOD HAZARD AREA (SFHA) (AMENDED 3.17.20 UDOTA-02-20)	The land area anticipated to be covered by the floodwaters associated with the base flood event. As used in Section 3.20.C, Flood Hazard Overlay (FHO) District, means the land in the floodplain subject to a one percent or greater chance of being flooded in any given year. The Special 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 November 17, 2017, developed as part of the FIS, which are adopted by reference and declared a part of this Ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the City of Burlington are also adopted by reference and declared a part of this Ordinance.

DEFINITIONS	
SPECIAL USE PERMIT (AMENDED 10.20.20 UDOTA-03-20)	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 any applicable specific standards.
SPECIALTY EATING ESTABLISHMENT	Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to: ice cream parlors, dessert cafes, snack shops, juice bars, and bakeries.
SPECIFIED ANATOMICAL AREAS	Specified Anatomical Areas is defined in the North Carolina General Statutes as: Less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
SPECIFIED SEXUAL ACTIVITIES	Specified Sexual Activities is defined in the North Carolina General Statutes as including, but are not limited to, the following: 1. Human genitals in a state of sexual stimulation, arousal, or tumescence; or 2. Sex acts, normal or perverted, actual or simulated, including human masturbation, sexual intercourse, sodomy, or oral copulation; or 3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts.
SPEED BUMP S(OR HUMPS)	A ridge set into the paving of a road surface, typically at intervals, to control the speed of vehicles.
SPEED TABLES	Traffic calming devices similar to speed bumps except that the tables raise the wheelbase of the entire vehicle at once instead of when each axel passes over it.
SPIRE	A tapering, conical, or pyramidal structure on the top of a building, typically a church tower.
SPLASH PAD	An outdoor play area with sprinklers, fountains, nozzles, and other devices or structures that spray water into the air.
STABLE (FOR HORSES)	A building or structure devoted to the care and keeping of horses or other livestock.
STACKING SPACE	A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development.
START OF CONSTRUCTION	For the purposes of the FHO, 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.

DEFINITIONS	
STATEMENT OF CONSENT	A statement signed by the landowner of a single-family detached, attached, or duplex dwelling development that records the landowner's willingness to voluntarily comply with the single-family design guidelines in this Ordinance.
STOP WORK ORDER	An order issued by the City to a landowner or developer to cease and desist all land-disturbing or development activity on a site pending resolution of a problem or conflict.
STOPPING SITE DISTANCE	The minimum amount of physical space necessary for a driver operating a vehicle at the street's design speed to bring the vehicle to a complete stop before colliding with a pedestrian, stopped vehicle, animal, or debris in the roadway.
STORM DRAINAGE FACILITIES (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.5, Soil Erosion and Sedimentation, the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey storm water through and from a given drainage area.
STORM SEWER	A stormwater conveyance system that is integral to a street or sidewalk.
STORMWATER CONTROL MEASURE (SCM) (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, measures or practices used to reduce the amount of pollution entering surface waters. SCMs can be structural or nonstructural and may take the form of a process, activity, physical structure, or planning.
STORMWATER DESIGN MANUAL	See "Design Manual, Stormwater."
STORMWATER RETENTION POND	See "Retention Pond, Wet."
STORMWATER RUNOFF (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, the water from precipitation, snow or ice melt, or irrigation that flows over the land surface and is not absorbed into the ground, instead flowing into streams or other surface waters or land depressions. As used in Section 7.5, Soil Erosion and Sedimentation, the surface flow of water resulting from precipitation in any form and occurring immediately after rainfall or melting.
STREAM	As used in the riparian buffer standards, a body of concentrated flowing water in a natural low area or natural channel on the land surface.
STREAM RESTORATION	As used in the riparian buffer standards, the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. 'Referenced' or 'referenced reach' means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.
STREAMER	A long, narrow strip of material used as a decoration or symbol.
STREET (AMENDED 10.20.20 UDOTA-03-20)	A paved or unpaved vehicular accessway of more than 20 feet in width intended for the movement of vehicles and bicycles that is maintained as a street by the City, NCDOT, or is indicated as a private street on a recorded final plat.
STREET BULB OUT	A street intersection where one or more corners is rounded into a circle similar to a cul-de-sac turnaround.
STREET CENTER LINE	A line lying halfway between the two edges of a street right-of-way, or in some other location as determined by the City Engineer.

DEFINITIONS	
STREET CONNECTION	A location where one or more planned or existing streets join together.
STREET CONNECTIVITY	A measure of the overall connectedness of the streets in a street network that is largely controlled by individual block length.
STREET DESIGN SPEED	A selected speed used by an engineer to determine the various geometric features of a street. The design speed should be a logical one with respect to the topography, anticipated operating speed, the adjacent land use, and the functional classification of the roadway.
STREET FRONTAGE	A strip or extent of land abutting and extending along a street.
STREET GRADE	The magnitude of a street's incline or decline over a specified lateral distance.
STREET INTERSECTION APPROACH	The portion of a street proximate to an intersection.
STREET KNUCKLE	See "Street Bulb Out."
STREET LIGHT	Exterior illumination located within or adjacent to a street right-of-way and intended to illuminate the street and sidewalk.
STREET STUB	A nonpermanent dead end street intended to be extended in conjunction with development on adjacent lots or sites.
STREET TREE	See "Tree, Street."
STREET WIDTH	The horizontal distance between parallel right-of-way lines of a street measured at right angles to such lines.
STREET, ALLEY	A local access street used for service access to the back or side of properties otherwise abutting on a street.
STREET, ARTERIAL (PRINCIPAL OR MINOR)	A street whose principal function is to carry large volumes of traffic at higher speeds through the county or from one part of the City to another.
STREET, CITY-MAINTAINED	A street, its right-of-way, and all street-related infrastructure that is owned, operated, and maintained by the City of Burlington.
STREET, COLLECTOR (MAJOR OR MINOR)	A street whose principle function is to carry traffic between local streets and arterial streets but that may also provide direct access to abutting properties.
STREET, COMMERCIAL	Commercial streets provide access to abutting commercial property, circulate traffic in commercial areas and provide direct access to off-street parking facilities. Commercial streets have at least two traffic lanes with provisions for curb parking if desirable and feasible.
STREET, CUL-DE-SAC	A local access street having access from one end only and having a circular or other expanded surface for turning around at the closed end.
STREET, DEAD-END	A street that terminates with a street stub or vehicular turn around.
STREET, FRONTAGE	A local access street that parallels and is adjacent to expressways or arterial streets for the purposes of providing access to abutting properties and separation of traffic seeking such access from through-traffic.
STREET, HALF	A street right-of-way dedicated for a new street by a developer along the developer's perimeter property line in an amount equal to only one-half of the total right-of-way width required by this Ordinance. Dedication of a half street presumes future dedication of a corresponding amount of right-of-way from adjoining land on the other side of the right-of-way in order to provide the total right-of-way required for a proposed street.
STREET, INDUSTRIAL	Industrial streets provide access to abutting industrial development and are adequately designed to accommodate large trucks. At least two traffic lanes are provided.

DEFINITIONS	
STREET, INTERSTATE	Those streets used or to be used primarily to carry traffic and having few points of access and no intersections at grade and designated or to be designated as interstates or expressways on the Transportation Plan.
STREET, LOCAL	Streets which are used primarily for access to abutting properties.
STREET, PRIVATE	A vehicular travelway not dedicated or offered for dedication to the City or the NCDOT as a public street.
STREET, RESIDENTIAL	Residential streets provide access to abutting residential property and discourage through-traffic movements by design as short loops, curvilinear streets or cul-de-sacs. These streets have two traffic lanes and may have on-street parking.
STREET, STATE-MAINTAINED	A street, its right-of-way, and all street-related infrastructure that is owned, operated, and maintained by the North Carolina Department of Transportation.
STREETSCAPE BUFFER	Landscaping provided on individual lots abutting arterial and collector streets, but located outside the street right-of-way.
STRUCTURAL SCM (AMENDED 10.20.20 UDOTA-03-20)	As used in Section 7.4, Stormwater, a physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals.
STRUCTURAL SOIL	A planting medium that can be compacted to pavement design and installation requirements while permitting root growth.
STRUCTURE	An object, including a mobile object, constructed or installed by man, including but without limitation to buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines. For the purposes of the FHO, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
STUMP DIAMETER	As used in the riparian buffer standards, the diameter of a tree measured at six inches above the ground surface level.
SUBDIVIDER	A person, firm, or corporation having a proprietary interest in land and acting to subdivide that land under the applicable provisions of this Ordinance.

DEFINITIONS	
SUBDIVISION	As used in this ordinance means all divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets or the rearrangement of an existing lot or lots so as to front on another street or streets from that on which they originally fronted regardless of the number of lots so involved; but the following shall not be included within this definition provided, however, that any subdivision document or plat to be recorded pursuant to such exclusions shall have the notation of "No Approval Required" and the signature of the Planning Director or a designated agent before filing in the office of the Alamance or Guilford County Register of Deeds. A "Subdivision" shall not include the following: 1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the City as shown in this Ordinance; 2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved; 3. The public acquisition by purchase of strips of land for the widening or opening of streets; 4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way or easement dedication is involved and where the resultant lots equal or exceed the standards set forth in this Ordinance; 5. The trading or exchanging of portions of previously platted and recorded properties that are contiguous and that necessitate the creation of parcels not conforming to the requirements of this chapter provided that a statement is placed on the plat to be recorded to the effect that such parcels are not created as individual building lots and are not approved as such and that no building permit shall be issued for construction on such parcels; or 6. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.
SUBSIDIARY	As used in Section 7.5, Soil Erosion and Sedimentation, an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
SUBSTANTIAL DAMAGE	For the purposes of the FHO, 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. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

DEFINITIONS	
SUBSTANTIAL IMPROVEMENT	For the purposes of the FHO, means 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. 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.
SUBSTANTIAL MODIFICATION **(AMENDED 10.20.20 UDOTA-03-20)**	The collocation of antenna and related wireless telecommunications equipment on an existing telecommunications tower that necessitates replacement of the existing tower, structural additions to the existing tower that increase its height or the length of protrusions from the tower, or increases in the size of the equipment compound by an amount specified in Section 160D-931 of the North Carolina General Statutes. Collocations requiring structural modifications are reviewed and decided in accordance with the procedures for a major collocation. Collocations involving changes to an existing telecommunications tower or equipment compound beyond those identified as "substantial modifications" in Section 160D-931 in the North Carolina General Statutes are reviewed and decided in accordance with the procedures for a major telecommunications tower.
SUBSTANTIAL PROGRESS	As used in Section 7.4, Stormwater, for the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 calendar days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. "Substantial progress" for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.
SUPERIOR COURT	The Superior Court for Alamance County, North Carolina, or Guilford County, North Carolina.
SURFACE WATERS	As used in the riparian buffer standards, all waters of the state as defined in Section 143-212 of the North Carolina General Statutes, except underground waters.
SUSTAINABLE DEVELOPMENT INCENTIVE	An incentive or reward, often in the form of additional allowable residential density or building height that is offered to an applicant proposing to include sustainable development practices.
SUSTAINABLE DEVELOPMENT PRACTICE	One or more development features voluntarily provided by an applicant or developer as a means of promoting sustainable development and/or taking advantage of available sustainable development practice incentives.
SWALE	A depression in the land that collects stormwater runoff and conveys it to another location.

DEFINITIONS	
SWIMMING POOL/HOT TUB	An above- or below-ground structure that is filled with water and used for swimming or relaxing.
SYNTHETIC STUCCO	A multi-layered application of polystyrene, fiberglass mesh, and atop coat of cement.
T	
TANGENT	A straight line or plane that touches a curve or curved surface at a point, but if extended does not cross it at that point.
TATTOO AND PIERCING ESTABLISHMENT	An establishment whose principle business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: 1. Placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; or 2. Performance of body modification including puncturing or cutting a part of the human body so as to create an opening in which jewelry may be worn.
TECHNICAL REVIEW COMMITTEE	A group of City staff members and others associated with development review in the City.
TELECOMMUNICATIONS TOWER	A vertical projection, typically comprised of steel, designed to support antenna and associated wireless telecommunications equipment for the purpose of sending and receiving wireless telecommunications signals. Utility poles or other vertical projections intended for a purpose other than provision of wireless telecommunications services are not considered to be telecommunications towers.
TELECOMMUNICATIONS TOWER, CONCEALED	A telecommunications tower and associated wireless telecommunications equipment that is integrated as an architectural feature into an existing structure (such as a steeple, bell tower, clock tower, silo, etc.), or that is designed to conceal the presence of the tower, antennas, and related wireless telecommunications equipment in a manner so that the purpose of the tower is obscured.
TELECOMMUNICATIONS TOWER, MAJOR	The construction or installation of a new telecommunications tower with a height of 30 feet or more above the adjacent pre-construction grade and associated equipment, including the equipment compound, access, electrical service, and other related facilities.
TELECOMMUNICATIONS TOWER, MINOR	The construction or installation of a new telecommunications tower with a height of less than 30 feet above the adjacent pre-construction grade or that meets the definition of a concealed telecommunications tower.
TEMPORARY DWELLING	An emergency shelter or other structure established to serve as a temporary domicile while an existing principal residence is constructed, repaired, or located.
TEMPORARY REAL ESTATE OFFICE	A temporary commercial establishment, typically associated with a residential subdivision or building that serves as a base of operations for persons selling real estate or for potential buyers to inspect model dwelling units.
TEMPORARY ROAD	As used in the riparian buffer standards, a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

DEFINITIONS	
TEMPORARY USE PERMIT	A permit authorizing the operation of a temporary use or special event.
TEMPORARY WIRELESS FACILITY	A portable, self-contained wireless facility that provides wireless telecommunications services on a temporary or emergency basis. A temporary wireless facility may include a generator to provide power to the facility.
TEN-YEAR STORM	As used in Section 7.5, Soil Erosion and Sedimentation, the storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
TERRACE	A level, surfaced area or platform next to a building used as a gathering area.
TERTIARY BUILDING WALL	See "Wall, Tertiary."
TEXT AMENDMENT	An amendment to the language of this Ordinance.
THEATRE	A building, or part thereof, which contains an assembly hall with or without stage which may be equipped with curtains and permanent stage scenery or mechanical equipment adaptable to the showing of plays, operas, motion pictures, performances, spectacles, and similar forms of entertainment. Theatres that also serve meals at tables prior to or during a performance are specialty eating establishments.
THROUGH LOT	"See Lot, Through."
TILT-UP CONCRETE PANEL	A reinforced concrete panel used to form the exterior walls of a building.
TOOL/STORAGE SHED	An accessory structure with or without electricity used for the keeping of tools and equipment or general storage purposes.
TOXIC POLLUTANT	As used in Section 7.4, Stormwater, any pollutant listed as toxic under Section 307(a)(1) of the Clean Water Act.
TOXIC SUBSTANCE	Any substance or combination of substances (including disease-causing agents), that 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.
TRACT	As used in Section 7.5, Soil Erosion and Sedimentation, all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.
TRANSITIONAL SURFACES	As used in the Airport Height Overlay (AHO) District standards, transitional surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for the portions of the precision approach surfaces, which project through and beyond the limits of the conical surfaces, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.
TRANSITIONAL ZONES	As used in the Airport Height Overlay (AHO) District standards, the transitional zones are the area beneath the transitional surfaces.

DEFINITIONS	
TRANSPORTATION IMPACT ANALYSIS	A study conducted to evaluate the capacity and safety impacts on the transportation system from a proposed development and identify necessary improvements or management strategies to mitigate negative impacts. Such studies shall be performed by a licensed professional engineer in accordance with the Procedures Manual and this Ordinance.
TREE	As used in the riparian buffer standards, a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
TREE CANOPY	The layer of vegetation formed by the crowns of mature trees.
TREE CANOPY COVER	See "Tree Canopy."
TREE PIT	A depression in or adjacent to a sidewalk intended for the placement of a street tree and associated ground cover.
TREE PROTECTION AREA	The portion of a lot or site with existing trees located inside tree protection fencing.
TREE PROTECTION FENCING	Fencing or other barrier provided to protect trees to be retained from damage or encroachment during the development process.
TREE RETENTION AREA	The portion of a lot or site with existing trees to be retained during and after development.
TREE TOPPING	The removal of the central leader and primary upper branches of a tree.
TREE, CANOPY	A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.
TREE, DROUGHT TOLERANT	A species of tree that is capable of surviving in an environment with no artificial irrigation and with only limited amounts of rain.
TREE, EVERGREEN	A woody plant with one or more stems that does not lose the majority of its leaves during winter or dormancy.
TREE, HARDWOOD	A deciduous tree with broad leaves that produces fruit or a nut and goes dormant during winter months.
TREE, NATIVE	Trees that have originated from or occur naturally without being introduced in a particular area.
TREE, SHADE	A tree with a crown that provides shade to the surface area within a parking lot and associated parking spaces.
TREE, PROTECTED	A tree that is present prior to the commencement of development or land disturbance that is required or intended to remain after completion of development or land disturbing activities.
TREE, STREET	A canopy or understory tree planted or existing within or along either side of a street right-of-way. Understory trees are typically used in locations where there are overhead utilities, sidewalks, or underground utilities proximate to the tree planting area.
TREE, UNDERSTORY	A species of tree which normally grows to a mature height of 15 to 35 feet.
TRELLIS	A framework of light wooden or metal bars, chiefly used as a support for fruit trees or climbing plants.
TRIPLEX DWELLING	A single detached dwelling on one lot that contains three dwelling units. The units may be located side by side in a horizontal configuration or stacked one above the other in a vertical configuration, sharing common vertical walls or horizontal floors and ceilings.
TRUCK OR FREIGHT TERMINAL	A use where trucks, trailers, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

DEFINITIONS	
TRUCK STOP	An establishment typically engaged in fuel sales that serve commercial truck drivers. The use may provide food, maintenance services, overnight parking, showering rooms, laundry facilities, basic convenience retail items and other services related to the use.
TURRET	A cylindrical architectural feature typically located at the corner or near the primary entrance of a building.
TWENTY-FIVE-YEAR STORM	As used in Section 7.5, Soil Erosion and Sedimentation, the storm water runoff resulting from precipitation of an intensity expected to be equaled or exceeded on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.
U	
UNCOVERED	As used in Section 7.5, Soil Erosion and Sedimentation, the removal of ground cover from, on, or above the soil surface.
UNDERGROUND STORAGE TANK	A container used for the storage of gas, liquid, powder, or other substance that is all or partially below grade. Pipes, pumping equipment, and ventilation features are considered part of an underground storage tank.
UNDERSTORY TREE	See "Tree, Understory."
UNDERTAKEN	As used in Section 7.5, Soil Erosion and Sedimentation, the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
UNLICENSED VEHICLE	See "Inoperable/Unlicensed Vehicle."
UPPER STORY RESIDENTIAL	Multi-family residential dwelling units located on the second or higher floors of a building with some form of non-residential use on the first or ground floor. Dwelling units may be configured as apartments or condominiums.
URBAN FOREST	A densely wooded area located in a city.
URBAN HEAT ISLAND	A portion of an urban or metropolitan area that is significantly warmer than its surroundings due to additional paving, building mass, and lack of shade. The temperature difference usually is larger at night than during the day, and is most apparent when winds are weak.
URBAN OPEN SPACE SET-ASIDE	A private common open space area located within an urban or higher density area that is intended to facilitate gathering of people, such as an outdoor dining area, plaza, or atrium.
URGENT CARE	A walk-in clinic or medical facility focused on the delivery of ambulatory care for injuries or illnesses requiring immediate care, but not serious enough to require a hospital emergency department.

DEFINITIONS	
USABLE OPEN SPACE	A parcel or parcels of land or an area of water as a combination of both land and water and designed for the recreational use and enjoyment of residents of the proposed development, not including streets or off-street parking areas. Not more than one half of the required usable open space may be areas covered by water. Usable open space shall be substantially free of structures but may contain such improvements as are appropriate for the benefit of residents. A maximum of five percent of the area designated as usable open space may be covered by structures clearly ancillary to the recreational use of the space. Except for such structures, all usable open space shall be unobstructed except for plants, lawn furniture, swimming pools, terraces, walkways, play equipment, etc., so arranged to provide for the free movement of the people within the space. No portion of any such usable open space shall be located in any required yard area adjacent to a public street. Parking areas, vehicle drives and storage areas shall not be included in the calculation of usable open space.
USE	The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.
UTILITY POLE	For the purposes of the communications use-specific standards, a structure that is designed for and used to carry cables, wires, lighting facilities, or small wireless facilities for telephone, cable television, electricity, lighting, or wireless telecommunication services that is located outside the public right-of-way.
UTILITY POLE, PUBLIC	For the purposes of the communications use-specific standards , a utility pole owned, leased, or operated by the City that is located in the public right-of-way.
UTILITY, MAJOR	Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, natural gas citygates, and solid waste facilities.
UTILITY, MINOR	Infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, electrical substations, and surface transportation stops such as bus stops and park-and-ride facilities.
V	
VARIANCE	A grant of relief from the requirements of this Ordinance. A variance may grant relief from water-related standards (stormwater, stream/riparian buffers, water supply watershed, or special flood hazard area) or relief from other zoning or subdivision standards in this Ordinance.
VEGETATIVE COVER	The presence of vegetation (whether tree, shrubs, or ground cover) in a particular location.
VEHICULAR USE AREA	An off-street parking space or parking lot along with associated drive aisles and means on ingress or egress.

DEFINITIONS	
VELOCITY	As used in Section 7.5, Soil Erosion and Sedimentation, the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
VENDOR (AMENDED 10.20.20 UDOTA-03-20)	A person who hawks, peddles, sells, or offers products, including food or beverages for sale
VERTICAL FAÇADE MODULATION	The organization of an individual building façade into a base, middle, and cap configuration where there are discernable differences in exterior materials, building wall planes, or architectural detailing along the façade from the grade to the top of the building.
VESTED RIGHT (AMENDED 10.20.20 UDOTA-03-20)	The right to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in Section 160D-108, or under common law.
VESTED RIGHT CERTIFICATE	An authorization granted by City Council to an approved site-specific development plan that protects the development from the need to comply with some (but not all) regulatory changes that are adopted by the City during the period which the development is vested.
VETERINARY CLINIC	A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.
VIOLATION (AMENDED 3.17.20 UDOTA-02-20)	A breach, infringement, or transgression of a law or requirement in this Ordinance or a permit or other development approval. As used in Section 3.20.C, Flood Hazard Overlay (FHO) District, 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 with the City's flood hazard prevention provisions is presumed to be in violation until such time as that documentation is provided.
VISUALLY TRANSPARENT	Glass or glazing that does not obstruct the view into a structure.
W	
WALL, BUILDING	The entire surface area, including windows and doors, of an exterior wall of a building.
WALL OFFSET	A projection or recess located in or along a building wall.
WALL PACK	An exterior lighting device that is flush-mounted on a vertical wall surface.
WALL PLANE	The exterior surface of a building wall relative to the lot line it abuts.
WALL PLANE, PRIMARY	The largest portion of a building wall in terms of area on a single building façade that maintains a uniform distance from the abutting lot line.
WALL, GREEN	A building wall that is partially or completely covered with greenery that includes a growing medium, such as soil, water or a substrate and an integrated water delivery system.
WALL, PARAPET	A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.
WALL, PRIMARY	The architectural front façade of the building that faces the street from which the building is addressed.

DEFINITIONS	
WALL, SECONDARY	Exterior building walls that correspond to the side or rear of a building that that are visible from public recreation lands or streets other than the street that the building is addressed from.
WALL, TERTIARY	Building walls that are not primary or secondary building walls.
WAREHOUSE, DISTRIBUTION	An industrial use engaged in distribution of manufactured products, supplies, and equipment.
WAREHOUSE, STORAGE	A use engaged in storage of manufactured products, supplies, and equipment excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.
WASTE	As used in Section 7.5, Soil Erosion and Sedimentation, surplus materials resulting from on-site land-disturbing activities and being disposed of at other locations.
WASTE COMPOSTING	Uses where solid wastes are composted using composting technology. Accessory uses may include offices and repackaging and transshipment of by-products.
WASTE-RELATED SERVICES	The waste-related services use category includes use types 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 or processing of scrap or waste material. This use category also includes use types that receive wastes from others.
WATER DEPENDENT STRUCTURE	Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.
WATER SUPPLY WATERSHED	The entire land area contributing surface drainage to a designated water supply reservoir.
WATER SURFACE ELEVATION	The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of 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.
WATERSHED	The entire land area contributing surface drainage to a specific point.
WATERSHED 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. The critical area is defined as extending one mile from the normal pool elevation of a water supply reservoir or to the ridge line of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run of the river), or the ridge line of the watershed (whichever comes first).
WATERSHED MANAGEMENT PLAN	A plan that documents industries that are located within watershed boundaries that use, store or manufacture chemicals that could potentially pose a threat to water quality and the response procedures for handling spills and/or discharges.
WATER SUPPLY WATERSHED PROTECTION PERMIT	An approval to execute proposed development or land-disturbing activity in proximity to a water supply watershed, subject to protection measures intended to preserve surface water quality.
WATERSHED VARIANCE	The grant of relief from requirements of this Ordinance or other State requirements pertaining to water supply watershed protection provisions.

DEFINITIONS	
WEEKEND DAY	Saturday or Sunday.
WET RETENTION POND	See "Retention Pond, Wet."
WETLANDS (INCLUDING 404 WETLANDS)	Wetlands either with or without a surface or subsurface connection to a larger body of water under the permitting jurisdiction of the U.S. Army Corps of Engineers.
WHOLESALE SALES	Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials or office or retail sales uses.
WIND ENERGY CONVERSION	A power generating use that converts kinetic energy from the wind into mechanical energy through the use of a wind turbine. The mechanical energy can then be used to power on-site equipment or an electrical generator to create electricity for on-site or off-site use. Such uses may include batteries for the storage of electrical energy.
WIRELESS TELECOMMUNICATION USE CATEGORY	The wireless telecommunications use category involves use types engaged in the provision of wireless communications services, including transmission, reception, or broadcasting.
WIRELESS TELECOMMUNICATIONS EQUIPMENT	Elements necessary for the function of a wireless telecommunications facility, including, but not limited to: equipment cabinets or racks, computers, wireless signal processors, telephone interfaces, GPS equipment, power supplies, batteries, climate control devices, cabling, cable mounting devices, ice shields or bridges, grounding systems, and similar features. Wireless telecommunications equipment does not include antennas or antenna support structures.
WIRELESS TELECOMMUNICATIONS FACILITY	A facility dedicated to the broadcast and/or receiving of wireless telecommunications signals for the purpose of communication, public safety, or data transfer. Wireless telecommunications facilities consist of one or more antenna, cabling or other means to send to telecommunications signals to associated equipment, a support structure, and a dedicated power source. Wireless telecommunications facilities include the following: telecommunications towers (concealed, major, minor), collocations (major and minor), small wireless facilities, and temporary wireless facilities.
WIRELESS TELECOMMUNICATIONS SERVICES	Any services, using licensed or unlicensed wireless spectrum, including the use of telephone, data transmission, Wi-Fi, whether at a fixed location or mobile, provided to the public.
WORKING DAYS	As used in Section 7.5, Soil Erosion and Sedimentation, days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.
WRIT OF CERTIORARI	A writ of superior court to call up the records of an inferior court or a body acting in a quasi-judicial capacity.
X	
XERISCAPE	The use of plant materials and planting techniques that conserve water.
Y	

DEFINITIONS	
YARD	An open space on the same lot with a building or group of buildings which open space lies between the building or group of buildings and the nearest lot line and is occupied and unobstructed from the ground upward by buildings or structures except by permitted accessory buildings or uses.
YARD OR GARAGE SALE	A temporary sale of used goods conducted by the resident of a dwelling. Yard or garage sales may include used goods from more than one family.
YOUTH CENTER	An institutional or not-for-profit establishment that provides recreational and various leisure activities to persons under 18 years of age.
Z	
ZONING MAP	See "Official Zoning Map."
ZONING MAP AMENDMENT	See "Rezoning."

CHAPTER 9. NONCONFORMITIES

9.1. Nonconformities, Generally **9-2**
A. Purpose and Intent 9-2
B. Determination of Nonconformity Status 9-2
C. Continuation, Minor Repairs, and Maintenance Allowed 9-2
D. Change of Tenancy or Ownership 9-2

9.2. Nonconforming Uses **9-3**
A. Declared Incompatible 9-3
B. Increasing Elevation 9-3
C. Extension or Expansion 9-3
D. Conversion to Another Nonconforming Use 9-3
E. Restoration Following Casualty Damage 9-3
F. Cessation 9-4

9.3. Nonconforming Structures **9-5**
A. Applicability 9-5
B. Continuation and Replacement 9-5
C. Alteration and Expansion 9-5
D. Cessation 9-5

9.4. Nonconforming Lots of Record **9-6**
A. Applicability 9-6
B. Nonconforming Lot Width or Area 9-6
C. Nonconformity Affects Required Setbacks 9-6
D. Expansion or Enlargement 9-6
E. Governmental Acquisition of Land 9-6

9.5. Nonconforming Signs **9-7**
A. General 9-7
B. Prohibited Actions 9-7
C. Maintenance of Nonconforming Signage Allowed 9-7
D. Replacement of Nonconforming Signage 9-7
E. Discontinuance of Business Activity 9-7

9.6. Nonconforming Site Features **9-9**
A. Applicability 9-9
B. Determination of Cost and Assessed Value 9-9
C. Expansion of Buildings or Structures 9-9
D. Physically Constrained Properties - Comply to Maximum Extent Practicable 9-10

9.1. NONCONFORMITIES, GENERALLY

A. PURPOSE AND INTENT

There are existing structures, uses of land, and lots of record that were lawfully established before the effective date of this Ordinance or a subsequent amendment thereto, that now do not conform to standards and requirements of this Ordinance. Such uses, structures, and lots are collectively referred to as "nonconformities." The purpose and intent of this Chapter is to allow nonconformities to continue to exist, but to regulate and limit their continued existence and expansion so as to bring them into conformity with these standards to the extent that is reasonably practicable.

B. DETERMINATION OF NONCONFORMITY STATUS

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the landowner of the land on which the alleged nonconformity is located.

C. CONTINUATION, MINOR REPAIRS, AND MAINTENANCE ALLOWED

1. Continuation

Nonconformities are allowed to continue in accordance with the requirements of this Chapter.

2. Completion

Nonconforming projects incomplete as of November 1, 2019, shall only be completed in accordance with this Chapter and Section 1.10, Transitional Provisions. Nothing in these standards shall require a change in approved plans or approved uses for development upon which construction was lawfully commenced prior to November 1, 2019. For the purposes of this section, commencement of construction shall mean excavation or demolition, permanent placement of construction materials on site, or the permanent fastening of building materials.

3. Maintenance Allowed

Nonconformities are allowed and encouraged to receive minor repairs and routine maintenance that are necessary to maintain the nonconformity and its surroundings in a safe condition and to protect against health hazards.

4. Strengthening Allowed

Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by a duly authorized City official.

D. CHANGE OF TENANCY OR OWNERSHIP

No change in tenancy or ownership of land shall limit the continuance of a lawfully established nonconformity.

9.2. NONCONFORMING USES

The lawful nonconforming use of a structure, land, or water existing as of November 1, 2019, may only be continued in accordance with the following standards:

A. DECLARED INCOMPATIBLE

All nonconforming uses are hereby declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance.

B. INCREASING ELEVATION

Nothing in this section shall limit the increase in elevation of an existing or damaged building or structure in the FHO to a height above the regulatory flood elevation.

C. EXTENSION OR EXPANSION

A nonconforming use shall not be extended or expanded to occupy more space or altered in any way that increases the degree of nonconformity, except in accordance with the following standards:

1. Single-Family Detached Dwellings

Except for manufactured or mobile homes, a nonconforming residential use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

2. Manufactured or Mobile Homes

(AMENDED 1.4.22 UDOTA-1-22)

a. An existing nonconforming manufactured or mobile home may be replaced with another nonconforming manufactured or mobile home provided the replacement mobile or manufactured home:

- **i.** Is 12 feet wide or wider;
- **ii.** Is in place within 365 days of the removal of the prior nonconforming mobile or manufactured home;
- **iii.** Is connected to the public sewer system, or has all the necessary permits from the county health department pertaining to wastewater treatment; and
- **iv.** Is surrounded by underpinning comprised of an all-weather base material.

b. Nothing shall require the owner of a mobile home park or manufactured dwelling park to surrender the ability to maintain a lawfully established leasehold or home/dwelling site even after a nonconforming mobile or manufactured home is removed.

c. A mobile home park or manufactured dwelling park may reconfigure individual sites within the park as long as each home or dwelling continues to meet applicable dimensional requirements. Home or dwelling sites may be consolidated or separated from one another provided that the total number of home or dwelling sites shall not be increased beyond the maximum permitted by the approval establishing the park.

d. A nonconforming mobile home park or manufactured dwelling park shall not be re-established after removal of all mobile homes or manufactured dwellings has taken place.

3. All Other Uses

A nonconforming use may not be extended, expanded, enlarged, or altered in any way that increases the degree of nonconformity.

4. Renovation

a. Except for manufactured or mobile homes, a nonconforming use may be renovated provided the renovation does not extend, expand, or enlarge the nonconformity or create a new nonconforming use.

b. Nonconforming manufactured or mobile homes may be renovated in accordance with Section 9.2.C.2, Manufactured or Mobile Homes.

D. CONVERSION TO ANOTHER NONCONFORMING USE

No nonconforming use shall be converted to another nonconforming use.

E. RESTORATION FOLLOWING CASUALTY DAMAGE

1. Significant Damage

a. Except for manufactured or mobile homes, a nonconforming use that is damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current

assessed value or square footage may not be restored or reconstructed, except as a conforming use.

b. Nonconforming manufactured or mobile homes damaged by fire, explosion, flood, or other calamity in an amount equal to 51 percent or more of the use's current assessed value or square footage may be restored or reconstructed only in accordance with the standards in Section 9.2.C.2, Manufactured or Mobile Homes.

2. Insignificant Damage

If a nonconforming use is damaged by fire, explosion, flood, or other calamity to an extent less than 51 percent of its current assessed value or square footage, it may be restored to its pre-damage condition, provided the degree of nonconformity is not extended, expanded, enlarged, or the use is altered in any way that increases the degree of nonconformity.

F. CESSATION

1. In the event a nonconforming use is discontinued or abandoned for a period of more than 180 consecutive days, the nonconforming use may only be replaced by a use permitted in the district where located.

2. Any time a nonconforming use is converted to a conforming use, the conforming use shall not revert to the former nonconforming use or any other nonconforming use.

9.3. NONCONFORMING STRUCTURES

A. APPLICABILITY

Nonconforming principal and accessory structures shall be subject to the standards in this section.

B. CONTINUATION AND REPLACEMENT

1. Continuation

A nonconforming structure may be continued in accordance with Section 9.1.C, Continuation, Minor Repairs, and Maintenance Allowed.

2. Replacement

a. Nonconforming manufactured or mobile homes may be replaced in accordance with the standards in Section 9.2.C.2, Manufactured or Mobile Homes.

b. Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

3. Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on the parcel of land on which it is located, unless the relocation removes the nonconformity.

C. ALTERATION AND EXPANSION

No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity. Nothing shall limit the elevation of a residential structure as necessary to ensure habitable floor area is outside the regulatory flood elevation.

D. CESSATION

(AMENDED 12.3.19 UDOTA-01-20)

If a nonconforming structure is damaged or destroyed by any means to an extent of 51 percent or more of its replacement cost or size, it may only be reconstructed in accordance with the requirements of this Ordinance.

9.4. NONCONFORMING LOTS OF RECORD

A. APPLICABILITY

Lawfully established nonconforming lots of record may be developed in accordance with the standards in this section.

B. NONCONFORMING LOT WIDTH OR AREA

1. Lots with Contiguous Frontage in One Ownership

When two or more adjoining lots with contiguous frontage are under common ownership and one or more of the lots are nonconforming in terms of width or area, such lots shall be combined prior to filing a development application to create one or more lots, each of which conforms to the applicable dimensional requirements of the district prior to the commencement of development.

2. Single Lot of Record in a Residential District

(AMENDED 1.4.22 UDOTA-1-22)

a. When a lot in a residential zoning district has an area or width which does not conform to the dimensional requirements of the district where it is located, but was lawfully established on or before November 1, 2019, then a single-family detached dwelling may be built on the lot, subject to compliance with applicable setback standards.

b. A manufactured home may be established on a lawfully established nonconforming lot in the RMH district that is created on or before November 1, 2019 provided the manufactured home complies with the applicable setback standards for the RMH district.

3. Single Lot of Record in a Non-residential District

(AMENDED 3.4.21 UDOTA-01-21)

When a lot in a non-residential district has an area or width which does not conform to the dimensional requirements of the district where it is located, but was lawfully established on or before November 1, 2019, then development on the lot may be permitted, subject to compliance with all other required dimensional, development, and design standards.

C. NONCONFORMITY AFFECTS REQUIRED SETBACKS

In cases where the size or shape of a nonconforming lot inhibits the ability of a use to comply with required setbacks, an applicant may apply to reduce the setback requirements the minimum amount necessary in accordance with the standards and requirements in Section 2.4.B, Administrative Adjustment.

D. EXPANSION OR ENLARGEMENT

The boundaries, shape, or size of a nonconforming lot may be modified through a lot line adjustment, boundary adjustment, recombination, or consolidation, provided it reduces the extent of the nonconformity.

E. GOVERNMENTAL ACQUISITION OF LAND

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area, width, or depth standards of the district shall be deemed conforming provided the development complies with the following:

1. Complies with Use Table

The development proposed complies with the requirements in Table 4.2.C, Principal Use Table; and

2. Complies with Dimensional Standards

With the exception of the lot area requirements for the district where located, the development proposed shall comply with all other dimensional standards and other requirements of the district where located.

9.5. NONCONFORMING SIGNS

A. GENERAL

A sign that was legally in existence on November 1, 2019, and was constructed in accordance with the applicable laws and ordinances in effect on the date of construction, but by reason of its size, height, location, design, or construction is no longer in compliance with the requirements of this Ordinance, shall be deemed a nonconforming sign subject to the standards in this section.

B. PROHIBITED ACTIONS

The following actions associated with a nonconforming sign shall be prohibited:

1. Enlargement or Alteration

Structural alteration, enlargement, or extension of a nonconforming sign or sign structure shall not be permitted, however, nothing shall limit the ability to modernize an outdoor advertising use in accordance with Section 136.131.2 of the North Carolina General Statutes; and

2. Relocation

Relocation of a nonconforming sign upon the premises, unless the relocation meets the requirements of this Ordinance, however, nothing shall limit the ability to modernize an outdoor advertising use in accordance with Section 136.131.2 of the North Carolina General Statutes.

C. MAINTENANCE OF NONCONFORMING SIGNAGE ALLOWED

A nonconforming sign may remain in place and be maintained, subject to the following standards:

1. Maintenance Actions

Normal maintenance of a nonconforming sign shall be allowed, and shall be limited to the following:

a. Nonstructural repairs, such as repainting or electrical repairs;
b. Incidental alterations which do not increase the degree or extent of the nonconformity; and
c. Changing of copy, as provided in this section.

2. Change of Sign Copy

(AMENDED 10.20.20 UDOTA-03-20)

Nonconforming signs may change copy in the form of replacement panels or replacement lettering, provided such change does not impact or reduces the degree of nonconformity.

D. REPLACEMENT OF NONCONFORMING SIGNAGE

1. Removal

Any nonconforming sign that is removed for any reason shall only be replaced with a sign that complies with the provisions of this Ordinance.

2. Relocation

(AMENDED 1.4.22 UDOTA-1-22)

A nonconforming sign may be relocated on the same lot or within the same development provided such relocation complies with the applicable requirements of this Ordinance and provided the amount of nonconformity is not increased.

3. Damage

(AMENDED 10.20.20 UDOTA-03-20)

a. If damage to a nonconforming sign from any cause is less than 50 percent of its replacement value, the sign may be rebuilt or repaired to its original condition in its original location and may continue to be displayed as long as the use it serves remains in operation.
b. If damage from any cause to a nonconforming sign equals or exceeds 50 percent of its replacement value, the nonconforming sign, including sign supports and mounting hardware, may only be replaced with a sign that complies with the provisions of this Ordinance.

4. Lots with Pole Signs

(AMENDED 10.20.20 UDOTA-03-20)

In cases where development that includes a nonconforming pole sign seeks to establish a new ground sign or an electronic message board, the nonconforming pole sign must be removed from the site prior to the establishment of ground signage or electronic message board.

E. DISCONTINUANCE OF BUSINESS ACTIVITY

1. Discontinued for Less than 180 Days

If the business activity on the premises where a nonconforming sign is located is discontinued for a continuous period of less than 180 days, then the nonconforming sign may remain.

2. Discontinued for 180 Days or More

(AMENDED 10.20.20 UDOTA-03-20)

a. If the business activity on the premises where a nonconforming sign is located is discontinued for a continuous period of 180 days or more, then the nonconforming sign must be removed within 30 days of notice by the Planning Director.

b. In cases where the sign is nonconforming due to its height, face area, or location, then the sign, including the sign supports, shall be modified or removed as necessary in order to conform with the applicable requirements of this Ordinance.

c. No nonconforming portion of a sign or portion of a sign that would result in replacement sign face area that is nonconforming shall be retained following discontinuance.

9.6. NONCONFORMING SITE FEATURES

A. APPLICABILITY

(AMENDED 10.20.20 UDOTA-03-20)

1. For purposes of this section, the term "nonconforming site features" includes the following:
   a. Nonconforming off-street parking;
   b. Nonconforming landscaping;
   c. Nonconforming screening;
   d. Nonconforming open space set-aside;
   e. Nonconforming walls or fences; and
   f. Nonconforming exterior lighting.
2. If an application is filed for a building permit (including mechanical, electrical, HVAC, or other typical permit) for the expansion of a structure and the development site contains one or more nonconforming site features, and the value of the proposed improvements totals at least 25 percent of the assessed value of the existing structure, the applicant shall be required to address the nonconforming site feature as provided in this section.
3. City staff may develop administrative guidelines to assist in the implementation of this section, including guidelines for the resolution of conflicts when it may not be possible for one or more types of nonconforming site features to be brought into compliance with the requirements of this Ordinance because of particular site constraints or impacts on adjacent sites.

B. DETERMINATION OF COST AND ASSESSED VALUE

1. For purposes of determining if upgrading of nonconforming site features is required by this sub-section, the cost of the expansion shall be as shown on the approved building permit application.
2. Assessed value shall be based on the most recently available tax records from the county where the development is located.

C. EXPANSION OF BUILDINGS OR STRUCTURES

(AMENDED 10.20.20 UDOTA-03-20); (AMENDED 1.4.22 UDOTA-1-22)

If a building permit is required for expansion of the building or structure, the expansion shall require correction of existing on-site nonconforming off-street parking, landscaping, screening, open space set-aside, wall or fencing, and exterior lighting in accordance with this section.

1. **25 Percent or Less of Structure Value**
   Expansions in any continuous one-year period that costs 25 percent or less of the current assessed value of the structure shall not require any correction to nonconforming site features.
2. **More Than 25 Percent but Less Than 75 Percent of Structure Value**
   Expansions in any continuous one-year period that costs more than 25 percent but less than 75 percent of the current assessed value of the structure shall require that a corresponding percentage of the off-street parking, landscaping, screening, open space set-aside, wall or fencing, and exterior lighting standards of this Ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance.
   Example: A hypothetical building is required to provide at least 40 off-street parking spaces, but the building site only includes 20 spaces. If the building is remodeled such that the cost of remodeling equals 30 percent of the building's assessed value, the remodeling project must add 12 parking spaces (30% x 40 required spaces). This increases the development's degree of compliance with off-street parking standards from 50 percent (20 of 40 required spaces) to 80 percent (32 of 40 required spaces).
3. **75 Percent or More of Structure Value**
   Expansion projects that cost 75 percent or more of the current assessed value of the structure shall require 100 percent compliance with the off-street parking, landscaping, screening, open space set-aside, wall or fencing, and exterior lighting standards of this Ordinance.
4. **Two or Fewer Additional Parking Spaces**
   When two or fewer additional off-street parking spaces are required under this subsection as a result of an expansion project, such additional off-street parking is not required to be installed, but the applicant may install a comparable number of bicycle parking spaces.
5. **Addition of Outdoor Storage Area Only**

When only outdoor operations/storage/display areas are being added or increased on a site, the percentage increase in outdoor operations area shall require a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives in Section 5.3, Landscaping, and Section 5.4, Screening, with priority given to screening the impacts of outdoor operations.

D. PHYSICALLY CONSTRAINED PROPERTIES - COMPLY TO MAXIMUM EXTENT PRACTICABLE

Lands that are physically constrained due to limited size, topography, or other environmental considerations may seek a reduction to these standards in accordance with Section 2.4.B, Administrative Adjustment, or Section 2.4.BB, Zoning/Subdivision Variance.

CHAPTER 10. AUTHORITIES

10.1. Overview **10-2**

10.2. City Council **10-2**
A. Application Review and Decision 10-2
B. Other Powers and Duties 10-2
C. Conflict of Interest 10-2
D. Rules of Procedure 10-2

10.3. Planning and Zoning Commission (P&Z) **10-2**
A. Powers and Duties 10-2
B. Composition 10-3
C. Rules of Procedure 10-4

10.4. Board of Adjustment (BOA) **10-5**
A. Powers and Duties 10-5
B. Composition 10-5
C. Rules of Procedure 10-6

10.5. Historic Preservation Commission (HPC) **10-8**
A. Powers and Duties 10-8
B. Composition 10-9
C. Rules of Procedure 10-9

10.6. Technical Review Committee (TRC) **10-11**
A. Powers and Duties 10-11
B. Composition 10-11
C. Meetings 10-11

10.7. City Staff **10-12**
A. Planning Director 10-12
B. City Engineer 10-12
C. Stormwater Administrator 10-14
D. Transportation Director 10-14

10.1. OVERVIEW

As identified in CHAPTER 2. PROCEDURES, the following review authorities have powers and responsibilities for administering this Ordinance, especially with regard to procedures related to development applications:

1. City Council;
2. Planning and Zoning Commission (P&Z);
3. Board of Adjustment (BOA);
4. Historic Preservation Commission (HPC);
5. Technical Review Committee (TRC);
6. Planning Director;
7. City Engineer;
8. Stormwater Administrator;
9. Floodplain Administrator; and
10. Transportation Director.

10.2. CITY COUNCIL

In order to exercise the authority granted to the City Council by State law, the City Council shall have the following powers and duties under this Ordinance.

A. APPLICATION REVIEW AND DECISION

To initiate, review, and decide applications for:

1. Comprehensive Plan Amendments;
2. Development Agreements;
3. Planned Developments;
4. Rezonings (Conventional and Conditional);
5. Text Amendments; and
6. Vested Rights Certificates.

B. OTHER POWERS AND DUTIES

The City Council shall have the following other powers and duties:

1. To approve, by resolution, a schedule of fees governing:
   a. Applications for permits and other development approval reviews under this ordinance; and
   b. Civil penalties for violations of this Ordinance.
2. To take any other action not delegated to other review authorities, as the City Council may deem desirable and necessary to implement the provisions of this Ordinance.

C. CONFLICT OF INTEREST

(AMENDED 10.20.20 UDOTA-03-20)

1. For legislative matters, a member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with Section 2.3.I.2.b, Voting.
2. For quasi-judicial matters, a member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with Section 2.3.I.3.e, Voting.
3. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall, by majority vote, rule on the objection.

D. RULES OF PROCEDURE

(AMENDED 10.20.20 UDOTA-03-20)

The City Council shall abide by the rules of procedure set out in the City Code of Ordinances.

10.3. PLANNING AND ZONING COMMISSION (P&Z)

The Planning and Zoning Commission is hereby established in accordance with Section 160D-301 of the North Carolina General Statutes. The following sections set out the Planning and Zoning Commission's powers and duties, composition, and rules of procedure.

A. POWERS AND DUTIES

1. **Application Review**
   To make recommendations to the City Council on the following applications:
   a. Comprehensive Plan Amendments;

b. Development Agreements;
c. Planned Developments;
d. Rezonings (Conventional and Conditional); and
e. Text Amendments.

2. Other Powers and Duties

The P&Z shall have the following other powers and duties:

a. To make studies of the City's jurisdiction and surrounding areas;
b. To determine objectives to be sought in the development of the City;
c. To prepare and adopt plans for achieving these objectives;
d. To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans that the City Council may direct;
e. To advise the City Council concerning the use and amendment of means for carrying out plans;
f. To exercise any functions in the administration and enforcement of various means for carrying out plans that the City Council may direct;
g. To perform any other related duties that the City Council may direct;
h. To conduct such public meetings as may be required to gather information necessary for the drafting, establishment, and maintenance of adopted or proposed plans and before recommending any such plans to the City Council; and
i. To promote public interest in and an understanding of its recommendations, and to that end, publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

B. COMPOSITION

1. Membership

The Planning and Zoning Commission shall consist of seven regular members and four alternate members.

2. Residence Location and Appointment of Regular Members

a. Five members shall reside within the City limits and shall be appointed by the City Council;
b. Two members shall reside outside the City limits but within the extraterritorial jurisdictional boundaries of the City and shall be appointed by the Board of County Commissioners of Alamance County.

3. Regular Member Terms

a. The initial term of the members shall be staggered with three members to serve a one-year term; two members to serve a two-year term and two members to serve a three-year term.
b. Upon the expiration of the terms of these members, their successors shall serve three year terms.

4. Alternate Members

In addition to the seven regular members, the Planning and Zoning Commission shall also consist of four alternate members, appointed in accordance with the following:

a. Two members shall be citizens and residents of the City of Burlington and shall be appointed by the City Council.
b. Two members shall be citizens of Alamance County and reside outside the City but within the extraterritorial jurisdiction and shall be appointed by the Board of Commissioners of Alamance County.
c. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members.
d. Each alternate member, while attending any regular or special meeting of the Planning and Zoning Commission and serving in the absence of any regular member, shall exercise all the powers and duties of a regular member.
e. City alternate members shall only replace regular City members and extraterritorial alternate members shall only replace regular extraterritorial members.

5. Representation

a. The two regular members and two alternate members appointed to the Planning and Zoning Commission by the Board of County Commissioners of Alamance County as representatives of the extraterritorial jurisdiction shall have equal rights, privileges, and duties with the other members

of the Planning and Zoning Commission regardless of whether the matters at issue arise within the City or within the extraterritorial jurisdiction.

C. RULES OF PROCEDURE

(AMENDED 10.20.20 UDOTA-03-20)

1. Generally

a. Administrative provisions including but not limited to appointment, terms, expiration, removal, vacancies, concurrent service, compensation, officers, rules and quorum, place and time of meetings, special meetings, records and reports and fiscal restraint contained in Article V, Division 1 of the City of Burlington Code of Ordinances, shall apply to the Planning and Zoning Commission.

b. The Planning and Zoning Commission's rules of procedure shall be posted on the City's webpage.

c. The Planning and Zoning Commission's rules of procedure shall be maintained by the Planning Director.

2. Schedule

a. The Planning and Zoning Commission shall establish a regular meeting time and place.

b. The Planning and Zoning Commission may elect to change and/or delete meeting dates, times and/or locations of its regular meetings.

3. Open Meetings

All meetings shall be open to the public.

4. Oath of Office

(AMENDED 10.20.20 UDOTA-03-20)

Each Planning and Zoning Commission member shall be administered the oath of office prior to commencing their duties in accordance with Article 6, Section 7 of the North Carolina Constitution by a person authorized to administer the oath. The City Clerk shall maintain a record of the oath's administration.

5. Official Record

a. The Planning and Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon every action or, if absent or failing to vote, indicate such fact.

b. The Planning and Zoning Commission shall keep records of its examinations and other official actions.

c. Unless otherwise provided by law, all records and minutes shall be public record.

6. Quorum

a. No official business of the Planning and Zoning Commission may be conducted without a quorum present.

b. For any and all matters there shall be present a quorum of at least four members.

7. Voting

a. An affirmative vote of the majority of Planning and Zoning Commission members constituting a quorum is required for all decisions.

b. The Chair shall vote as any other member.

8. Attendance

a. Members shall inform the Planning Director of any anticipated absence immediately after receipt of the agenda.

b. Faithful attendance at meetings of the Planning and Zoning Commission shall be a prerequisite to continued membership, and the appointing authority may remove and replace any member continually delinquent to their duty to attend.

9. Conflict of Interest

(AMENDED 10.20.20 UDOTA-03-20)

a. For legislative matters, a member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with Section 2.3.I.2.b, Voting.

b. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall by majority vote rule on the objection.

10.4. BOARD OF ADJUSTMENT (BOA)

The Board of Adjustment is hereby established in accordance with Section 160D-302 of the North Carolina General Statutes. The following sections set out the Board of Adjustment's powers and duties, composition, and rules of procedure.

A. POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties:

1. Application Review and Decision

To review and decide applications for:

- **a.** Appeals of decisions by City staff members deciding applications under this Ordinance;
- **b.** Appeals of decisions of the Historic Preservation Commission on Certificates of Appropriateness;
- **c.** Special Use Permits;
- **d.** Water-related Variances; and
- **e.** Zoning/Subdivision Variances.

2. Other Powers and Duties

To exercise other powers and authority provided to it by the City Council, this Ordinance, or State law.

B. COMPOSITION

1. Membership

The Board of Adjustment shall consist of five regular members.

2. Residence Location and Appointment

- **a.** Four members shall be citizens and residents of the City and shall be appointed by the City Council.
- **b.** One member shall be a citizen of Alamance County and reside outside the City but within the extraterritorial jurisdiction boundaries of the City and shall be appointed by the Board of Commissioners of Alamance County.
- **c.** The initial term of the members shall be staggered with one member to serve a one-year term; two members to serve two-year terms, and two members to serve three-year terms.
- **d.** Upon the expiration of the terms of these members, their successors shall serve three year terms.

3. Alternate Members

In addition to regular members, the Board of Adjustment shall have four alternate members.

- **a.** Two members shall be citizens and residents of the City and shall be appointed by the City Council.
- **b.** Two members shall be citizens of Alamance County and reside outside the City but within the extraterritorial jurisdiction boundaries of the City and shall be appointed by the Board of Commissioners of Alamance County.
- **c.** Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members.
- **d.** Each alternate member, while attending any regular or special meeting of the BOA and serving in the absence of any regular member, shall exercise all the powers and duties of a regular member. City alternate members shall only replace regular City members and extraterritorial alternate members shall only replace regular extraterritorial members.

4. Member Terms

- **a.** Members of the Board of Adjustment shall not succeed themselves after serving three full terms of three years each without an intervening period of one year. Each member's term shall commence on July 1st of the year of appointment and shall expire on June 30th of the last year of said member's term.
- **b.** In the event a new board member is appointed to serve a partial term, the partial term shall not be considered as having served a full term for the purposes of the limitation of succession.
- **c.** If a sufficient number of qualified applicants is not available to fill the vacant seats, the City Council or Alamance County Board of Commissioners may then extend the term of a current member at its discretion for a term of one year that may be extended for an additional term of one year or until an applicant is appointed to fill the vacant seat as may be determined by the City or County.
- **d.** An individual shall be eligible to serve on only one City board or commission at any one time. Concurrent membership on more than one City board or commission is prohibited.

5. Vacancies

Vacancies occurring for reasons other than expired terms shall be filled as they occur for the unexpired remainder of the term either by the City Council or the County Commissioners of Alamance County, depending upon the area represented.

6. Officers

The Board of Adjustment shall elect a Chair and Vice-Chair and create and fill such other offices as it may determine. The term of the Chair and other officers shall be one year, with eligibility for re-election.

C. RULES OF PROCEDURE

1. Generally

(AMENDED 10.20.20 UDOTA-03-20)

a. The Board of Adjustment shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings and recommendations, which record shall be a public record.

b. The Board of Adjustment's rules of procedure shall be posted on the City's webpage.

c. The Board of Adjustment's rules of procedure shall be maintained by the Planning Director.

2. Compensation

Members of the Board of Adjustment shall receive no compensation for their services.

3. Schedule

a. The Board of Adjustment shall establish a regular meeting time and place.

b. Unless there is no business to be conducted, the Board of Adjustment shall hold at least one meeting monthly.

c. The Board of Adjustment may elect to change and/or delete meeting dates, times and/or locations of its regular meetings.

4. Open Meetings

All meetings and hearings shall be open to the public.

5. Official Record

a. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question and the absence or failure of any member to vote.

b. Unless otherwise provided by law, all records and minutes shall be public record.

6. Quorum

(AMENDED 10.20.20 UDOTA-03-20)

No official business of the Board of Adjustment may be conducted without a quorum present.

a. For taking action on an appeal or a special use permit, there shall be present a quorum of at least three members from the entire Board of Adjustment.

b. For taking action on a variance, there shall be present a quorum of at least four members from the entire Board of Adjustment.

7. Voting

a. The concurring vote of four-fifths of the Board of Adjustment members shall be necessary to grant a variance.

b. A simple majority of the Board of Adjustment members shall be required to decide any other matter.

c. Members who are recused from voting due to a conflict of interest shall not be counted towards a simple or super majority.

d. The members appointed to the Board of Adjustment by the Board of Alamance County Commissioners as representatives of the extraterritorial area outside the City shall have equal rights, privileges and duties with the other members of the BOA regardless of whether the matters at issue arise within the City or within the extraterritorial area.

8. Attendance

Faithful attendance at meetings of the BOA is considered a prerequisite to continued membership, and the appointing authority may remove and replace any member continually delinquent in his duty to attend.

9. Conflict of Interest

(AMENDED 10.20.20 UDOTA-03-20)

a. A member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with Section 2.3.I.3.e, Voting.

b. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

10.5. HISTORIC PRESERVATION COMMISSION (HPC)

The Historic Preservation Commission is hereby established in accordance with Section 160D-303 of the North Carolina General Statutes. The following sections set out the Historic Preservation Commission's powers and duties, composition, and rules of procedure.

A. POWERS AND DUTIES

The Historic Preservation Commission shall have the following powers and duties:

1. Application Review and Decision

To review and decide applications for certificates of appropriateness.

2. Other Powers and Duties

a. Undertake an inventory of properties of historical, architectural, archaeological, and/or cultural significance and forward this inventory to State of North Carolina Division of Archives and History.

b. Recommend to the Planning and Zoning Commission districts or areas to be designated in the ordinance as historic districts or landmarks.

c. Recommend to the Planning and Zoning Commission that designation of any district or area as a historic district or part thereof be revoked or removed for just cause.

d. Recommend to the City Council individual structures, buildings, sites, areas, or objects to be designated by ordinance as historic properties or landmarks.

e. Recommend to City Council that designation of any building, structure, site, area, or object as a historic property or landmark be revoked or removed.

f. Acquire by any lawful means the fee or any lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as historic, to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.

g. Restore, preserve, and operate historic properties.

h. Conduct an educational program with respect to historic properties and districts within its jurisdiction.

i. Publish information about, or otherwise inform the owners of property within the district or of designated historic properties, of any matters pertinent to its duties, organization, procedures, responsibilities, functions, or requirements.

j. Cooperate with the State, federal and local governments in pursuance of the purposes of this Ordinance. The Historic Preservation Commission, when authorized by the City Council, may contract with the State or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law, for services or funds.

k. Recommend to the City Council and the State of North Carolina structures, sites, objects, or districts worthy of national, state, or local recognition.

l. Communicate with other boards or commissions or agencies of the City or other governmental units to offer or request assistance, aid, guidance, or advice concerning matters under its purview or of mutual interest.

m. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof.

n. Prepare and recommend the official adoption of a preservation element as part of the City's comprehensive plan.

o. Act as, establish, or designate a group, body or committee to give advice to property owners concerning the treatment of the historical and visual characteristics of their properties, such as fenestration, architectural, and landscape features.

p. Establish guidelines under which the City staff may approve applications for certificate of appropriateness for minor modifications of historic properties or building structures or sites in a historic district on behalf of the Commission, provided no application shall be denied by the staff without first being considered by the Commission.

q. Undertake programs of information, research, or analysis relating to any matters under its purview.

r. Report violations of this Ordinance, or related ordinances.

s. Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation when such an action is reasonably necessary or appropriate.

t. Take steps during the period of postponement of demolition of any historic property to ascertain what the City Council can or may do to preserve such properties, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of potential acquisition by the City when the preservation of a given historic property is clearly in the interest of the general welfare of the community and such property is of certain historic, architectural, and archaeological significance.

u. Assist City staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis.

v. Propose to the City Council changes to this or any other ordinance and propose new ordinances or laws relating to historic properties and historic districts or relating to a total program for the protection and/or development of the historic resources of the City and its environs.

w. Exercise such other powers and perform such other duties as are required elsewhere by this ordinance, the General Statutes of North Carolina or by the City.

x. Accept funds granted to the HPC for preservation purposes from private individuals and organizations.

B. COMPOSITION

1. Membership

(AMENDED 1.4.22 UDOTA-1-22)

The Historic Preservation Commission shall consist of seven members.

2. Compensation

Members of the Historic Preservation Commission shall receive no compensation for their services.

3. Appointment

a. The members of the Commission shall be appointed by the City Council.

b. All members of the Historic Preservation Commission shall reside within the territorial jurisdiction of the City.

c. In addition, a majority of the members of the Historic Preservation Commission shall have demonstrated special interest, experience or education, in history, architecture, archaeology or related fields.

4. Member Terms

a. The terms of the commissioners shall be three years.

b. Commissioners may be reappointed for additional terms at the discretion of the City Council.

5. Officers

a. The Historic Preservation Commission shall elect from among its members a Chair and a Vice-Chair who shall be elected annually by the Historic Preservation Commission.

b. A staff member of the Planning Department may be appointed to serve as a secretary or an administrative advisor for the Historic Preservation Commission.

c. The Historic Preservation Commission may appoint advisory bodies and committees as appropriate.

C. RULES OF PROCEDURE

1. Generally

(AMENDED 10.20.20 UDOTA-03-20)

a. The Historic Preservation Commission shall adopt rules of procedure for the conduct of its business, which shall be available for public inspection.

b. The Historic Preservation Commission's rules of procedure shall be posted on the City's webpage.

c. The Historic Preservation Commission's rules of procedure shall be maintained by the Planning Director.

2. Schedule

Regular meetings of the Historic Preservation Commission shall be held once a month unless there is not sufficient business to warrant a meeting; not more than four months shall elapse without a regular or special meeting of the Historic Preservation Commission.

3. Open Meetings

All regular and special meetings of the historic district commission shall be open to the public and shall conform to the North Carolina Open Meetings Law, Chapter 143, Article 33B of the North Carolina General Statutes.

4. Official Record

a. The Historic Preservation Commission shall keep permanent minutes of all its meetings
b. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and actions.
c. The minutes of the Historic Preservation Commission shall be a public record.

5. Quorum

A majority of the members of the Historic Preservation Commission shall constitute a quorum.

6. Voting

The concurrence of at least a majority of those members present will be required before any recommendation or action is made on any matter considered by the commission.

7. Attendance

a. Any member of the Historic Preservation Commission who misses more than three consecutive regular meetings shall be replaced or reappointed by the City Council pursuant to this Ordinance.
b. Absence due to sickness, death in the family or other emergencies of like nature shall be recognized as approved absences and shall not affect the member's status on the Historic Preservation Commission, except that in the event of a long illness or any other such cause for prolonged absence, the member shall be replaced.

8. Conflict of Interest

(AMENDED 10.20.20 UDOTA-03-20)

a. A member shall not participate in or vote on any matter where an existing or potential conflict of interest may exist in accordance with Section 2.3.I.3.e, Voting.
b. If an objection is raised to a member's participation and that member does not recuse himself or herself, then the remaining members shall by majority vote rule on the objection.

9. Annual Report Required

a. Each year the Historic Preservation Commission shall prepare and submit an annual report to the State Historic Preservation Office.
b. The report shall include a comprehensive and detailed review of the activities, problems and actions of the Historic Preservation Commission as well as any budget requests or recommendation which need to be described to maintain the City's designation as a Certified Local Government (CLG) as required by the State Historic Preservation Officer.
c. Within its annual budget as may be appropriated by the City Council, the Historic Preservation Commission is authorized to employ such staff as it may require and shall determine their qualifications, duties and compensation.

10.6. TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee is hereby established in accordance with Section 160D-306 of the North Carolina General Statutes. The following sections set out the Technical Review Committee's powers, duties, and composition.

A. POWERS AND DUTIES

(AMENDED 10.20.20 UDOTA-03-20)

The Technical Review Committee shall have the following powers and duties:

1. Application Review and Decision

To review and decide applications for the following:

- **a.** Preliminary Plats; and
- **b.** Site Plans, including site plans filed with applications for special use permits.

2. Other Powers and Duties

- **a.** To review and provide recommendations on planned development master plans and concept plans associated with conditional rezoning applications;
- **b.** To conduct or participate in pre-application conferences;
- **c.** To review technical aspects of development occurring within the City's jurisdiction;
- **d.** To perform any other related duties that the City Manager may direct; and
- **e.** To exercise other powers and authority provided to it by the City Council, this Ordinance, or State law.

B. COMPOSITION

1. Membership

- **a.** The Technical Review Committee shall be composed of department heads, or their designated representatives, from the following City departments:
  - **i.** Planning;
  - **ii.** Transportation;
  - **iii.** Public Works;
  - **iv.** Engineering;
  - **v.** Building Inspections;
  - **vi.** Water Resources;
  - **vii.** Police; and
  - **viii.** Fire.
- **b.** Representatives from other City departments, representatives from other municipalities, NCDOT, railroad representatives, private utility companies, and public or private school systems may also attend.

2. Officers

The Planning Director shall serve as Chair of the Technical Review Committee, and shall schedule committee meetings, coordinate the committee's activities, preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts.

C. MEETINGS

1. The Technical Review Committee shall establish a regular meeting schedule.
2. The Planning Director may invite applicants to attend Technical Review Committee meetings.

10.7. CITY STAFF

(AMENDED 1.4.22-UDOTA-1-22)

A. PLANNING DIRECTOR

The Planning Director shall have the following powers and duties:

1. Application Review and Decision

(AMENDED 1.4.22-UDOTA-1-22)

To review and decide applications for the following:

a. Administrative Adjustments;
b. Certificates of Appropriateness for minor work;
c. Fence Permits;
d. Final plats;
e. Reasonable Accommodations;
f. Sign Permits; and
g. Temporary Use Permits.

2. Application Review and Recommendation

(AMENDED 10.20.20 UDOTA-03-20)

To review and provide a recommendation for the following:

a. Comprehensive Plan Amendments;
b. Determinations of the zoning and subdivision-related standards in this Ordinance;
c. Development Agreements;
d. Rezonings;
e. Text Amendments;
f. Vested Rights Certificates.

3. Other Powers and Duties

(AMENDED 1.4.22-UDOTA-1-22)

The Planning Director shall have the following other duties:

a. Maintain the Procedures Manual;
b. Assist with enforcement of this Ordinance in accordance with Section 2.5, Enforcement;
c. Processing applications as designated in the Procedures Manual;
d. Maintain the Official Zoning Map and related materials;
e. Provide expertise and technical assistance to the City's review authorities and administration, upon request;
f. Maintain all records pertaining to the provisions of this Ordinance and make records available for public inspection;
g. Carry out any other powers and duties delegated by the City Council or City Manager that are consistent with this Ordinance and State law; and
h. Perform other duties as may be assigned by the City Manager.

B. CITY ENGINEER

The City Engineer shall have the following powers and duties:

1. Application Review and Decision

To review and decide applications for the following:

a. Erosion Control Permits;
b. Floodplain Development Permits;
c. Determination of the provisions pertaining to infrastructure; special flood hazard area standards; construction-related aspects of streets, sidewalks, and driveways; and erosion control; and
d. Water-related Variances pertaining to the special flood hazard area standards in this Ordinance.

2. Review and Comment

To review and comment on applications for Final Plats.

3. Powers and Duties of Floodplain Administrator

The City Engineer, when acting as Floodplain Administrator, shall have the following powers and duties:

a. Review all floodplain development applications and issue permits for all proposed development within the FHO to assure that the requirements of this Ordinance have been satisfied;

b. Advise an applicant when additional federal or State permits (wetlands, endangered species, erosion and sedimentation control, riparian buffer, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit;

c. Notify adjacent communities and the North Carolina Department of Crime Control and 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 FEMA;

d. Assure that maintenance is provided within the altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished;

e. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this Ordinance are met

f. Obtain the actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures;

g. Obtain the actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed;

h. Obtain the actual elevation (in relation to mean sea level) of all public utilities;

i. When floodproofing is utilized for a particular structure, obtain certifications from a professional engineer or architect licensed by the State of North Carolina;

j. Interpret the exact location of boundaries of the FHO or some component of the special flood hazard area;

k. Obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, State, or other source in order to administer the provisions of this ordinance;

l. Obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, State, or other source when no floodway or non-encroachment area data has been provided;

m. Advise property owners of the option to apply for a Letter of Map Amendment (LOMA) from FEMA when the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation;

n. Maintain copies of Letters of Map Amendment (LOMA) issued by FEMA;

o. Permanently maintain all records that pertain to the FHO, floodplain development permits, and elevation certificates, and make these records available for public inspection;

p. Make on-site inspections of work in progress. The Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the City's jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action;

q. 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. Violation of a stop-work order constitutes a misdemeanor;

r. 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:

- **i.** Any substantial departure from the approved application, plans, or specifications;
- **ii.** Refusal or failure to comply with the requirements of State or local laws;
- **iii.** Making false statements or misrepresentations in securing the permit; or
- **iv.** Mistaken issuance in violation of an applicable State or local law;

s. Make periodic inspections throughout all lands within the FHO;

t. Follow through with corrective procedures in Section 2.5, Enforcement.

u. Review, provide input, and make recommendations for water-related variance requests;

v. Maintain a repository to include, but not limited to, the FIS Reports, FIRM and other official flood maps and studies adopted in accordance with the standards in Section 3.20.C, Flood Hazard Overlay (FHO) District, including any revisions thereto including letters of map change, issued by FEMA;

w. Notify the State and FEMA of any mapping needs; and

x. Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

4. Other Powers and Duties

(AMENDED 10.20.20 UDOTA-03-20)

a. The City Engineer is designated as the Erosion Control Administrator and shall be responsible for the powers and duties of that position.

b. The City Engineer shall have the following other duties:

i. Assist with enforcement of this Ordinance in accordance with Section 2.5, Enforcement;

ii. Processing applications as designated in the Procedures Manual;

iii. Assist in the review and approval of infrastructure permits as specified in the Procedures Manual;

iv. Provide expertise and technical assistance to the City's review authorities and administration, upon request; and

v. Carry out any other powers and duties delegated by the City Council or City Manager that are consistent with this Ordinance and State law.

C. STORMWATER ADMINISTRATOR

The Stormwater Administrator shall have the following powers and duties:

1. Application Review and Decision

(AMENDED 10.20.20 UDOTA-03-20)

To review and decide the applications for the following:

a. Determinations of the provisions pertaining to stormwater, riparian buffers, and water supply watersheds in this Ordinance;

b. Stormwater Permits;

c. Stream/Riparian Buffer Impact Certifications (Minor); and

d. Water Supply Watershed Protection Permits; and

e. Water-related Variances (Minor) pertaining to water supply watershed and stream/riparian buffer standards in this Ordinance.

2. Review and Comment

To review and comment on applications for Final Plats.

3. Records Retention

a. The Stormwater Administrator shall maintain records of all amendments to the water supply watershed regulations and shall provide copies of each amendment upon adoption to the Water Quality Section of the North Carolina Division of Environmental Management.

b. The Stormwater Administrator shall maintain a record of all water-related variances pertaining to the water supply watershed standards, and shall submit these records to the Water Quality Section of the North Carolina Division of Environmental Management prior to January 1st of each year.

4. Other Powers and Duties

a. Assist with enforcement of this Ordinance in accordance with Section 2.5, Enforcement;

b. Processing applications as designated in the Procedures Manual;

c. Provide expertise and technical assistance to the City's review authorities and administration, upon request; and

d. The Stormwater Administrator shall carry out any other powers and duties delegated by the City Council or City Manager that are consistent with this Ordinance and State law.

5. Delegation of Authority

(AMENDED 10.20.20 UDOTA-03-20)

Any act or activity authorized by this Ordinance to be carried out by the Stormwater Administrator may be carried out by a designee.

D. TRANSPORTATION DIRECTOR

The Transportation Director shall have the following powers and duties:

1. Application Review and Decision

To review and decide applications for the following:

a. Determinations of the provisions pertaining to placement of streets, sidewalks, driveways, and greenways in this Ordinance; and

b. Transportation Impact Analyses.

2. Review and Comment

To review and comment on applications for Final Plats.

3. Other Powers and Duties

The Transportation Director shall have the following other duties:

a. Assist with enforcement of this Ordinance in accordance with Section 2.5, Enforcement;

b. Processing applications as designated in the Procedures Manual;

c. Provide expertise and technical assistance to the City's review authorities and administration, upon request; and

d. Carry out any other powers and duties delegated by the City Council or City Manager that are consistent with this Ordinance and State law.

A	
Abbreviations	**8.2**
Accessory Dwelling Unit	**4.5.F.1**
Accessory Uses	
Allowable Locations	4.5.D.2
General Standards	4.5.D
Procedure for Establishment	4.5.C
Specific Standards	4.5.F
Administrative Adjustment	**2.4.B**
Adopted Policy Guidance	**1.6**
Agricultural Uses	**4.4.E**
Airport Height Overlay (AHO) District	**3.20.B**
Alternative Parking Plan	**5.1.J**
Amendments	
Adopted Policy Guidance	1.6.B.3
Comprehensive Plan	2.4.E
Site Plan	2.4.S.8
Planned Development	2.4.M.12
UDO Text	2.4.W
Zoning Map	2.4.P
Animal-Related Uses	**4.4.C.2, 4.4.C.3, 4.4.C.4**
Appeal	**2.4.C**
Application	
Already Approved	1.10.C
Completeness	2.3.F.6
Continuance	2.3.M
Fees	2.3.F.3
Incomplete	2.3.F.7
Limitation on Subsequent Applications	2.3.N
Pending on UDO Effective Date	1.10.D
Procedures Manual	1.7
Submittal	2.3.F.5
Withdrawal	2.3.M
Architectural Variability	**5.5.E.4.h**
As-Built Plans	
Part of Performance Guarantee	6.7.M
When Required	2.4.N.7.g
Automobile-Related Uses	**4.4.C.5, 4.4.C.6, 4.4.C.7, 4.4.C.8**

B	
Base Flood Elevation	**8.4**
Berms	**5.3.H.1**
Bicycle Parking	**5.1.I**
Board of Adjustment	
Composition	10.4.B
Powers and Duties	10.4.A
Rules of Procedure	10.4.C
Bungalow Court	**4.4.A.3**
Business Incubator	**4.4.C.13**

C	
Calculations	**8.3**
Central Business (CBD) District	**3.4**
Certificate of Appropriateness	
Procedure	2.4.D
Demolition by Neglect	2.4.D.8
Minor Work	2.4.D.2.c
Child-related Uses	**4.4.B.6**
City Council	
Conflict of Interest	10.2.C
Powers and Duties	10.2.A
City Engineer	**10.7.B**
Civil Penalties	**2.5.I.1**
Cluster Mailbox Unit	**4.5.F.7**
Commercial Design Standards	**5.5.B**
Compliance Required before Development	**1.5.C**
Comprehensive Plan Amendment	2.4.E
Computation of Time	**8.1.D**
Conditional Zoning Districts	
Business	3.17.E.3
Industrial	3.17.E.4
Limitations	3.17.D.2
Office Institutional	3.17.E.2
Procedure to Establish or Amend	2.4.P.5
Residential	3.17.E.1
Conditions of Approval	**2.3.J**
Conflict	
Between Standards	1.9
Conflicts of Interest	2.3.I.3.e.iii
Continuance	2.3.M
Continuing Care Retirement Community	**4.4.A.4**
Criminal Penalties	**2.5.I.7**

D	
Decision	2.3.K
Definitions	**8.4**
Delegation	**8.1.I**
Density	
Calculation	8.3.F.1
Maximum may be Increased	3.1.E.1
Rules of Measurement	8.3.F
Water Supply Watershed	3.20.F.9.a
Design Standards	
Commercial	5.5.B
Large Format Retail	5.5.B.7
Mixed-Use	5.5.C
Multi-family Residential	5.5.D

Single-Family Residential Design Guidelines	5.5.E
Determination	
Procedure	2.4.F
Rules of Language Construction	8.1
Rules of Measurement	8.3
Development Agreement	**2.4.F**
Dimensional Standards	
Encroachment	8.3.E
Generally Applicable	3.1.E
Rules of Measurement	8.3
Districts	See "Zoning Districts"
Driveways	**5.2.F**
Drive Through	**4.5.F.8**
E	
Easements	
Configuration	6.2.F
Fences and Walls Within	4.5.F.11.d.ii
Planting Within	5.3.G.4
Effective Date	**1.2**
Electrical Vehicle Charging Station	**4.5.F.9**
Elevation /Floodproofing Certificate	**3.20.C.7**
Encroachment	
Into Landscaping	5.3.G.8
Into Setbacks	8.3.E
Enforcement	
Procedure	2.5.H
Responsibilities	2.5.F
Statute of Limitations	2.5.C
Remedies and Penalties	2.5.I
Erosion Control	
Permit	2.4.H
Plan	7.5.D
Event Venue	**4.4.C.19**
Expedited Subdivision	**2.4.I**
Exterior Lighting	
Lighting Plan	5.7.F
Maximum Illumination	5.7.H
Prohibited	5.7.E
Nonconforming	5.7.I
Standards	5.7.G
Ex Parte Communication	2.3.I.3.d
Extractive Industry	4.4.D.3
F	
Family Care Home	**4.4.A.5**
Family Health Care Structure	**4.5.F.10**
Fee-in-Lieu	**6.8**
Fences and Walls	
Permit	2.4.J
Standards	4.5.F.11
Fill	**7.5.C.3, 3.20.C.14.b.v**
Final Plat	**2.4.K**
Flexibility	
Administrative Adjustment	2.4.B
Parking Alternatives	**5.1.J**
Planting Flexibility	5.3.M
Sustainable Development Incentives	7.6
Variance	2.4.AA, 2.4.BB
Flex Space	**4.4.D.4**
Flood Hazard Overlay (FHO) District	
Elevation and Floodproofing Certificates	3.20.C.7
Flood Hazard Overlay (FHO) District	3.20.C
Floodplain Development Permit	2.4.L
Standards	3.20.C.14
Variance	3.20.C.9
Floodplain Administrator	10.7.B.3
G	
Gateway Corridor Overlay (GCO) District	**3.20.D**
General Business (GB) District	**3.5**
Grade	
Finished	8.3.J.3
Natural	8.3.J.4
Greenway	**6.6**
Gross Floor Area	**8.3.G**
Group Home	**4.4.A.6**
H	
Heavy Industrial (HI) District	**3.6**
Height	
Measurement	8.3.H.1
Stories	8.3.H.3
High Density Residential (HDR) District	**3.7**
Historic Preservation Commission (HPC)	
Composition	10.5.B
Powers and Duties	10.5.A
Rules of Procedure	10.5.C
Home Occupation	**4.5.F.15**
I	
Infrastructure, Public	
Acceptance Procedure	2.4.K.7
Bridges	6.3.N
Dams	6.3.O
Fire Protection	6.5.C
Potable Water	6.5.A
Sewer	6.5.B
Sidewalks	6.4
Street Lights	6.3.L
Streets	6.3
Injunctive Relief	**2.5.I.8**
J	
K	
L	

Landscaping	
Allowable Features	**5.3.H**
Inspection	**5.3.P**
Flexibility	**5.3.M**
Parking Lot	**5.3.I**
Plan	**5.3.E**
Plant Material Placement	**5.3.G**
Plant Material Specifications	**5.3.F**
Perimeter Buffer	**5.3.J**
Replacement	**5.3.Q**
Required Maintenance	**5.3.O**
Street Trees	**5.3.L**
Streetscape Buffer	**5.3.K**
Time of Installation	**5.3.N**
Tree Size Determination	**8.3.L.1**
Language Construction	
Delegation of Authority	8.1.I
Interpretation	2.4.F.6.c
Mandatory Terms	8.1.M
Meanings and Intent	8.1.A
Lists & Examples	8.1.C
Time-Related Language	8.1.E
References	8.1.G
Large Format Retail	
Design Standards	5.5.B.7
Use Standards	4.4.C.29
Light Industrial (LI) District	**3.8**
Lighting	See "Exterior Lighting"
Live/Work Dwelling	**4.4.A.8**
Loading Space Standards	**5.1.K**
Local Historic Overlay (LHO) District	**3.20.E**
Lot	
Access	5.2.D
Configuration	6.2.C
Coverage	8.3.I
Dimensions	8.3.C
Flag	6.2.C.3
Frontage	8.3.C.1.e
Lines	8.3.C.2
Measurement	8.3.C.1
Monuments	6.2.E
Nonconforming	9.4
Types	8.3.C.3
Low Density Residential (LDR) District	**3.9**
M	
Maintenance Warranty	**7.4.K.4**
Makerspace	**4.4.D.7**
Manufactured Dwelling	
In Special Flood Hazard Ares	3.20.C.14.b.iii
Park	4.4.A.10
Use Standards	4.4.A.9
Manufacturing Use Types	**4.4.D.8**
Maximum Illumination	**5.7.H**
Medium Density Residential (MDR) District	**3.10**
Medium Industrial (MI) District	**3.11**
Mixed-Use Design Standards	**5.5.C**
Mixed-Use (MX) District	**3.12**
Mobile Home	
Dwelling	4.4.A.11
Park	4.4.A.12
Monuments	6.2.E
Multi-Family Dwelling	
Design Standards	5.5.D
Use Standards	4.4.A.13
N	
Neighborhood Business (NB) District	**3.13**
Neighborhood Information Meeting	**2.3.E**
Nonconformities	
Defined	9.1.B
Existing	1.10.B
Lighting	5.7.I
Lots	9.4
Signs	9.5
Sites	9.6
Structures	9.3
Uses	9.2
Notice	**2.3.H**
O	
Office Institutional (OI) District	**3.14**
Official Zoning Map	
Amendment	2.4.P
Interpretation	3.2.C
Outdoor Display/Sales	
Accessory Use	4.5.F.17
Temporary Use	4.6.D.3
Outdoor Storage	
Accessory Use	4.5.F.18
Principal Use	4.4.C.34
Off-Street Loading	**5.1.K**
Off-Street Parking	
Accessible	5.1.F
Bicycle Parking	5.1.I
Computation	8.3.K
Dimensional Standards	5.1.E.2
Landscaping	5.3.I
Maximum Number of Spaces Allowed	5.1.D.3
Minimum Number Spaces Required	5.1.D.2
Parking Alternatives	5.1.J
Parking Lot Configuration	5.1.F
Parking Lot Connection	5.2.H
Residential Lots	5.1.D.8
Stacking Spaces	5.1.H
Stem Lanes	5.2.F.6
On-Site Pedestrian Walkway	See "Sidewalk"
Open Space Set-Aside	
Active Open Space	7.1.E.2
Configuration	7.1.E
Ownership	7.1.F
Maintenance	7.1.G
Passive Open Space	7.1.E.1
Urban Open Space	7.1.E.3

Order of Abatement	**2.5.I.9**
Overlay Zoning Districts	
Airport Height (AHO)	3.20.B
Gateway Corridor (GCO)	3.20.D
Local Historic (LHO)	3.20.E
Flood Hazard (FHO)	3.20.C
Watershed Protection (WPO)	3.20.F
Owner Associations	
Creation	6.9.C
Documentation	6.9.F
Responsibilities	6.9.D
Transfer	6.9.H
P	
Parking Lot	
Configuration	5.1.E
Landscaping	5.3.I
Parking Standards	See "Off-Street Parking"
Parks and Conservation (PC) District	**3.15**
Performance Guarantees	
Amount	6.7.G
Forfeiture	6.7.L
Form	6.7.E
Release or Reduction	6.7.H
Term	6.7.D
Perimeter Buffers	
Application	5.3.J.6
Types	5.3.J.3
Planned Development	
Amendment	2.4.M.12
Procedure	2.4.M
Districts	3.19
Downtown District	3.19.F
Master Plan	3.19.B.3
Terms and Conditions	3.19.C
Planning and Zoning Commission	
Composition	10.3.B
Powers and Duties	10.3.A
Rules of Procedure	10.3.C
Planning Director	**10.7.A**
Plat	
Final	2.4.K
Preliminary	2.4.N
Pocket Neighborhood	**4.4.A.14**
Portable Storage Container	**4.6.D.4**
Potable Water Systems	6.5.A
Pre-Application Conference	**2.3.D**
Principal Use	**4.2**
Principal Use Table	**4.2.C**
Procedures	See "Review Procedures"
Procedures Manual	
Contents	2.3.F.2
Establishment	1.7
Prohibited Uses	**4.3**
Property Owners' Association	See "Owners' Association"
Public Art	**5.6.F.3**
Public Hearings	
Legislative	2.3.I.2
Notice	2.3.H
Public Meeting	2.3.I.1
Quasi-Judicial	2.3.I.3
Public Infrastructure	See "Infra-structure, Public"
Purpose and Intent	
General Zoning Districts	3.3
Of the UDO	1.4
Q	
Quadriplex	**4.4.A.17**
Quasi-Judicial Hearing	**2.3.I.3**
R	
Recreational Vehicle	
In Special Flood Hazard Areas	3.20.C.14.b.viii
Reasonable Accommodation	**2.4.O**
Reforestation	**7.2**
Remedies for Violation	**2.5.I**
Residential Design Guidelines	**5.5.E**
Residential Manufactured Home (RMH) District	
District	3.16
Use Standards	4.4.A.9
Residential Uses	**4.4.A**
Restaurant	**4.4.C.40**
Responsible Persons	**2.5.E**
Review Procedures	
Common Procedures	2.3
Procedure Flow Chart Legend	2.4.A.3
Specific Procedures	2.4
Summary Procedures Table	2.2
Rezoning	
Conditional	2.4.P.11
General	2.4.P
Riparian Buffer	
Compliance	7.3.I
Impact Certification Permit	2.4.Q
Procedures	7.3.H
Uses Within	7.3.G
Variance	7.3.H.2
Rules of Measurement	
Density	8.3.F
Exterior Lighting	8.3.N
Floor Area	8.3.G
Generally	8.3.B
Height	8.3.H
Landscaping	8.3.L
Lot Coverage	8.3.I
Lots	8.3.C
Parking	8.3.K
Setbacks	8.3.D
Signs	8.3.M
Slope and Elevation	8.3.J
S	
Screening	
Methods	5.4.E
Views to be Screened	5.4.F

Setback	
Generally	8.3.D
Encroachments	8.3.E
Street	8.3.D.5
Sewage System	**6.5.B**
Shielding (Exterior Lighting)	**5.7.G.1**
Shrubs	**5.3.F.3**
Sidewalk	
Configuration	6.4.B
Location	6.4.A
On-site Pedestrian Walkway	5.2.I
Payment-in-Lieu	6.4.D
Sight Distance Triangle	**5.2.G**
Sign	
General Standards	5.6.F
Illumination	5.6.F.8
Measurement	8.3.M
Nonconforming	5.6.H
Obsolete/Dilapidated	5.6.G
Permit	2.4.Q
Prohibited	5.6.E
Standards by Sign Type	5.6.J
Single-Family Attached Dwelling	
Design Guidelines	5.5.E
Use Standards	4.4.A.15
Single-Family Detached Dwelling	
Design Guidelines	5.5.E
Temporary	4.6.D.6
Use Standards	4.4.A.16
Site Plan	
Amendment	2.4.S.8
Procedure	2.4.S
Slope and Elevation	**8.3.J**
Small Wireless Facility	See "Tele-communication Facilities"
Soil Erosion and Sedimentation	
Control Objectives	7.5.E
Inspections	7.5.Q
Penalties	7.5.R
Permit	2.4.H
Plans	7.5.D
Standards	7.5.C
Soil Stabilization	**5.3.F.6**
Solar Array (Farm)	
Accessory Use	4.5.F.23
Principal Use	4.4.D.12
Special Events	**4.6.D.5**
Special Flood Hazard Area	See "Flood Hazard Overlay District"
Special Use Permit	**2.4.T**
Stacking Space	**5.1.H**
Staff Report	**2.3.G.1**
Statute of Limitations (on Enforcement)	**2.5.C**
Stop Work Order	**2.5.I.4**
Stormwater	
Design Manual	7.4.F
Enforcement	7.4.L
Maintenance Standards	7.4.K
Permit	2.4.U
Standards	7.4.J
Stormwater Administrator	**10.7.C**
Street	
Classification	6.3.B
Connectivity	6.3.G.8
Design	6.3.G
Entry Points	6.3.G.9
Lights	6.3.L
Names	6.3.H
Private	6.3.F
Rights-of-Way	6.3.C
Signs	6.3.J
Street Tree	**5.3.L**
Streetscape Buffer	**5.3.K**
Subdivision	
Conservation	6.10
Defined	8.4
Design Standards	6.2
Expedited	2.4.I
Final Plat	2.4.K
Preliminary Plat	2.4.N
Sustainable Development	
Incentives	7.6.D
Menu of Practices	7.6.F
Procedure	7.6.E

T

Technical Review Committee (TRC)	
Composition	10.6.B
Powers and Duties	10.6.A
Temporary Health Care Structure	**4.5.F.10**
Temporary Use	
In Special Flood Hazard Area	3.20.C.14.b.ix
Permit	2.4.V
Use Standards	4.6.C
Text Amendment	**2.4.W**
Townhouse	See "Single-Family Attached"
Transitional Provisions	
Approved Applications	1.10.C
Existing Nonconformities	1.10.B
Pending Applications	1.10.D
Prior Violations	1.10.A
Zoning Districts	1.11
Transportation Director	**10.7.D**
Transportation Impact Analysis	**2.4.X**
Trees	
Canopy Tree	5.3.F.1
Protection Devices	7.2.E
Protection Requirements	7.2.D.3
Reforestation	7.2
Parking Lot Shading	5.3.I.1
Size Requirements	5.3.F
Species Diversity	5.3.F.5
Understory Tree	5.3.F.2
Triplex	**4.4.A.17**

U	
Uses	
Accessory	4.5
Allowable (in a Planned Development District)	4.2.C.5
Classification System	4.2.A.1
Conditional Zoning District	4.2.C.4
Principal Use Table	4.2.C
Prohibited	4.3
Special	4.2.C.3
Temporary	4.6
Unlisted	2.4.F.6.b
Use-Specific Standards	
Agricultural	4.4.E
Commercial	4.4.C
Industrial	4.4.D
Institutional	4.4.B
Residential	4.4.A
Use Table	See "Principal Use Table"
V	
Variance	
Water-related	2.4.AA
Zoning/Subdivision	2.4.BB
Vested Rights	
Certificate	2.4.Y
Common Law Vesting	1.12.H
Duration	2.4.Y.8
Violations	
Continuation	1.10.A
Identified	2.5.D
Procedure	2.5.H
Remedies	2.5.I
In the FHO District	3.20.C.12
Voting	
Public Hearings	2.3.I.2.b
Quasi-judicial Hearings	2.3.I.3.e
W	
Waste-Related Uses	**4.4.D.6, 4.4.D.9, 4.4.D.10, 4.4.D.11**
Watershed Protection Overlay (WPO) District	
Cluster Development	3.20.F.9.d
Permit	2.4.Z
Variance	2.4.AA.7.c
Wind Energy Conversion Use	**4.4.D.17**
Wireless Telecommunications	
General Standards	4.4.B.17.c
Nonconforming	4.4.B.17.e
Temporary	4.6.D.8
Use Standards	4.4.B.17.d
X	
Y	
Yard Sale	**4.6.D.9**
Yards, Required	**3.1.E.4**
Z	
Zoning Districts	
Conditional	3.17
Conditional Mixed-Use	1.10.F
Distinguished	3.1.B
District Translation Table	1.11
Established	3.1.C
General	3.3
Official Zoning Map	3.2
Overlay	3.20
Rezoning Procedure	2.4.P
Special	3.3.C
Zoning Map	See "Official Zoning Map"

End of Index