

**TOWN OF ST. JAMES NORTH  
CAROLINA**



**UNIFIED DEVELOPMENT ORDINANCE**

**Updated April 6, 2022**

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APPENDICES

Appendix A Definitions

Appendix B Tree List



**ARTICLE 1**  
**PURPOSE AND APPLICABILITY**

**1.1 Title**

These regulations shall be known and may be cited as the Unified Development Ordinance of the Town of St. James, North Carolina, and will be referred to as the “UDO” or the “Ordinance”. The Town of St. James may also be cited and referenced to as the “Town”.

**1.2 Authority**

The regulations contained in this Ordinance are adopted pursuant to the authority granted to the Town by Chapter 160D of the North Carolina General Statutes and any special local legislation enacted for the Town by the North Carolina General Assembly.

**1.3 Jurisdiction**

These regulations govern the use and development of all land, waters and structures within the corporate limits of the Town. Provided, however:

1.3.1 Pursuant to N.C.G.S. Chapter 160D-913, the provisions of this Ordinance shall not be applicable to any lands owned by any governmental body (Federal, State, or local), but shall be applicable to the erection, construction, and use of buildings owned by a governmental body (Federal, State, or local).

1.3.2 Pursuant to N.C.G.S. Chapter 160D-921, forestry activity on forestland that is taxed on the basis of its present-use value as forestland under Article 12 of Chapter 105 of North Carolina General Statutes, or forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with Chapter 89B of the North Carolina General Statutes, shall not be subject to the regulations of this Ordinance.

1.3.3 When an area(s) may be annexed, Brunswick County zoning may remain in effect for up to sixty (60) days after the effective date of the annexation. During the sixty (60) days, the Town of St. James shall conduct the required hearing(s) to amend this Ordinance to provide zoning in the annexed area(s).

**1.4 Purpose**

It is the purpose of this Ordinance to:

1.4.1 Promote the public health, safety and welfare of the residents of the Town.

- 1.4.2 Implement the policies and goals contained in officially adopted plans, including, but not limited to, the Brunswick County Multi-Jurisdictional CAMA Core Land Use Plan.
- 1.4.3 Preserve and improve the overall quality of life for residents and visitors.
- 1.4.4 Protect the character of established residential neighborhoods.
- 1.4.5 Provide, preserve and protect open space and recreation area for use by residents and visitors.
- 1.4.6 Maintain economically vibrant and attractive commercial and business areas.
- 1.4.7 Maintain orderly and compatible land use and development patterns.
- 1.4.8 Lessen congestion on the streets, and make them safer for automobiles, bicycles and pedestrians.
- 1.4.9 Ensure adequate light, air, privacy and access to property.
- 1.4.10 Encourage environmentally responsible development practices.
- 1.4.11 Promote rehabilitation and use of older buildings.
- 1.4.12 Maintain a range of housing choices and options.
- 1.4.13 Provide for storm water control.
- 1.4.14 Assure that fire and emergency services can be provided quickly and effectively.
- 1.4.15 Establish clear and efficient development review and approval procedures.
- 1.4.16 Accommodate growth and development that complies with the preceding stated purposes.

## **1.5 Relationship to Other Plans**

The administration, enforcement and amendment of this Ordinance shall be accomplished considering recommendations presented in the documents comprising, but not limited to the town's Comprehensive Plan, other planning documents, or any other appropriate Brunswick County Plan or initiative. A copy of the specifically named documents herein before mentioned and all other pertinent documents that may be relied on from time to time shall be filed with the Town Clerk.

## **1.6 Matters Regulated**

Matters regulated by this Ordinance include but are not limited to:

- 1.6.1 Use of land and water for trade, industry, residential, parking and other purposes.
- 1.6.2 Size of lots, yards and other spaces.
- 1.6.3 Maximum coverage of lots by impervious surfaces (including buildings and structures) and by use.
- 1.6.4 Height, size, location, erection, construction, reconstruction, alteration and use of buildings and other structures for trade, industry, residential and other purposes.
- 1.6.5 The division and subdivision of land.

## **1.7 Conflicting Regulations**

### **1.7.1 Conflict with State or Federal Regulations**

If the provisions of this Ordinance are inconsistent with those of the state or federal government, the more restrictive provision governs. The more restrictive provision is the one that imposes greater restrictions or more stringent controls. Regardless of any other provision of this Ordinance, no land may be developed or used, and no structure may be erected or maintained in violation of any state or federal regulation.

### **1.7.2 Conflict with Local Regulations**

If the provisions of this Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the Town, the more restrictive provision governs. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.

### **1.7.3 Conflict with Private Agreements and Controls**

This Ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law. The Town has no responsibility for monitoring or enforcing private agreements.

## **1.8 General Rules of Construction**

For the purpose of this Ordinance the following rules of construction shall apply:

- 1.8.1 The provisions shall be construed to achieve the purposes for which they have been adopted.
- 1.8.2 In the event of a conflict between the text of this Ordinance and any caption, figure, illustration or table, the text of this Ordinance shall control.
- 1.8.3 In the event of a conflict in limitations, requirements or standards that apply to an individual use or structure, the more stringent or restrictive provision shall apply.
- 1.8.4 The words “shall”, “must” and “will” are mandatory in nature, implying an obligation or duty to comply with the particular provision.
- 1.8.5 The word “may” is permissive in nature unless the context of the particular use of the word is negative, in which case it is mandatory.
- 1.8.6 Words used in the present tense include the future tense.
- 1.8.7 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.
- 1.8.8 Words used in the masculine gender include the feminine gender and vice-versa.
- 1.8.9 The word “person” includes a firm, association, organization, trust, company or corporation, as well as an individual.

## **1.9 Separability**

If any Article, specific provision or standard of this Ordinance as it exists on enactment or after amendment is declared by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other Article, provision, standard, or district boundary of this Ordinance. The other portions of this Ordinance that are not affected by the decision of the court shall remain in full force and effect.

## **1.10 Identification of Official Zoning Map**

- 1.10.1 The Zoning Map shall be identified by the signature of the Mayor attested by the Town Clerk and bearing the seal of the Town under the following words: “This is to certify that this is the Official Zoning Map of the Unified Development Ordinance, St. James, North Carolina”, together with the date of the adoption of this Ordinance. Zoning maps that are so adopted shall be maintained for public inspection in the office of the UDO Administrator. The maps may be in paper or a digital format.

1.10.2 If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes

shall be entered on the Zoning Map promptly after the amendment has been approved by the Town Council, with an entry on the Zoning Map denoting the date of amendment, description of amendment, and signed by the Town Clerk. No amendment to this Ordinance which involves matter portrayed on the Zoning Map shall become effective until after such change and entry has been made on said map.

1.10.3 When the Zoning Map is officially replaced, unless the prior map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment. Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the Town Clerk in accordance with G.S. 160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

## **1.11 Zoning Map Interpretation**

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the UDO Administrator shall employ the following rules of interpretation.

### **1.11.1 Centerline**

Where a boundary line lies within and follows a street or alley right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, or utility easement. If such a street or alley right-of-way, 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 road bed or utility easement.

### **1.11.2 Edge Line**

Where a boundary line follows the edge of a street or alley right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, or utility easement. If such a street or alley right-of-way, 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 edge of the abandoned or vacated road bed or utility easement.

### **1.11.3 Lot Line**

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or

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tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

#### 1.11.4 Town Limits

Boundaries indicated as approximately following Town limits shall be construed as following the Town limits.

#### 1.11.5 Watercourses

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

#### 1.11.6 Extensions

Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, town limits, county lines, or extraterritorial boundaries shall be so construed.

#### 1.11.7 Scaling

In the case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.

#### 1.11.8 Authority

Appeal of the UDO Administrator's determination of zoning district boundaries shall be to the Board of Adjustment.

### **1.12 Interpreting Permitted Uses**

Uses that are prohibited in a zoning district are indicated by a blank in the table. The uses listed may not address all possible uses. In determining if a use is permitted, the UDO Administrator shall consider which category of expressed uses most closely matches the use proposed and apply the regulations pertaining to that category to the proposed use. In determining the use which most closely matches the proposed use, the UDO Administrator shall consider the density and intensity of the use, and anticipated traffic, noise, light, and odor on adjacent properties. If requested, the applicant shall submit evidence to the Administrator of the anticipated traffic, noise, light, or odor of the proposed use. Reports prepared by the applicable professional trade may be required (i.e. transportation engineer, environmental scientist, etc.). Such interpretation shall be

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provided in writing to the property owner or applicant and subject to appeal by the Board of Adjustment. .

### **1.13 Exemptions**

1.13.1 The provisions of this Ordinance shall not apply to existing bona fide farms. A bona fide farm is any tract of land containing at least three acres which is used for the production of or activities relating to, or incidental to, the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market.

1.13.2 For bona fide farms, this Ordinance does not exercise any controls over crop lands, timber lands, pasture lands, idle or other farm lands, nor over any farm house, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this Ordinance without the need for regulation. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this Ordinance.

1.13.3 In accordance with NC General Statutes 160D-913, the Town of St. James UDO applies to state-owned lands only when a building is involved.

### **1.14 Effective Date**

This Ordinance shall become effective on November 1, 2007. See table of text amendments for effective dates of subsequent amendments.

## ARTICLE 2 GENERAL PROVISIONS

### 2.1 Applicability of General Regulations

The following general regulations of this Article shall apply in all situations unless otherwise indicated.

### 2.2 Conformity Required

No person may use, occupy, or sell any land, structure, or building or authorize or allow the use, occupancy, or sale of any land, structure, or building under his control except in accordance with all of the applicable provisions of this Ordinance. For the purpose of this Ordinance, the use or occupancy of structures and buildings shall relate to anything and everything that is done to, on, or in the land, structures, or buildings.

### 2.3 One Principal Building per Lot; Exceptions

Only one (1) principal building and its customary accessory building(s) may be erected on any lot, except that multiple buildings may be erected on a single lot as permitted by use and district regulations.

### 2.4 Lot Size

No building lot (development site), even though it may consist of one (1) or more adjacent lots of record, shall be reduced in size such that the requirements of this Ordinance cannot be met, or the performance standards for building design cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities or street or sidewalk right-of-way purposes.

### 2.5 Height Limitation Exceptions

2.5.1 The height limitations of this Ordinance shall not apply to water tanks, public utility poles and lines, or steeples, (except that the height of a steeple shall be limited to 2 times the height of the place of worship), finial or lightning rod.

2.5.2 Telecommunication towers, where permitted, may exceed the height limit for structures when erected in accordance with this Ordinance.



- 2.5.3 When adjacent to a lot or lots located in a residential district, any part of a non-residential structure, which extends above the height limit, shall, at a minimum, be separated from adjacent residential lots by a distance equal to its height measured from the ground.

## **2.6 Structures and Uses Limited in Yards**

- 2.6.1 No principal building or structure shall be located within any required setback or yard.
- 2.6.2 No principal building or structure shall be located within any required buffer or screen.
- 2.6.3 Permitted fences and walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in a required yard, so long as the sight triangle on corner lots is protected.
- 2.6.4 Permitted signs may be located in an established front or side yard abutting a street.
- 2.6.5 Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in required yards. This restriction shall not apply to:
- A. A driveway which crosses a required yard to provide access from a street to a parking area; or
  - B. Driveways and parking areas for a detached or duplex residential dwelling; or
  - C. Front yards in the commercial districts, which meet the requirements for front parking.

## **2.7 Accessory Structures and Uses**

- 2.7.1 In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.
- 2.7.2 All accessory uses and accessory structures shall conform to the applicable requirements of this Ordinance, including all dimensional requirements and use, design and landscaping standards applicable to the primary use/structure.

2.7.3 Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all districts.

2.7.4 All accessory uses and structures shall require the issuance of a zoning permit.

2.7.5 All accessory uses, both residential and commercial shall have a combined floor area (aggregate of all detached accessory structures) of no more than 30% of the total floor area of the principal structure.

## **2.8 Building Separation**

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet. The requirement of the district or the existing pattern of building spacing along a street may require a greater separation or the provision of specified side yards.

## **2.9 Grading and Clearing**

2.9.1 No lot shall be graded or disturbed prior to issuance of a zoning permit.

2.9.2 All drawings submitted for approval shall contain both pre-development and post development contour lines at 2-foot intervals.

2.9.3 No change in lot contours shall have an adverse effect on adjoining properties or create hazards to health, safety or welfare.

## **2.10 Use of Loud Speakers Prohibited**

The use of outdoor loud speakers to communicate with workers, customers or other individuals, to amplify or project phone signals or ringers or to broadcast music or information of any kind shall be prohibited except that outdoor broadcasts of emergency sirens shall be permitted and the use of such devices at or in conjunction with any outdoor event, theatrical production, or similar occasion approved by the Town shall also be permitted.

## **2.11 Utility Lines**

All utility distribution lines shall be installed underground.

## **2.12 Roof Pitch**

The minimum roof pitch for multi-family dwellings shall be 6/12.

### **2.13 Height**

No single family dwelling within the Town shall be constructed so that it consists of more than three (3) habitable stories above grade; and provided further, that no structure shall exceed the maximum height limits specified for the District.

### **2.14 Minimum Setback**

Where 50% or more of the lots on the same side of the street as the lot in question are developed with less than the required street setbacks, the average setback of the 2 principal buildings nearest that lot shall be observed as the required minimum setback.

### **2.15 Impervious Surface Limits**

Commercial and residential property must meet the impervious surface requirements of the State of North Carolina or the requirements of Brunswick County in effect at the time the permit is granted, whichever are the most restrictive (see “storm water management,” Article 13.1).

### **2.16 Computation of Time**

2.16.1 Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

2.16.2 Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

### **2.17 Fees**

2.17.1 Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, stormwater permits, subdivision plat approval, site plan approval, zoning amendments, variances, changes to Ordinance text and map, and other administrative relief. The amount of the fees charged shall be as set forth in the Town’s fee schedule as established by the Town Council annually in the Town’s adopted town budget and filed in the office of the Town Clerk. If fees are changed following adoption of the Town’s budget, all such fee changes shall be posted on the Town’s website. The required notice

must be placed on the website at least seven (7) days before the meeting at which the fee increase is on the Town Council's agenda. The Town Council must then offer a public comment period at a public meeting on the proposed fee changes prior to adoption.

2.17.2 Fees established in accordance with Article 2.18.1 shall be paid upon submission of a signed application or notice of appeal.

## **2.18 (Final) Certificate of Occupancy/Compliance**

No certificate of occupancy or compliance shall be issued by the Building Inspector until:

2.18.1 Division of Coastal Management approval and Division of Water Quality approval has been obtained.

2.18.2 Zoning certificate of compliance has been issued by the UDO Administrator confirming that all applicable standards of this Ordinance have been met.

2.18.3 Alternatively, the Building Inspector may issue a certificate of occupancy or compliance provided written assurances are provided to the Building Inspector that applicable standards of this Ordinance will be met within a reasonable period of time. Assurances shall include posting of a surety financial guarantee or submission of a notarized letter of credit for the value of the incomplete improvements required.

2.18.4 However, the issuance of a Certificate of Occupancy shall in no case be construed.

**ARTICLE 3  
DECISION MAKING AND ADMINISTRATIVE BODIES**

**3.1 General**

*3.1.1 Purpose*

This section establishes review authority under this Ordinance. Specific requirements for each type of application or permit are prescribed in Article 4 (Review Procedures).

**3.2 Town Council**

*3.2.1 Establishment, Membership and Procedures*

Information regarding the establishment, membership and rules of procedure of the Town Council is available in the Town Charter.

*3.2.2 Power and Duties*

A. *General.* The Town Council shall have the following general powers and duties:

1. To appoint and maintain a Planning Board and assure that the Board performs satisfactorily in the development of the comprehensive plan, including scheduled review and update of the same from time to time; and further, to assure that the Planning Board performs all duties and responsibilities assigned by Statute and this Ordinance.
2. To provide for the administration of this Ordinance by appropriating sufficient funds.
3. To adopt temporary moratoria on any Town development approval required by law (refer to Article 4.13).
4. Set policies.

B. *Voting:* A Town Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member (GS 160D-109). A Town Council member shall not vote on any zoning amendment if the landowner of the property

subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. For Quasi-Judicial proceedings see Article 3.5.3.

- C. *Final Action.* The Town Council shall hear and take final action on the following development review procedures:
  - 1. Zoning Ordinance Text Amendments (Article 4.2)
  - 2. Zoning Map Amendments - All Zoning Districts (Article 4.3)
  - 3. Zoning Map Amendments - Planned Unit Development (Article 4.4)
  - 4. Establishment of Vested Rights (Article 4.8)
  - 5. Special Use Permits (Q-J; Article 4.9)
  - 6. Temporary Moratoria (Article 4.13)

### **3.3 Planning Board**

#### *3.3.1 Establishment, Membership, and Procedures*

- A. *Establishment.* The Planning Board is established by Ordinance of the Town (The Charter). As stated in that Ordinance and hereby reaffirmed, the Planning Board is that planning agency designated by 160D-301 of the North Carolina General Statutes.
- B. *Membership.*
  - 1. The Planning Board shall be composed of 5 regular voting members and 2 alternate members appointed by the Town Council. The alternate members shall exercise all the powers and duties of a regular member when substituting for a regular member.
  - 2. Terms of regular and alternate members shall be 3 years. In the first year three members and one (1) alternate shall be appointed for a term of one (1) year with 2 members and one (1) alternate appointed for a term of 2 years so that the terms of office of all members shall not expire at the same time. In the second year 3 members and one (1) alternate shall be appointed for a period of 3 years. In the third year 2 members and one (1) alternate shall be appointed for a term of 3 years. Thereafter, all appointments shall be for a term of 3 years.
- C. *Procedures.* The Planning Board shall adopt rules governing its organization and for all proceedings before it. Such rules shall provide and require the following in addition to such other rules and regulations that the Board may adopt.

1. The Town Council shall appoint a Chairman and a Vice-chairman from among the members of the Planning Board. Both persons shall serve for a term of one (1) year. Either person may be reappointed to the position. The Town Council shall appoint a secretary to assist the Board. The Board's operating year shall be January 1<sup>st</sup> through December 31<sup>st</sup>.
2. The Secretary shall keep minutes of the proceedings. The minutes shall contain relevant facts and testimony, the vote of each member, abstention from voting, and attendance. The minutes shall be filed with the Town Clerk as a public record.

*D. Voting:* Any matter requiring a vote by the Planning Board shall also be conducted according to the provisions of GS 160D-109(b) where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship

### 3.3.2 Powers and Duties

The Planning Board shall have the powers and duties prescribed by the North Carolina General Statutes and the Town's Ordinances. Those duties related to this Ordinance include, but are not limited to the following:

- A. *Review and Recommendation.* The Planning Board shall review and make a written recommendation on the following development review procedures:
  1. Zoning Ordinance - Text Amendments (Article 4.2)
  2. Zoning Map Amendment - All Zoning Districts (Article 4.3)
  3. Zoning Map Amendment - Planned Unit Development (Article 4.4)
  4. Any other review requested by the decision authority.
- B. *Final Action.* The Planning Board shall hear and take final action on the following development review procedures:
  1. Major Subdivision Preliminary Plat (Articles 4.6.9, 4.11)

2. Major Subdivision Final Plat (Article 4.6.10)
3. Major Site Plans (Articles 4.7, 4.11)
4. Transportation Impact Assessment (Article 4.11)

### **3.4 UDO Administrator**

#### *3.4.1 General*

The Town Council will appoint a UDO Administrator. Hereinafter, the term “UDO Administrator” shall also be construed to include any other official designated by the Town Council to perform the duties set forth in this Article.

#### *3.4.2 Delegation of Authority*

The UDO Administrator may designate any staff member to represent the Administrator in any function assigned by this Ordinance. The Administrator shall remain responsible for any final action.

#### *3.4.3 Powers and Duties*

The UDO Administrator shall have the following powers and duties to be carried out in accordance with these regulations that include, but may not be limited to:

##### *A. General.*

1. The administration and enforcement of this Ordinance and its regulations.
2. Serve as advisor to the Town Council and the Planning Board, with regard to their functions under this Ordinance and to inform such bodies of all available facts and information with respect to applications for amendments to the text of this Ordinance, amendments to the zoning maps, appeals, variances, permit requests, and any other matters brought before them under this Ordinance.
3. Maintain the text of this Ordinance and its regulations and the Official Zoning Map.
4. Establish such rules of procedure and permit forms as are necessary and proper for the administration and enforcement of this Ordinance and its regulations.



5. Maintain development review files and other public records related to the administration and enforcement of this Ordinance and its regulations.
6. Enforce the provisions of this Ordinance in accordance with Article 6..
7. The UDO Administrator or any staff member shall not make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town Council.

8. Perform site inspections. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

B. *Review*

The UDO Administrator shall provide a staff report and comments along with any required resolutions to the Decision Authority (see Article 3.9) on the following development review procedures:

1. Zoning Ordinance - Text Amendments (Article 4.2)
2. Zoning Map Amendments - All Zoning Districts (Article 4.3)
3. Zoning Map Amendments - Planned Unit Development (Article 4.4)
4. Variance (Q-J; Article 4.5)

5. Preliminary Major Subdivision Plat (Article 4.6.9)
6. Final Major Subdivision Plat (Article 4.6.10)
7. Major Site Plans (Article 4.7)
8. Special Use Permit (Q-J; Article 4.9)
9. Transportation Impact Assessments (Article 4.11)

C. *Final Action.* The UDO Administrator shall hear and take final action on the following development review procedures:

1. Zoning Permit (Article 4.12.1)
2. Sign Permit (Article 4.12.4)
3. Minor Subdivision Final Plat
4. Exempt Plats
5. Minor site plans
6. Interpretation of zoning lines and zoning district boundary lines in concert with the Town Council
7. Minor modifications to an approved major subdivision preliminary plat
8. Temporary use permit

### **3.5 Board of Adjustment**

#### **3.5.1 Composition**

The Town Council may appoint a Board of Adjustment consisting of five or more members, each to be appointed for three years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the council may appoint certain members for less than three years so that the terms of all members shall not expire at the same time. The council may appoint alternate members to serve on the in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member. The ordinance may designate a planning board or governing board to perform any of the duties of a board of adjustment in addition to its other duties and may create and designate specialized boards to hear technical appeals.

#### **3.5.2 Powers and Duties**

Hear and decide:

- Requests for variances (Article 4.5)
- Appeal of Administrative Decision (Article 4.10)

As used in this section, the term “decision” includes any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

### 3.5.3 Voting

Any member of the Council or an appointed board exercising quasi-judicial functions may not participate in any vote on a matter that could involve a conflict of interest or could violate an applicant’s right to an impartial decision. Conflicts of interest include, but are not limited to, undisclosed ex parte communications; a familial, business, financial or other relationship with an affected person or party; a direct or indirect financial, business, professional or personal interest in the outcome of the matter; or having a fixed opinion not susceptible to change prior to hearing a matter. If an objection is raised to a member’s participation, and that member does not recuse himself, the remaining members of the council or board shall by majority vote rule on the objection (GS 160D-109).

### 3.6 Stormwater Administrator (Reserved)

### 3.7 Building Inspector (Reserved)

### 3.8 Technical Review Committee (TRC)

#### 3.8.1 *Establishment, Membership and Procedures*

A. *Establishment.* The Planning Board may establish and appoint a Technical Review Committee (TRC) to provide a coordinated and centralized technical review process. The members of the Technical Review Committee shall be composed of persons from Town departments/agencies or functions, which have an interest in the development review process and other persons who can provide expertise to the development review process. The UDO Administrator will convene the relevant partners and agencies as necessary to ensure consideration of critical parameters. In the event partners, agencies or functional representatives cannot attend, comments and questions may be accepted.

B. *Membership.*

1. The TRC may include, but not necessarily be limited to, the following governmental agencies and officials:

**Technical Review Committee**

UDO Administrator

Town Administrator

Building Inspector

Fire Department

Planning Board Member (assigned on a quarterly basis by the Planning Board)

Consulting Engineer (as designated by the Town Administrator)

Other Town representatives appointed by the Town Administrator

**Others**

Town Attorney

Utilities Providers

Brunswick County Health Department

Brunswick County Board of Education

Brunswick County Sheriff's Department

Cape Fear Area Rural Planning Organization

NC Department of Transportation (NCDOT)

NC Department of Environment and Natural Resources

NC Division of Water Quality

US Fish and Wildlife

US Army Corps of Engineers

2. The Town Administrator may appoint other staff members to the TRC as necessary to carry out its duties and responsibilities.
3. The UDO Administrator shall serve as the Chair of the TRC to preside over its meetings, document the proceedings, and may request the participation of professional experts or a representative from an adjacent municipality, county, regional, or state agency if the UDO Administrator determines that such entities can provide expertise concerning the proposed development.

C. *Procedures.*

1. At the start of each operating year (January 1st through December 31st) the Chair shall appoint a secretary to take minutes of all Committee proceedings and file them with the Town Clerk.
2. The Technical Review Committee shall meet as often as necessary to fulfill its duties or upon call of the Chair of the Committee to discuss development applications. All comments from such reviews shall be made available to the applicant a minimum of 7 working days prior to consideration by the subsequent review body. The meeting notes of each meeting shall be filed with the Town Clerk.

3.8.2. *Powers and Duties*

- A. *Review and Recommendation.* The Technical Review Committee may make a recommendation on the following development review procedures:
1. Major Subdivision - Preliminary Plat Approval (Article 4.6.9)
  2. Major Subdivision - Final Plat Approval (Article 4.6.10)
  3. Major and Minor Site Plans (Article 4.7)
  4. Zoning Map Amendment, Planned Unit Development Review (Article 4.4)
  5. Transportation Impact Analysis (Article 4.11)
  6. Special use permit (Article 4.9) – Review only for technical specifications
  7. Any other review requested by an approving authority.

### 3.9 Summary of Review Authority

The following table summarizes review and approval authority under this Ordinance.

Activity	T R C	Building Inspector	UDO ADMIN	PB	BOA	TC	SECTION
Text Amendment			R	R		<D>	4.2
Zoning Map Amendment- PUD/PD	R		R	R		<D>	4.4
Zoning Map Amendment- All Districts			R	R		<D>	4.3
Interpret zoning lines and boundaries			D				4.3
Variance			R		(D)		4.5
Minor Subdivision- Plat (10 or less lots)			D				4.6
Major Subdivision- Preliminary Plat	R		R	D			4.6
Major Subdivision- Final Plat	R		R	D			4.6
Exempt Plats			D				4.6
Minor Site Plan	R		D				4.7
Major Site Plan**	R		R	D			4.7
Transportation Impact Assessment	R		R	D			4.11
Special Use Permit	R		R			(D)	4.9
Vested Rights						<D>	4.8
Appeal of Administrative Decision					(D)		4.10
Minor Modifications to Approved Plat			D				4.6
Zoning Permit			D				4.12

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Temporary Use Permit			D				14.5
Sign Permit			D				11.2
Certificate of Occupancy		D					4.12
Temporary Moratoria						<D>	4.13
<p>R= Review and Comment; D= Decision Authority;                      "&lt; &gt;"= Public Hearing Required (Quasi-Judicial)</p> <p>* Note: A plat is usually preceded by an approved site plan. The sequence can be: Concept/sketch plan, site plan, plat. The definition of Plot plans and site plans are the same, although some municipalities use both terms (plot plans for residential and site plans for multi-family, commercial, industrial, PUD, etc.)</p> <p>** Note: A Survey Plat is also acceptable. A Survey plat provides both the site plan information and the Plat information.</p>							

**Administrative Bodies**

TC - Town Council  
 PB - Planning Board  
 UDOA - UDO Administrator  
 TRC - Technical Review Committee

**Notations**

R - Review & Comment Authority  
 D - Decision Authority  
 < > - Public Hearing Required (Quasi-Judicial)

**Minor Site Plan Criteria**

The following shall be reviewed as a minor site plan:

- (a) Parking lot expansions where there is no increase in floor area;
- (b) Accessory uses in commercial districts; and
- (c) Recreational uses in approved subdivisions.

Projects shall also be reviewed as a minor site plan where they:

- (a) Do not involve multi-family dwelling units;
- (b) Do not involve the development of more than ten residential units or 50,000 square feet of nonresidential space;
- (c) Do not require a Traffic Impact Analysis in accordance with Article 3.5;

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## ARTICLE 4 REVIEW PROCEDURES

### 4.1 Common Review Procedures

#### 4.1.1 Site Plan Approval Required

Approval of the site plan (or survey plat) is required for all proposed development activity including, but not limited to single family lots, individual businesses, non-residential developments, multifamily units, subdivisions, planned unit developments, special use permits, conditional zoning, change of use, or modification of a previously approved site plan (Article 4.7)

#### 4.1.2 *Pre-Application Conference*

Prior to submitting an application for any development approval under this Ordinance (excluding a zoning permit), each applicant shall schedule a pre-application conference with the UDO Administrator or the UDO Administrator's representative, and others, as appropriate to discuss the procedures, standards and regulations required for approval in accordance with this Ordinance.

A pre-application conference is required for the following approvals:

1. Rezoning (Article 4.2);
2. Subdivision review (Article 4.6);
3. Major Site plan review (Article 4.6);
4. Planned Unit Development review (Article 4.6); and
5. Special use permit (Article 4.9).

#### 4.1.3 *Application Requirements*

A. *Forms.* Applications required under this Ordinance shall be submitted on forms, including checklists, and in the numbers required by the UDO Administrator.

B. Minimum Information Required

##### 1. Requirements Common to all Land Use Permit Applications

- Applicant's Name, Address and contact information;
- Applicant's Title, Right or Interest in property;
- Scale and date;
- The actual shape and dimensions of the land to be used;
- The legal description of the land to be used or the location of the plans as recorded by the Brunswick County Register of Deeds;

- The exact sizes and location of all existing buildings & accessory buildings;
- the lines within which any proposed building(s) and/or structure(s) shall be erected.
- the existing and proposed use of each structure, building or part of a building
- Demonstrate that lot areas and setbacks meet the dimensional requirements of the applicable land use district.
- Other data may be required as a result of the pre-application conference to ensure compliance of a proposed development with the terms of this Ordinance.

2. Additional Information Requirements as Applicable

Requirements (NR= Non-residential)	Master Development Plan *	Site Plan *	Preliminary Plat	Major Final Plat	Minor Final Plat
Driveway entrance permits for transmittal to the North Carolina Division of Highways, District Engineer.	NR	NR			
Location of signs, if any, including ownership and type (identification, commercial, or those not requiring a permit).	NR	NR			
Whether excavation, clearing of ground or moving of earth other than that actually required for the building, is expected to occur.	NR	NR			
Division of Coastal Management Approval and Division of Water Quality Approval, where applicable.	NR	NR			
Existing and proposed points of access to streets.	X	X	X	X	X
Abutting land owners	X	X			
All existing easements, reservations, and rights-of-way.	X	X	X	X	X
Proposed number and general location of all structures.	X	X			
Proposed use of all land and structures, including the residential and commercial areas, number of residential units (single family, multi-family, townhouses, etc.), commercial areas and the total square footage of non-residential development.	X	X	X	X	X
All required open space and/or recreation areas that have been dedicated or reserved (If part of an approved PD/PUD, refer to the approved standards for the PD/PUD).	X	X	X	X	X
All yards, buffers, screening, and landscaping	X	X	X		
Proposed treatment of any existing natural features.	X	X			
A survey of delineated wetlands.			X	X	X
Delineation of environmentally sensitive areas and areas within the regulatory floodplain as shown on the official flood hazard boundary maps if applicable.	X	X			
The location of existing and proposed storm drainage patterns, and facilities intended to serve the development.	X	X	X	X	X
Storm water buffers	X	X			



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Proposed phasing, if any.	X	X			
Generalized traffic, parking, and circulation plans and non-motor vehicle transportation amenities	X	X			
The location of protected trees on the subject property (Article 10.3).	X	X			
Land dedication for public/common facilities (e.g., public safety/security facilities, schools, Fire/EMS) and acreage (if applicable),	X	X			
Existing and general proposed topography, at 4 ft. intervals or less.	X	X			
Scale of buildings relative to abutting property.	X				
Height of structures.	X	X			
Utilities plan	X	X			
Transportation impact analysis.	X				
Plan for maintenance of open space and service facilities	X	X			
Evidence that any required State and Federal permits have been obtained or will be obtained prior to final plat approval	X	X	X	X	X
State road design and construction standards will be met. For the appropriate road classification	X	X	X	X	X
*Notes: The Master Development Plan (MDP) is primarily used for a phased development project with a variety of components, e.g., retail, office, multi-family, etc. the flow would start with a concept plan then to an MDP, followed by a site-specific vesting plan and plats. For single purpose sites such as multi-family or commercial the flow would go from a concept plan to a site plan to plats.					

C. *Electronic Files Required.*

1. Applications for a site plan or subdivision involving more than 10 lots shall provide electronic drawings in the format as specified by the UDO Administrator. Files shall be drawn to scale in feet units, referenced to the N.C. State Plane coordinate system.
2. The applicant shall consult with the UDO Administrator for information regarding electronic data submittal requirements where the need for clarification arises.

D. Fees (see Article 2.18)

E. *Application Processing*

An application deemed complete by the UDO Administrator shall be submitted to the Planning Board. Submission to the Planning Board shall be at least 10 business days prior to the next scheduled meeting in order to ensure placement on the agenda.

1. Upon receipt of a completed application, the UDO Administrator or a designee shall review the application and confer with the applicant to ensure an understanding of the applicable requirements of this Ordinance and that the applicant has submitted all of the information required or not and that the application represents what the applicant proposes to do.
2. Once the applicant indicates that the application is as complete as the applicant intends to make it, the application shall be placed on the agenda of the appropriate review board in accordance with standard procedures. However, if the UDO Administrator believes the application is incomplete, the application shall be returned to the petitioner for modification and re-submittal.

F. Changed Application

If the applicant makes significant changes to the application, the UDO Administrator shall refer the modified application back to the approval authority for reapproval.

G. Withdrawal of Application

An applicant may withdraw an application at any time by filing a statement of withdrawal with the UDO Administrator.

The statement of withdrawal shall be signed by all persons who signed the application or, in the event of death or incompetence, by the estate's lawful personal representative.

Upon written request to the Town, an applicant who has paid the appropriate fee for the submission of an application, but who chooses to withdraw such application prior to the advertisement for a public hearing, if one is required, shall be entitled to a refund of the total amount paid less any costs incurred by the Town.

## 4.1.4 Public Notice and Public Hearing Requirements

Public notice and public hearing requirements for applications are summarized in the table below. Public hearings required for development reviews are considered legislative public hearings.

Application	NOTICE REQUIRED			PUBLIC HEARING			
	Published	Mailed	Posted	Planning Board	Town Council	Board of Adjustment	Related Article
Text Amendment	X			R	D		Article 4.2
Zoning Map Amendment - All Zoning Districts	X	X*	X	R	D		Article 4.3
Zoning Map Amendment – PD/PUD	X	X*	X	R	D		Article 4.4
Variance		X	X	R**		(D)	Article 4.5
PD/PUD Master Development Plan		X	X	D			Article 4.6
Major Site Plan				D			Article 4.6
Major Subdivision Preliminary Plat				D			Article 4.6
Vested Right					D		Article 4.8
Special Use Permit		X	X		(D)		Article 4.9
Appeal of Administrative Decision		X	X			(D)	Article 4.10
Temporary Moratoria	X				D		Article 4.13
R = Review and Recommend; D = Decision Authority; ( ) = Quasi-Judicial evidentiary hearing *Note: See Article 4.1.4 C for cases In which more than 50 properties are directly affected. **Note: If requested by the Board of Adjustment.							

## Requirements by notice type:

- A. *Published Notice.* Where published notice is required, a distinctive advertisement shall be placed by the Town in a local newspaper of general circulation once a week for 2 successive calendar weeks. The first notice being published not less than 10 days nor more than 25 days before the date fixed for the public hearing. In computing this period, the date of publication shall not be counted, but the date of the public hearing shall be counted.
  
- B. *Posted Notice (Sign).* Where posted notice is required, the UDO Administrator shall post a sign not less than 10 days prior nor more than 25 days before the public hearing at which the application shall be reviewed. The sign shall be posted on the property or at a point visible from the nearest public street.
  
- C. *Mailed Notice.*
  - 1. Where mailed notice is required, the Town shall notify by first class mail all property owners of adjoining properties and the owners of all properties within 200 feet of the subject property. For the purposes of this section, properties are adjoining even if separated by a street, railroad, or other transportation corridor.
  
  - 2. The notice shall be mailed at least 10 but not more than 25 days prior to the date of the public hearing.
  
  - 3. Mailed notice under this Article shall not be required if a rezoning directly affects more than 50 properties owned by a total of at least 50 different property owners, and the Town elects to use the following expanded published notice requirements:
    - a. A distinctive advertisement shall be placed once a week for 2 successive calendar weeks in a local newspaper of general circulation. The first notice shall be published not less than 10 days nor more than 25 days before the date fixed for the public hearing. In computing this period the date of publication shall not be counted, but the date of the public hearing shall be counted.
  
    - b. In addition to the published notice, the UDO Administrator shall post a sign in accordance with the posted notice requirements of this Article.

- c. Mailed notice shall be provided by first class mail to property owners and owners of adjoining properties who are within the required mailing areas, but who reside outside of the newspaper's circulation area.
- D. *Content of Notice.* The notice listed above shall contain the following specific information:
- 1. Published or mailed notices shall provide at least the following:
    - a. Parcel Identification Number(s);
    - b. Address of the subject property (if available);
    - c. General location of the land that is the subject of the application, which may include a location map;
    - d. Description of the action requested;
    - e. Where a zoning map amendment is proposed, the current and proposed districts;
    - f. Time, date and location of the public hearing;
    - g. Phone number to contact the Town;
    - h. Statement that interested parties may appear at the public hearing;
    - i. Case number.
  - 2. Posted notices shall indicate the following:
    - a. Case number;
    - b. Type of action; and
    - c. Phone number to contact the Town.
- E. Notice of Hearings for Third Party Rezoning

Actual notice of the hearing must be given to the property owner (as show on the County tax listings) of land subject to a rezoning petition if that person did not initiate the rezoning petition. The burden for making this actual notice is on the third party requesting the rezoning. When an application for the rezoning is made by a person other than the land owner or the Town of St. James, the application must include a certification that the land owner has received actual notice of the application and notice of the public hearing. The notice must be personally delivered or sent registered, certified, or delivery-receipt mail consistent with the requirements of NCGS 160D-601. If after due diligence notice cannot be made by personal service or return receipt mail, notice may be made by published notice. Published notice must

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be placed in the newspaper once a week for two successive weeks preceding the hearing.

F. Notice of Quasi-judicial Evidentiary Hearings

Notice of evidentiary hearings conducted pursuant to this UDO shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons who have made a written request for such notice. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the UDO Administrator shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The applicable board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

4.1.5 *Decisions*

Unless specifically provided elsewhere, all respective board decisions shall require an affirmative vote. Tie votes shall be considered denials of any requested change. Any development regulation adopted pursuant to this UDO shall be adopted by ordinance.

4.1.6 *Notice of Decision*

After a decision is made, a copy of the decision shall be sent to the applicant within 10 working days and filed in the Town Hall where it shall be available for public review during regular office hours.

**4.2 Zoning Ordinance Text Amendments**

4.2.1 *Applicability*

- A. The Town Council shall consider amendments to the text of this Ordinance, as may be required from time to time.

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- B. Amendments to the text of this Ordinance shall be made in accordance with the provisions of this Article.
  - C. A request to amend the text of this Ordinance may be initiated by the Town Council, the Planning Board, or the UDO Administrator.

#### 4.2.2 *Action by the UDO Administrator*

The UDO Administrator shall be responsible to review the proposed text amendment in light of any applicable plans and the general requirements of this ordinance for the Town Council.

#### 4.2.3 *Action by the Planning Board*

##### A. *General Procedures.*

1. Before making any recommendation on a text amendment, the Planning Board shall consider any comments from the UDO Administrator.
2. The Planning Board shall make a recommendation to the Town Council based on the approval criteria in Article 4.2.5 within 30 days of its initial review.
3. The Town Council may act on the amendment if the Planning Board does not provide a recommendation within 30 days.

#### 4.2.4 *Action by Town Council*

##### A. *Review Procedures.*

1. Public notice requirements shall be in accordance with Article 4.1.4.
2. The Town Council shall make a decision based on the approval criteria in Article 4.2.5.
3. Following the public hearing, the Town Council may approve the text amendment, approve with modifications, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

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D. Hearing

The public hearing shall be scheduled for the next Town Council meeting following completion of the published notice requirements.

4.2.5. *Approval Criteria*

- A. In evaluating any proposed Ordinance Text Amendment, the Planning Board and the Town Council shall consider the following:
1. The extent to which the proposed text amendment is consistent with the remainder of the Ordinance; specifically with respect to any purpose and intent statements.
  2. The extent to which the proposed text amendment represents a new idea not considered in the existing Ordinance, or represents a revision necessitated by changing circumstances over time.
  3. Whether the proposed text amendment corrects an error in the Ordinance.
  4. Whether the proposed text amendment revises the Ordinance to comply with state or federal statutes or case law.
- B. In deciding whether to adopt a proposed Ordinance Text Amendment, the central issue before the Town Council is whether the proposed amendment advances the public health, safety or welfare and is consistent with the Comprehensive Plan and the specific intent of this Ordinance.

4.2.6 *Required Statements*

- A. *Planning Board Statement.* When making its recommendation to the Town Council, the Planning Board shall adopt a written statement as part of its recommendation for approval or denial that addresses the consistency of the proposed text amendment with all relevant adopted plans. A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Council.
- B. *Town Council Statement.* When making its final decision on a proposed text amendment, the Town Council shall adopt a written statement that addresses the consistency of the proposed amendment with all relevant adopted plans, the reasonableness of the final decision and how the final decision serves the public interest. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Council meeting that at the time of action on the amendment the Town Council was aware of and



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considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan.

### **4.3 Zoning Map Amendments - All Zoning Districts (Rezoning)**

#### *4.3.1 Applicability*

- A. Zone boundaries as shown on the Zoning Map may be amended, supplemented, changed, modified, or repealed in accordance with the procedures of this Article.
- B. The Town Council shall consider amendments to the Official Zoning Map of the Town, as may be required from time to time. A Zoning Map Amendment may sometimes be referred to as a "rezoning".
- C. Rezoning should correspond with the boundary lines of existing platted lots or tracts. Where the boundaries of a rezoning request stop short of an exterior property line, a survey is required to properly define the zoning lines. It must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this Ordinance.
- D. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. For purposes of this section, down-zoning means a zoning amendment that affects an area of land by either decreasing the development density of the land to be less dense than was allowed under its previous usage or by reducing the permitted uses of the land to fewer uses than were allowed under its previous usage.

#### *4.3.2 Initiation of Amendment*

##### General Districts and Overlay Districts

A request for a rezoning may be initiated by the Town Council, the Planning Board, the UDO Administrator, the property owner or their agent, or a duly authorized third party who does not own the property(ies) proposed for rezoning.

#### *4.3.3 Pre-Application Conference*

All applicants petitioning for a rezoning shall schedule a pre-application conference with the UDO Administrator in accordance with Article 4.1.2.

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#### 4.3.4 *Neighborhood Meeting*

It is recommended that all applicants petitioning for a rezoning to hold a neighborhood meeting. After the pre-application conference, and at least 10 days prior to submitting the application, the neighborhood meeting is recommended for the following approvals:

1. Zoning Map Amendment - All Zoning Districts
  2. Zoning Map Amendment - Planned Unit Development
- A. The purpose of the neighborhood meeting is to inform the neighborhood of the nature of the proposed land use and development features, explain the plan (if any), and receive comments. The comments received at the neighborhood meeting are not binding on the applicant although the applicant may incorporate suggestions received at the meeting.
- B. If held, an oral or written summary of the neighborhood meeting discussions must be available for discussion at the Planning Board meeting scheduled to review the application.
- C. The applicant shall provide notice of the neighborhood meeting in conformance with the following:
1. *Mailed.*
    - a. Notice shall be delivered by first class mail to owners of all adjoining properties; and
    - b. In the event the rezoning would take place within the areas administered by a property owners association(s), notice shall be delivered by first class mail to the president and/or secretary of the association(s).
  2. *Posted.* A sign shall be posted on the site at least 10 days prior to the date of the neighborhood meeting. The sign shall satisfy the following criteria:
    - a. The sign shall be 6 square feet in size and the bottom of the sign must be at least 4 feet off the ground.
    - b. The sign shall include the title '**PRE-APPLICATION NEIGHBORHOOD MEETING**' at the top of the sign.

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- c. The sign shall include a brief narrative of the project proposal/request.
  - d. The sign shall include the time, date, and place of the neighborhood meeting.
  - e. The sign shall include a statement on where concerned citizens can contact the applicant for more information, including a phone number and/or e-mail address.
  - f. The applicant shall remove the sign within 24 hours after the neighborhood meeting.
  - g. No sign may be placed within a right-of-way or within 50 feet of any street intersection.
  - h. No sign may be placed or mounted on utility, traffic, or other similar structures.

#### *4.3.5 Application Requirements*

All applications for a rezoning shall be submitted in accordance with Article 4.1.3 (Application Requirements).

#### *4.3.6 Notice and Public Hearings*

The Town shall hold all required public hearings and give notice in accordance with Article 4.1.4 (Public Notice Requirements).

#### *4.3.7 Action by the UDO Administrator*

- A. The UDO Administrator shall prepare a staff report that reviews the rezoning request in light of any applicable plans and the general requirements of this Ordinance. The staff report shall consider the entire range of permitted uses in the requested classification.
- B. Following completion of technical review by staff, the UDO Administrator shall forward the completed request and any related materials to the Planning Board for review and recommendation to Town Council.
- C. Following Planning Board review, the UDO Administrator shall forward the completed rezoning request and any related materials, including the Planning Board recommendation, to the Town Council for a hearing and final action.

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#### 4.3.8 *Action by Planning Board*

- A. *Procedure.* The Planning Board shall make a written recommendation on the application to the Town Council. If the Planning Board fails to make a recommendation within 60 days, the Town Council may process the request without a recommendation.
- B. *Review Criteria.* In making its written recommendation as to plan consistency, the Planning Board shall make a recommendation based on the approval criteria in Article 4.3.9 B.

#### 4.3.9 *Action by Town Council*

- A. *Procedure.*
  - 1. Before taking action on a rezoning at the public hearing, the Town Council shall consider the recommendations of the Planning Board (public notice requirements are given in Article 4.1.4)
  - 2. The Town Council may approve the rezoning, apply zoning other than that requested (if not inconsistent with the notice), deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.
- B. *Approval Criteria.* In approving a rezoning, the Town Council shall consider the following matters:
  - 1. Consistency with any adopted land use plans, including the Comprehensive Plan;
  - 2. Compatibility with the present zoning and conforming uses of nearby property and with the character of the neighborhood;
  - 3. Suitability of the subject property for uses permitted by the current district versus the uses permitted in proposed district;
  - 4. Whether the proposed change tends to improve the balance of uses permitted or satisfies a specific demand in the Town;
  - 5. The availability of adequate school, road, park, wastewater treatment, water supply and stormwater drainage facilities for the proposed use as well as the range of permitted uses for the zoning requested; and

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6. The extent to which the proposed zoning map amendment is consistent with the remainder of the Ordinance including, specifically, any purpose and intent statements.
- C. *Statement of Consistency.* The Town Council shall adopt a written statement as to the consistency of the rezoning with any adopted land use plans. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Town Council meeting that at the time of action on the amendment the Town Council was aware of and considered the Planning Board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a large-scale rezoning under G.S. 160D-602(b), the Town Council statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- D. *Statement of Reasonableness.* A written statement shall be adopted as to the reasonableness of the rezoning. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a large-scale rezoning under G.S. 160D-602(b), the Town Council statement on reasonableness may address the overall rezoning. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

#### 4.3.10 Resubmission of Application

- A. Upon final action by the Town Council to deny or approve an application for the rezoning of property, the Planning Board shall not accept for review any applications for changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous action except as provided in Subsection B below. The UDO Administrator shall reject applications that do not comply with the elapsed time requirements.

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- B. The UDO Administrator may allow re-submission of such petition within the one (1) year period if it is determined that, since the date of action on the prior petition:
1. There has been a significant change in the zoning district classification of an adjacent piece of property.
  2. The Town Council has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed.
  3. Construction or expansion of infrastructure (e.g., a road, water line, sewer line, or other such facilities) has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification.
  4. There has been some other extraordinary change in conditions or circumstances, outside the control of the applicant, which justifies waiver of the one (1) year restriction on re-submission; this, however, shall not include a change in the ownership of the subject property.

#### **4.4 Zoning Map Amendments – Planned Development/Planned Unit Development**

##### *4.4.1 General Procedure*

Planned Development/Planned Unit Development (PD/PUD) districts are conditional zoning districts. Zoning map amendment applications for an amendment to a PD/PUD district are processed, considered, and voted upon in accordance with the procedures of Article 4.3 (Zoning Map Amendment-All Zoning Districts) except as otherwise expressly stated in this Article.

##### *4.4.2 Pre-Application Conference*

- A. All applicants seeking a zoning map amendment to PD/PUD-Conditional District (PD/PUD-CD) shall schedule a pre-application conference with the UDO Administrator. The UDO Administrator shall review the preliminary Concept Plan (prepared in accordance with the requirements of Article 4.4.5) for completeness and consistency with the purpose and intent of the PD/PUD-CD district requirements.
- B. Following the pre-application conference, the UDO Administrator shall notify the applicant of any modification to the Concept Plan that may be required. The applicant will then prepare the final Concept Plan for submission to the Planning Board.

#### 4.4.3 *Neighborhood Meeting*

It is recommended that all applicants seeking approval of (1) a PD/PUD or (2) a modification, including expansion, to an existing PD/PUD hold a neighborhood meeting in accordance with Article 4.3.4 (Neighborhood Meeting).

#### 4.4.4 *Application Requirements*

The PD/PUD rezoning application consists of the following materials:

- A. A conditional district zoning map amendment application prepared in accordance with Article 4.1.3.
- B. The Concept Plan approved by the UDO Administrator for submission. This Concept Plan consists of a map-based presentation of proposed zoning conditions attached to the conditional district zoning map amendment application.

#### 4.4.5 *Concept Plan*

For the purpose of establishing conditions to be included with the PD/PUD-CD zoning map amendment, applications for a zoning map amendment to a PD/PUD-CD must be accompanied by a Concept Plan for the entire property proposed to be included in the district. At a minimum, the Concept Plan must include the elements listed below. Additional details may be added to the Concept Plan.

- A. The location and size of the area involved.
- B. The current zoning of the surrounding properties.
- C. Location of existing waterways and other riparian areas, and other significant environmental features.
- D. General layout of transportation routes including streets, pedestrian ways, and off -street parking and loading areas.
- E. Estimated population density and extent of activities to be allocated to parts of the project.
- F. Reservations for public use including schools, parks, and other open spaces.
- G. The general means of the disposition of sanitary wastes and stormwater.

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- H. A graphical indication of areas and a tabulation of these land areas to be devoted to various uses and overall densities.
  - I. If a project is to be developed in phases, a general breakdown showing the various phases and the estimated schedule of construction.

#### 4.4.6 *Approval Process and Guidelines*

- A. The Concept plan.

The UDO Administrator shall review the Concept Plan for consistency with the standards of Article 12 (Subdivision Standards) and other applicable standards in this Ordinance. The UDO Administrator may consult with the Technical Review Committee or other consultants. Upon finding such consistency, the UDO Administrator shall approve the Concept Plan for Submission to the Planning Board in combination with an application for a zoning map amendment.

#### 4.4.7 *Conditions*

- A. Conditions may specify the location on the property of proposed uses; the number of dwelling units; the location and extent of supporting facilities such as parking lots, driveways, and access streets; design elements of the proposed use; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of rights-of-way and other areas to be dedicated for public purposes; the widening of streets to mitigate traffic impacts; and other such matters as the applicant may propose as conditions upon the request.
- B. Any conditions imposed in association with a conditional district and so authorized are perpetually binding upon the property included within the conditional district unless subsequently changed or amended as provided for in this Article or future modifications thereof.
- C. Specific conditions may be proposed by the petitioner or the Town or its agencies, but only those conditions approved by the Town and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, the Town may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of



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land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site in accordance with this ordinance, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site..

#### *4.4.8 Procedure*

The procedure for a zoning map amendment to a PD/PUD-CD shall be the same as set forth in Article 4.3 (Zoning Map Amendments-All Zoning Districts) in that notice and public hearings shall be in accordance with Article 4.1.4, Public Notice Requirements. Action by the Planning Board shall be in accordance with Article 4.3.8. Action by the Town Council is a legislative decision procedure in a public hearing in accordance with Article 4.3.9, including required statements of consistency and reasonableness.

#### *4.4.9 Effect of Approval*

Approval of a zoning map amendment application and accompanying Conceptual Plan has the effect of establishing the maximum density/intensity, maximum height and general location of buildings and uses of each tract, or area shown on the Conceptual Plan.

#### *4.4.10 Amendments and Modifications*

Minor modifications, such as reducing density, increasing open space, adding buffers, etc., may be approved by the Planning Board.

Any major proposed change from what is shown on the approved Concept Plan shall require an amendment of the PD/PUD-CD following the same procedure as that required for the original approval of the district.

#### *4.4.11 Conditional District-Site Plans and Permits*

The concept plan approvals establish the basic zoning requirements of the district. A master development plan (MDP) and subsequent site plans for the development in the conditional district must be submitted for review and approval in accordance with the site plan approval procedure of Article 4.7 of this Ordinance to enable site development and subdivision of land and construction. See Article 4.1.3 for MDP requirements.

### **4.5 Variance**

#### *4.5.1 Applicability*

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- A. The decision authority may vary certain requirements of this Ordinance in harmony with the general purpose of these regulations, where special conditions applicable to the subject property would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
  - B. No variance shall be permitted that would have the effect of allowing a use not permitted in the subject zoning district (see use table set forth in Article 7), or a density exceeding the maximum allowed in the subject zoning district.
  - C. No variance may be granted where explicitly prohibited by this Ordinance.

#### 4.5.2. *Decision Authority*

The Board of Adjustment shall be the decision authority for all variance applications.

#### 4.5.3. *Pre-Application Conference*

All applicants seeking a variance shall schedule a pre-application conference with the UDO Administrator to discuss the procedures, standards, and regulations required for variance approval in accordance with the provisions of this Ordinance.

#### 4.5.4. *Application Requirements*

An application for a variance shall be signed by the owner(s) of the subject property or the owner(s) agent with a valid power of attorney and submitted in accordance with Article 4.1.3 (Application Requirements).

#### 4.5.5. *Notice and Evidentiary Hearings*

Once the application has been determined complete, the UDO Administrator shall schedule an evidentiary hearing and give public mailed and posted notice as set forth in Article 4.1.4.

#### 4.5.6. *Burden of Proof*

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the decision authority to reach the conclusions set forth below (Findings, Article 4.5.9), as well as the burden of proof on those issues.

#### 4.5.7. *Action by the UDO Administrator*

The UDO Administrator shall provide the decision authority a copy of the application and all relevant materials pertaining to the request prior to the public hearing.

#### 4.5.8 *Action by the Decision Authority*

- A. Each decision shall be accompanied by findings of fact by the decision authority that specifies the reasons for the decision.
- B. A decision to approve a variance requires a concurring vote of 4/5 of the members of the decision authority.
- C. The decision authority may approve in whole or in part, deny, or continue the request. In granting the variance, the approving authority may prescribe reasonable and appropriate conditions that will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood. Notwithstanding the foregoing, such conditions must be directly related to the impacts of the proposed use and must be roughly proportional to these anticipated impacts.

#### 4.5.9 *Findings of Fact*

- A. In granting any variance, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
  - 1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property
  - 2. 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability..
  - 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
  - 4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

- B. Any variance granted must be the minimum variance required for reasonable use of the land, building, or structure. The fact that property may be utilized for greater profit, however, is not considered adequate to justify the granting of a variance.
- C. Neither the nonconforming use of lands, buildings, or structures in the same zoning district; nor the permitted use of lands, buildings, or structures in other zoning districts; nor personal circumstances may be considered as grounds for the issuance of a variance. Furthermore, mere financial hardship does not constitute grounds for granting a variance.
- D. The decision authority's final decision shall be delivered in writing by personal delivery, electronic mail, or first class mail to applicant.

#### *4.5.10 Effect of Approval*

- A. The applicant shall file the approved variance with the Brunswick County Register of Deeds within 6 months from the date of approval or the variance shall be deemed void.
- B. All variances that are granted shall run with the property for which the variance is being sought and not with the owner of the property.

## **4.6 Subdivision and Planned Development (PD/PUD)**

### *4.6.1 Applicability*

Subdivision approval shall be required before the division of land into 2 or more parcels is undertaken. The Planning Board has final authority on preliminary and final plat approval, with the exception of minor subdivision plats which review and approval shall be delegated to the UDO Administrator. Standards are given in Article 12.

### **4.6.2 Major and Minor Subdivision Definition**

#### ***Minor Subdivision***

A minor subdivision is any subdivision activity that creates no more than ten (10) lots (including the original lot) or involves the platting of no more than ten (10) residential units and conforms to the minor subdivision regulations and requirements of this ordinance.

#### ***Minor Subdivision, Expedited***

The division of one existing parcel of land under single ownership that is not exempt per G.S. 160D-802(a); (1) where no part of the tract or parcel to be divided has been divided in the 10 years prior to the proposed division; (2) the entire area of the tract or parcel to be divided is greater than 5 acres; (3)

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after division, no more than three lots result from the division and all resultant lots comply with all lot dimension size requirements of the applicable zoning district and the use of the lots is in conformity with the applicable zoning district; and (4) a permanent means of ingress and egress is recorded for each.

***Major Subdivision***

All other divisions of land that do not qualify as a minor subdivision and do not qualify for statutory exclusion.

**4.6.3 *Statutory Exclusions***

Consistent with G.S. 160D-802, the following activities are not considered subdivisions for the purposes of this ordinance.

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance.
- B. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance.
- C. The public acquisition by purchase of strips of land for water or sewer infrastructure.
- D. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation corridors.
- E. The division of a tract in single ownership whose entire area is no greater than 2 acres into no more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance.

**4.6.4 *No Subdivision without Plat Approval***

Pursuant to N.C.G.S. Chapter 160D-803, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place in the Town's planning jurisdiction.

- A. No persons may subdivide land except in accordance with all of the provisions of this Ordinance. In particular, no subdivision may occur unless and until a final plat of the subdivision has been approved in accordance with the provisions of this Article and recorded by the Brunswick County Register of Deeds.

- B. Not all divisions of land constitute subdivisions that are subject to regulation under this Ordinance. However, to ensure that such divisions are in fact exempt from the requirements of this Ordinance, all plats creating a division of land shall be presented to the Town before submittal for recordation in the Brunswick County Registry and the UDO Administrator shall indicate on the face of the plat that the division is exempt from the provisions of this Ordinance if that is the case.

#### *4.6.5 Unlawful to Record Plat without Plat Approval*

Pursuant to N.C.G.S. Chapter 160D-803, no final plat of subdivision within the Town planning jurisdiction shall be recorded by the Register of Deeds of Brunswick County until it has been approved by the UDO Administrator or designee or by the Town's Planning Board pursuant to the procedures established in this Article.

#### *4.6.6 Subdivision Required*

After the effective date of this Ordinance, any person who, being the owner or agent of the owner of any land within the territorial jurisdiction of this Ordinance, thereafter subdivides his land in violation of this Ordinance 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 the terms of this Ordinance shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town, through its attorney or other official designated by the Town Council, may take action to enjoin illegal subdivision, transfer, or sale of land by action for injunction. Further, the violation of any provision of this Ordinance, shall subject the offender to the penalties prescribed by N.C.G.S. Chapter 160D-807. Illegal subdivisions will not be recognized for zoning purposes.

#### *4.6.7 Pre-Application Conference and Concept Plan*

- A. All applicants seeking subdivision approval shall schedule a pre-application conference with the UDO Administrator.
- B. Applicants shall submit a concept plan for review by the UDO Administrator. This plan may be in simple sketch form. Information requirements are given in Article 4.1.3.
- C. Following approval of the Concept Plan, the Preliminary Master Development Plan (Article 4.1.3) will be developed for Planned Developments (including Large Commercial Developments, and Mixed use Developments).

#### *4.6.8 Application Requirements*

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- A. All applications for subdivision review shall be submitted in accordance with Article 4.1.3, (Application Requirements) and any specific requirements as directed by the Town. In addition, all applications for subdivision shall include electronic versions of plats and surveyor's files for both preliminary and final plats. Electronic files shall be in the format as directed by the UDO Administrator.
  - B. A Transportation Impact Analysis may be required if the proposed subdivision meets the thresholds established in Article 4.11 (Transportation Impact Analysis).

#### 4.6.9 Major Subdivision Preliminary Plat Approval

- A. *Applicability.* A preliminary plat shall be required for all major subdivisions.
- B. *Staff Consultation.* Prior to submitting a preliminary plat, the applicant shall meet with the UDO Administrator and submit a concept plan in accordance with Article 4.6.6 above.
- C. *Application Requirements.*
  - 1. Applications for preliminary plat approval shall be submitted in conformance with Article 4.6.8 (Application Requirements).
  - 2. When a subdivision is to be developed in phases, a phasing plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual phase. A final plat shall be submitted for individual phases as each phase is developed. Each new phase shall be developed adjoining an earlier phase.
- D. *UDO Administrator Duties and Responsibilities*
  - 1. Applications for preliminary plat approval shall be submitted to the UDO Administrator. The UDO Administrator shall review the application for compliance with the provisions of the Ordinance.
  - 2. Upon receipt of a completed application, the UDO Administrator shall distribute the application submittal to the relevant agencies for review and comment.
  - 3. The UDO Administrator shall prepare a staff report based on comments provided by the relevant agencies and the Technical Review Committee, if any. The report shall be forwarded to the Planning Board for final action at the next scheduled meeting.

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*E. Action by the Technical Review Committee*

1. The Technical Review Committee may review the preliminary plat and associated application documents for conformance with the requirements of this Ordinance in accordance with the adopted public review schedule.
2. Upon completion of the review period, and prior to providing written comments to the applicant stating any corrections or modifications that shall be required, the Technical Review Committee may meet with the applicant and discuss any modifications or corrections in development design that may be required, based on the recommendations made by members of the Technical Review Committee
3. The applicant shall have 30 days to make corrections and return the revised application to the UDO Administrator. The applicant may apply for an extension of this review period by written request to the UDO Administrator, provided that such request shall be received prior to the expiration of the 30-day period.
4. Within 10 business days of receipt of a revised application, the Technical Review Committee shall review the revised application for satisfactory completion of all required corrections and may make a recommendation to approve, approve with conditions, or deny the application. The application and associated comments shall then be returned to the UDO Administrator.

*F. Action by Planning Board*

1. The Planning Board shall take final action on the preliminary plat application (per Article 4.6.10 I) taking comments by the UDO Administrator and Technical Review Committee, if any, into consideration. Applications that have not received final administrative review shall not be reviewed.
2. The preliminary plat shall be considered by the Planning Board at the next available meeting.
3. The Planning Board may approve the preliminary plat, approve with minor corrections/conditions, or deny the preliminary plat.



4. A simple majority of all eligible voting members of the Planning Board shall be necessary for approval of any preliminary plat. The Planning Board's minutes shall include identification of members present, and their individual vote on the preliminary plat. No final action shall be deemed to have been given by the Planning Board on the preliminary plat until the Planning Board delivers its dated written decision on the preliminary plat to the applicant (this may be delegated to the UDO Administrator to deliver, Delivery may be via email, written decision on the face of the plat, or in letter form).
5. If the Planning Board should deny the preliminary plat, the reasons for such action shall be given to the applicant, or their agent, along with recommendations for changes in the plat.

G. *Effect of Preliminary Plat Approval*

Upon approval of the preliminary subdivision plat, the applicant may proceed to comply with the other requirements of these regulations, including construction plan approval, preparation of the final plat, and all other approvals and permits.

- H. *Duration of Preliminary Plat Validity.* An approved preliminary plat shall remain valid for a period of 24 months after which time the preliminary plat shall expire. If a final plat has not been approved, the preliminary plat must be resubmitted as a new application in conformance with all applicable requirements of this Ordinance at the time of reapplication.
- I. *Modifications to an Approved Preliminary Plat.* Minor changes to an approved preliminary plat may be approved by the UDO Administrator. Such changes as adjusting lot lines, reducing density, increasing open space, increased screening and buffering, and adjusting stormwater or utility locations for other permits, etc. qualify as minor changes. Major changes to an approved preliminary plat, such as movement of roads, new roads, increased density, etc., will require resubmittal for review and approval as a modification to an application.

4.6.10 *Major Subdivision Final Plat Approval*

- A. *Applicability.* The final plat shall constitute only that portion of the approved preliminary plat that the applicant proposes to record and develop at the time of submission. After the improvements shown on the approved preliminary plat have been installed or guaranteed for the whole or portion of a subdivision, the applicant shall submit a final plat of the area covered by such improvements.

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Approval of a preliminary subdivision plat shall not constitute approval of the final subdivision plat, nor shall it constitute approval of portions of a subdivision to be developed in future phases that have not been reviewed in conformance with this Article. Application for approval of the final plat will be considered only after the requirements for final plat approval as specified below have been fulfilled and after all other specified conditions have been met.

**B. *Application Requirements***

1. All applications for final plat approval shall be submitted in accordance with Article 4.1.3 (Application Requirements) in addition to any specific requirements provided by the UDO Administrator.
2. Construction plan approvals and required permits must be received prior to final plat approval.
3. A land surveyor registered to practice in North Carolina shall prepare the final plat. All final plats to be recorded by the Brunswick County Register of Deeds shall be probated and shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in N.C.G.S. Chapter 47-30 as amended, and the *Standards of Practice for Land Surveying in North Carolina*.

**C. UDO Administrator Action**

Where all required improvements have been completed, upon receipt of a completed application, the UDO Administrator shall review the application

for conformance with the applicable approval criteria listed in Article 4.6.10.I. In performing such review, the UDO Administrator may consult with the Technical Review Committee or other applicable review entities or consultants. If the final plat for a subdivision is in compliance with the applicable approval criteria listed in Article 4.6.10.I, the Planning Board shall approve the final plat. If the required improvements have not been completed see Provisions for Improvement Guarantees.

**D. *Provision of Improvement Guarantees***

Where the required improvements have not been completed prior to the submission of the final plat, the UDO Administrator may, in consultation with the Town Council, accept from the applicant an Improvements Guarantee using one of the methods described in Article 4.6.12 (Improvement Guarantees).

**E. *Action by the Planning Board***

1. In the event required improvements have not been completed, upon receipt of a completed application, and agreed upon Improvement Guarantees, the UDO Administrator shall review the application for conformance with the applicable approval criteria listed in Article 4.6.10 I. In performing such review, the UDO Administrator may consult with the Technical Review Committee or other applicable review entities or consultants. The UDO Administrator shall forward the final plat to the Planning Board for review prior to its next scheduled meeting and the Planning Board shall take final action within 30 days. However, this time period may be extended upon written request of the applicant if the UDO Administrator finds that extensive modifications are necessary.
2. If the final plat for a subdivision is in compliance with the applicable approval criteria listed in Article 4.6.10.I, the Planning Board shall approve the final plat. This approval and all other required endorsements (see F below) shall be noted on the original and 3 copies of the final plat. The original shall be returned to the applicant. One (1) copy shall be transmitted to the Brunswick County Health Department, one (1) copy shall be transmitted to the Brunswick County Engineering and Utilities, and one (1) copy shall be retained for the permanent files of the Planning Board. The approval shall grant the applicant authority to record the subdivision plat and to begin the sale of lots unless the sub-divider has entered into pre-sale, pre-lease agreements with lot purchasers based on preliminary plat approval under N.C.G.S. Chapter 160A-37.
3. If the final plat is not in compliance, the reasons for disapproval and conditions to be met before approval of the final plat shall be noted on two copies of the proposed final plat. One (1) copy shall be returned to the applicant and one (1) copy shall be retained for the Planning Board's records.

F. *Required Endorsements.*

The following endorsements shall be prominently located on all copies of an approved final plat. The UDO Administrator may waive endorsements that are not relevant.

1. *Certificate of Survey and Accuracy.* I, \_\_\_\_\_, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_, Page \_\_\_\_, etc.) (other); that the ratio of precision is 1:

\_\_\_\_\_ ; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this plat was prepared in accordance with NCGS 47-30, as amended. Witness my original signature, registration number and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_.

\_\_\_\_\_  
Surveyor

\_\_\_\_\_  
Seal or Stamp

\_\_\_\_\_  
Registration Number

- 2. *Certificate of Ownership and Dedication.* The undersigned hereby certifies that the land shown here on is owned by the undersigned, and hereby freely dedicates all rights-of-way, easements, streets, recreation areas, open spaces, common areas, utilities and other improvements to public or private common use as noted on this plat, and further assumes full responsibility for the maintenance and control of said improvements until they are accepted for maintenance and control by an appropriate public body or by an incorporated neighborhood or homeowners association or similar legal entity.

\_\_\_\_\_  
Owner(s)

\_\_\_\_\_  
Date

- 3. *Certificate of Approval of Proposed State Roads.* I hereby certify that these roads as installed or as designed and guaranteed are in accordance with the minimum design criteria presently required by the North Carolina Department of Transportation, Division of Highways, for the acceptance of streets onto the State system for maintenance.

\_\_\_\_\_  
District Engineer  
NCDOT - Division of Highways

\_\_\_\_\_  
Date

- 4. *Certificate of Approval of Proposed Town Streets.* I hereby certify that these streets as installed or as designed and guaranteed are in accordance with the minimum design criteria presently required by the Town of St. James, for the acceptance of streets onto the Town system for maintenance.

\_\_\_\_\_  
Director of Public Works

\_\_\_\_\_  
Date

5. *Certificate of Land Use Regulation and Purpose of Plat.* I, \_\_\_\_\_, certify to one (1) of the following:
- a. That this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;
  - b. That this survey is located in a portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land;
  - c. Any one (1) of the following:
    - (1) That this survey is of an existing parcel or parcels of land and does not create a new street or change an existing street;
    - (2) That this survey is of an existing building or other structure, or natural feature, such as a watercourse; or
    - (3) That this survey is a control survey.
  - d. That this survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision;
  - e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of the surveyor's professional ability as to provisions contained in a) through d) above.

\_\_\_\_\_  
Surveyor

Seal or Stamp

\_\_\_\_\_  
Registration Number

6. *Certificate of Approval of On-site Sewage Disposal Systems.* I hereby certify that the lot(s) on this Final Plat have been evaluated under the current provisions of Title 15A NCAC 18A.1900 et. seq., and found that it/they has/have acceptable soils for an on-site, subsurface sewage treatment and disposal system.

\_\_\_\_\_  
Brunswick County  
Environmental Health

\_\_\_\_\_  
Date

7. *Certificate of Lots Served by Public Water and/or Sewer Systems.* I hereby certify that the construction plans for the water system and/or sewer system have been approved for \_\_\_\_\_ (Name of Subdivision). The utilities have been constructed, or secured via a financial guarantee, to \_\_\_\_\_ (Service Provider) standards.

\_\_\_\_\_

Authorizing Agent

\_\_\_\_\_

Date

8. *Certificate of Approval for Recording.* I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of St. James, North Carolina and that this plat has been approved by the St. James Planning Board for recording in the Office of the Register of Deeds. This approval is valid for a period of 6 months from the date of the Town Clerk’s signature.

\_\_\_\_\_

Town Clerk, Town of St. James Date  
*(Amended 05/06/2008)*

\_\_\_\_\_

9. *Certificate of Exemption.* I hereby certify that the division of land shown and described here on is not a division of land subject to the Town of St. James Subdivision Ordinance. No approval of this plat is required.

\_\_\_\_\_

UDO Administrator

\_\_\_\_\_

Date

10. *Certificate of Review Officer.* I, \_\_\_\_\_, Review Officer of (\_\_\_\_\_) (name of County), certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_

Review Officer

\_\_\_\_\_

Date

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- G. *Appeal.* If the final plat is denied by the Planning Board, the applicant may appeal to the Board of Adjustment. Any appeal must be taken within 30 days after the decision of the Planning Board is filed in the Town Office or after a written copy of the decision is mailed to the appellant by registered mail return receipt requested, whichever is later. Such appeal shall be for the Board of Adjustment to determine if the Planning Board correctly applied the subdivision review requirements to the subdivision request.
- H. *Effect of Denial.* The applicant shall have the later of 6 months from the time of final notification of denial by the Planning Board or the expiration of 24 months after preliminary plat approval to submit a revised final plat, at which time the approved preliminary plat shall be null and void.
- I. *Final Plat Approval Criteria.* Subdivision plats shall be approved only when the Planning Board, finds that all of the following conditions exist:
1. The plat substantially complies with the approved preliminary plat;
  2. The plat complies with the standards of Article 12, (Subdivision Standards), and the other applicable requirements of this Ordinance;
  3. All necessary right-of-way has been offered for reservation or dedication;
  4. All necessary drainage easements have been provided; and
  5. All required endorsements and certifications have been obtained.
- J. *Expiration of Final Plat Approval/Recordation Required.*
- Approved final plats shall be recorded with the Brunswick County Register of Deeds within 6 months from the date of approval. If the final plat is not recorded within this period, it shall expire. The plat may be resubmitted for review and it shall be reviewed against the ordinance in effect at that time.
- K. *Limitations of Final Plat Approval.* The approval of a final plat pursuant to regulations adopted under this Article shall not constitute or affect the acceptance by the Town or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. Public roads must be accepted by the North Carolina Department of Transportation.

#### 4.6.11 Minor Subdivision Plat Approval

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- A. The procedures for approval of minor subdivisions are intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The approval process difference between the minor and major subdivision process is that minor subdivisions do not require a preliminary plat.
1. Applicants petitioning for minor subdivision plat approval shall meet with the UDO Administrator and submit a concept plan or, alternatively, a Survey Plat, for a determination of whether the approval process authorized by this Article can be used.
  2. The UDO Administrator may require the applicant to submit additional information to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots created out of that tract of land within the previous five years.
  3. The UDO Administrator may refer the minor plat application to the TRC for consideration and recommendation. Following TRC review, if any, the UDO Administrator may approve, approve with minor modification, deny the application, or refer the application to the Planning Board for a final decision. Reasons for the decision shall be transmitted in writing to the applicant. Delivery may be via email, written decision on the face of the plat, or in letter form.
- B. There shall be only one minor subdivision approved on any original tax parcel in any five-year period.
- C. After completion of a pre-application conference and sketch plan review, the applicant may apply directly for approval of a final plat.
- D. A minor subdivision plat shall only be approved when it meets all of the approval criteria set forth below:
1. The plat complies with the applicable standards of Article 12, Subdivision Standards, and the other applicable requirements of this Ordinance;
  2. The plat indicates that all subject lots will have frontage on existing approved streets, or access for ingress and egress on a private street;
  3. All necessary drainage easements have been provided; and
  4. All required endorsements and certifications have been obtained (see Article 4.6.10 (F)).



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- E. Notwithstanding the above, qualified expedited minor subdivisions are to be approved administratively by the UDO Administrator when all of the approval criteria set forth below are met A minor subdivision plat shall only be approved when it meets all of the approval criteria set forth below:
1. The tract or parcel to be divided is not exempted under G.S 160D-802(a);
  2. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;
  3. The entire area of the tract or parcel to be divided is greater than 5 acres;
  4. After division, no more than three lots result from the division;
  5. After division, all resultant lots comply with All lot dimension size requirements of the applicable zoning district, the use of the lots is in conformity with the applicable zoning district, and a permanent means of ingress and egress is recorded for each lot.

#### 4.6.12 Improvement Guarantees

- A. *Agreement and Security Required.* In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the Town may enter into an agreement with the sub-divider whereby the sub-divider shall agree to complete all required improvements, with the exception of electric utilities. This agreement shall be accompanied by a survey plat indicating the property boundaries and lot lines, if applicable, of the area subject to the agreement. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the appropriate responsible authority as provided in this ordinance, if all other requirements of this Ordinance are met. The Town shall not have the authority to mandate one type of guarantee over another. To secure this agreement, the sub-divider shall provide, subject to the approval of the UDO Administrator, either one or a combination of the following guarantees equal to 125% of the entire cost as provided herein:
1. *Surety Performance Bond(s).* The sub-divider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to the Town and shall be equal to, either alone or in combination with any other surety discussed in this Article, a total amount equal to 125% of the entire cost, as estimated

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by the sub-dividers and approved by the Town, of installing all required improvements, with the exception of electric utilities.

2. *Security.* The sub-divider shall deposit an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town. The amount of the deposit shall be equal, either alone or in combination with any other security discussed in this Article, to a total amount equal to 125 % of the cost, as estimated by the sub-dividers engineer and approved by the Town of installing all required improvements, with the exception of electric utilities. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the sub-divider shall file with the Town an agreement between the financial institution and himself guaranteeing the following:

- a. That said escrow account shall be held in trust until released by the Town and may not be used or pledged by the sub-divider in any other matter during the term of the escrow; and
- b. That in the case of failure on the part of the sub-divider to complete said improvements the financial institution shall, upon notification by the Town and submission by the Town to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.

3. *Certification of Electric Utilities.* A written statement by the utility company authorized to serve the subdivision stating their commitment to install electric utilities with projected completion dates may be accepted in lieu of guarantees set forth in paragraphs 1 and 2 of this Article.

- B. *Default.* Upon default, meaning failure on the part of the sub-divider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall pay all or any portion of the bond or escrow fund to the Town up to the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Town may expend such portion of said funds, as it deems necessary to complete all or any portion of the required improvements.

- C. *Release of Guarantee Security.*

1. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the Town that the improvements for which the performance guarantee is being required are complete. The Town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to Town acceptance. When required improvements that are secured by a bond are completed to the specifications of the Town, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the Town shall timely provide written acknowledgement that the required improvements have been completed.
2. In the event that the applicant wishes to occupy any building or any portion of any building prior to the completion of the required site improvements, the Town shall retain the bond guaranteeing improvements until the remaining required improvements are completed.

D.

D. *Duration and Extension.*

1. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
2. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be equal to 125% of the total cost of all incomplete improvements.

#### 4.6.13 *Re-subdivision Procedures*

For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision submittal.

## 4.7 Site Plan

### 4.7.1 *Applicability.*

All proposed development, with the exception of subdivisions and single-family dwellings on individual lots, shall be subject to the site plan review process.

### 4.7.2 *Approval Authority.*

Minor site plans may be approved by the UDO Administrator if the site plan meets the following criteria:

- (a) Parking lot expansions where there is no increase in floor area;
- (b) Accessory uses in commercial districts; and
- (c) Recreational uses in approved subdivisions.

Projects shall also be reviewed as a minor site plan where they:

- (a) Do not involve multi-family dwelling units;
- (b) Do not involve the development of more than ten residential units or 50,000 square feet of non-residential space;
- (c) Do not require a Traffic Impact Analysis.

The Planning Board shall be responsible for final action regarding all other site plans.

### 4.7.3 *Pre-Application Conference*

All applicants seeking site plan approval shall schedule a pre-application conference with the UDO Administrator, in accordance with Article 4.1.1.

### 4.7.4 *Application Requirements*

- A. An application for site plan review shall be submitted on forms provided by the Town (see Article 4.1.3 for site plan minimum requirements). In addition, applicants shall submit electronic versions of the site plan in the format as required by the Town.
- B. A Transportation Impact Analysis may be required if the proposed site plan meets the thresholds established in Article 4.11 (Transportation Impact Analysis)
- C. All site plans shall clearly indicate all required open space and/or recreation area that has been dedicated or reserved. Refer to the relevant standards for subdivisions shown in Article 12.9 (Recreation Space).

#### 4.7.5 Notice Requirements

See Article 4.1.4 for Notice Requirements.

#### 4.7.6 *Action by the UDO Administrator*

- A. Upon receipt of a completed application, the UDO Administrator shall review all site plans for conformance with the approval criteria found in Article 4.7.8. In addition, the UDO Administrator may consult with the Technical Review Committee, consultants or with any County or State official.
- B. The UDO Administrator shall prepare a staff report and shall forward the staff report to the Planning Board for review and final action.
- C. The UDO Administrator shall place the item on the next available agenda of the Planning Board.

#### 4.7.7 *Action by the Planning Board*

- A. Before taking action on a site plan, the Planning Board shall consider the staff report provided by the UDO Administrator.
- B. The Planning Board may approve the application, approve with conditions, approve with modifications, or disapprove the application.
- C. Written notification of the Board decision shall be transmitted to the applicant within 10 working days of the decision.

#### 4.7.8 *Approval Criteria*

In approving an application, the Planning Board shall consider the following:

- A. Compliance with all applicable requirements of this Ordinance;
- B. Agreement with the most recently adopted CAMA Land Use Plan/Comprehensive Plan and any applicable local area plans;
- C. Meets screening, buffering, wetlands, drainage, bulkhead, erosion control, retainer wall, and flood plain requirements.
- D. For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins and other waste-related facilities employed in the normal operation of the use;

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- E. Adequacy and location of parking areas and pedestrian and vehicular access points;
  - F. Compliance with site construction specifications;
  - G. Adequacy of stormwater facilities, water supply, sanitary sewer service, fire protection and hydrants, street signs, and street lighting in conformance with State, County, and Town standards;
  - H. Compliance with requirements for easements or dedications.

#### 4.7.9 *Dedication and Improvements*

- A. In the development of any property for which site plan approval is required, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the State for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to NCDOT standards, and to install sidewalks. Refer to Article 12 for applicable Subdivision Standards.
- B. The applicant shall bear the costs of the installation of all on-site improvements as required by this Ordinance, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this Article may, with the approval of the UDO Administrator as a condition of site approval, and upon a determination by the UDO Administrator that such improvements are not necessary or desirable at the time but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered and will preclude any further assessment of the property in the event the Town elects to install such improvements at a later date. Full payment shall be made before any building permit or certificate of occupancy is issued for any use shown on the site plan.
- C. For all residential developments approved after the effective date of this Ordinance, recreation and open space dedication in accordance with the standards for subdivisions contained in Article 12.

#### 4.7.10 *Improvement Guarantees*

The following requirements shall apply to all site plans:

- A. Prior to the approval of any application, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.
- B. The Town may require improvement guarantees for on-site and/or off-site improvements in conformance with Article 4.6.12 above.

#### *4.7.11 Inspections of Required Improvements*

Inspections during the installation of site improvements shall be made by the entity responsible for such improvements as required to certify compliance with approved site plans. The Town shall accept no improvements for maintenance unless and until the requirements regarding public improvements have been met.

#### *4.7.12 Site Plan Amendments*

Limited changes to an approved site plan may be approved by the UDO Administrator. Changes that can be approved administratively include, but are not limited to:

- Adjusting lot lines
- Increasing open space
- Reducing density
- Increasing perimeter buffering
- Adjusting Stormwater and utility locations for other permits

In granting such approval, the UDO Administrator may consult with the Technical Review Committee.

Significant changes to an approved site plan must be resubmitted for review and approval as a new application. Examples of changes considered significant include, but not limited to, creation of new roads, movement of roads, increased density, decreased open space, changes to ingress/egress and reduced perimeter buffering.

#### *4.7.13 Duration of Validity*

An approved site plan shall remain valid for a period of 180 days from the date of approval. After the initial 180 day period, construction or development activity must be actively pursued to maintain validity. If construction or development activity is discontinued for a period of greater than 90 calendar days, the site plan shall expire and a new application must be submitted.

#### *4.7.14 Building Permit/Certificate of Occupancy*

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No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved.

#### *4.7.15 Appeal*

Final action on a site plan may be appealed to the Board of Adjustment and the decision of the Board shall be final.

### **4.8 Vested Rights and Permit Choice**

#### *4.8.1 Establishment of a Vested Right, General*

- A. A Vested Right shall be deemed established upon the valid approval of a Site-specific vesting plan or Multi-phased development following any required notice and public hearing as provided for by law (Article 4.1.4 and Article 4.1.5).

A Site-specific vesting plan may be in the form of a Planned Unit Development, a Subdivision Plat, a Preliminary or General Development Plan (e.g., Site Plan, a Master Development Plan, etc.), a conditional district zoning plan, or any other land use approval designation utilized by the Town. A variance shall not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. (GS 160D-705)

- B. The approval authority may approve a Site-specific vesting plan upon such terms and conditions as may be reasonably necessary to protect the public health, safety and welfare. Such conditional approval shall result in a vested right being established, provided that failure to satisfy any of the terms and conditions so imposed will result in a forfeiture of Vested Rights.
- C. A Site-specific vesting plan shall be deemed approved as of the effective date of the approval authority's final action or adoption of an ordinance relating thereto.

#### *4.8.2 Approval Procedures and Approval Authority*

- A. Except as otherwise provided in this Article, an application for Site-specific vesting plan approval shall be processed in accordance with the procedures established by this Ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.



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- B. Notwithstanding the provisions of “subsection A” above, if the authority to issue a particular development approval, SUP, or rezoning has been delegated by ordinance to a board, committee or administrative official other than the Town Council, in order to obtain a *zoning Vested Right*, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council following notice and legislative hearing as provided in N.C.G.S. Chapter 160D-601. Such hearing and granting of vested rights shall occur after the initial development approval is issued.

#### 4.8.3 *Duration of Vested Rights*

- A. A Vested Right established pursuant to this Article shall remain vested for a period of 2 years from the effective date thereof. The Town may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.
- B. Nothing in this Article shall be construed to exempt a Site-specific vesting plan with respect to which a Vested Right has been established from subsequent review or approvals by the Town to ensure compliance with the terms and conditions of the original approval as provided for in the original approval or by applicable Town Code provisions.
- C. The establishment of a Vested Right pursuant to this Article shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town. These include, but are not limited to: building, fire, plumbing, electrical and mechanical codes. New and amended zoning regulations that would be applicable to certain property if a Vested Right had not been established shall become effective upon the expiration or termination of the Vested Right in accordance with this Article.
- D. Upon issuance of a building permit, the expiration provisions of N.C.G.S. Chapter 160D-1111 and the revocation provisions of N.C.G.S. Chapter 160D-1115 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning Vested Right under this Article is outstanding.

#### 4.8.4 *Termination of Vested Rights*

A zoning right that has been vested as provided in this Article shall terminate:

- A. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;
- B. Upon written request or with the written consent of the affected Landowner;
- C. Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that natural or manmade hazards on or in the immediate vicinity of the property would, if uncorrected, pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the Site-specific vesting plan;
- D. Upon payment to the affected Landowner of compensation for all costs, expenses and other losses incurred by the Landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
- E. Upon findings by the Town Council, by ordinance after notice and an evidentiary hearing, that the Landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the Site-specific vesting plan; or
- F. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the Site-specific vesting plan, in which case the approval authority may modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

#### 4.8.5 Transitional Provisions

##### A. Jurisdiction

Any project for which a building and/or zoning permit has been issued by Brunswick County prior to the effective date of an annexation or an extraterritorial jurisdiction expansion may be completed under the requirements of the Ordinance(s) in effect at the time all required permits/certificates were issued. Upon completion, any development, project, or improvement not in full compliance with the requirements of this Ordinance shall be considered non-conforming.

##### *B. Existing Vested Rights*

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The Town of St. James recognizes that some owners of property within the Town limits have vested rights to complete development and/or construction in accordance with approvals issued or granted by Brunswick County prior to the effective date of this Ordinance. Subsections below, are intended to facilitate the interpretation of existing vested rights in the situations described therein.

1. Work in Progress on Effective Date

The adoption of this Ordinance or a part hereof does not require a change in the plans, construction, or designated use of any building for which actual construction was lawfully begun prior to the adoption of this Ordinance, provided that such actual construction and work is not discontinued for an uninterrupted time lasting sixty (60) calendar days or longer. Such interruption shall result in revocation of building and zoning permits unless the UDO Administrator grants a time extension. For the purposes of this provision “actual construction” includes:

- a. demolition and removal of an existing structure in connection with approved and permitted site work and/or construction;
- b. site work; or
- c. erection or installation of construction materials in permanent position.

2. Approvals Granted Before Effective Date

Building permits, variances, special use permits, subdivision plans, site plans, site-specific vesting plans, multi-phased developments, planned unit development plans, master plans, and other similar approvals by Brunswick County that are valid on the day prior to the effective date of this Ordinance shall remain effective until such approvals would have expired under applicable law in effect on the day prior to the effective date of this Ordinance. Site improvements, buildings and other structures may be completed in accordance with such approvals even if any such site improvement, building or other structure does not fully comply with the provisions of this Ordinance. If work is not commenced within the time that an approval would have remained effective under applicable law in effect on the day prior to the effective date of this Ordinance, or any extension granted, then the site improvement, building and/or structure must meet the standards of this Ordinance as it is in effect at the time of reapplication.

3. Application Pending on Effective Date

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Applications for building permits, variances, special use permits, subdivision plans, site plans, site-specific vesting plans, multi-phased developments, master plans, or other similar approvals that were submitted to Brunswick County in complete form and are pending approval on the effective date of this Ordinance will be reviewed and acted on under the terms of the Brunswick County requirements in effect on the effective date of this Ordinance. Applications that were submitted to Brunswick County, but were not in complete form or pending approval prior to the effective date of this Ordinance, will be reviewed and acted upon under the provisions of this Ordinance.

#### 4. Violations

A violation of the prior applicable County regulation will continue as a violation under this Ordinance, and will be subject to penalties and enforcement under Article 6 of this Ordinance. The adoption of this Ordinance does not affect nor prevent any pending or future action to abate violations of prior regulations.

#### 5. Nonconformities

Nonconformities under a prior regulation may continue under these regulations as provided in Article 5, herein.

##### 4.8.6 Exemptions

- A. These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific vesting plan as required by the requirements previously adopted. Any preliminary or final subdivision plat approvals required for such approved or exempted site-specific vesting plans shall be conducted in accordance with the requirements of the previous Zoning Ordinance or Subdivision Ordinance.

The provisions of this Ordinance shall not apply to existing bona fide farms within the extra-territorial jurisdiction (ETJ).

- B. In accordance with NC General Statutes 160D-913, the Town of St. James UDO applies to state-owned lands only when a building is involved.

##### 4.8.7 *Miscellaneous Provisions*

- A. A Vested Right, once established as provided for in this Article, precludes any zoning action by the Town that would change, alter, impair, prevent, diminish,

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or otherwise delay the development or use of the property as set forth in an approved Site-specific vesting plan.

- B. Nothing in this Article shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the Zoning Ordinance.
- C. A Vested Right is not a personal right, but shall attach to and run with the land with respect to the affected property. All successors in title and interest of the owner who obtained the vested right shall be entitled to exercise the right.

#### *4.8.8 Voluntary Annexation*

A petition for annexation filed with the Town under N.C.G.S. Chapter 160A-31 or N.C.G.S. Chapter 160A-58.1 shall contain a signed statement by the landowner(s) of said property declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under N.C.G.S. Chapter 160D-108 or 160D-108.1. The failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning Vested Right shall be terminated.

#### *4.8.9 Limitations*

Nothing in this Article is intended or shall be deemed to create any Vested Right other than those established pursuant to N.C.G.S. Chapter 160D-108 or 160D-108.1.

#### *4.8.10 Repealer*

In the event that N.C.G.S. Chapter 160D-108 or 160D-108.1 is repealed, this Article shall be deemed repealed and the provisions hereof no longer effective.

#### *4.8.11 Effective Date*

This Article shall only apply to Site-specific vesting plans approved on or after the effective date of this Ordinance.

#### *4.8.12 Permit Choice*

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

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## 4.9 Special Use Permit

### 4.9.1 Purpose and Applicability

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard, and off-street parking and loading requirements. In addition to these uses, this Ordinance allows some uses to be allowed in these districts on a special use basis subject to issuance of a special use permit by the Town Council. Uses requiring a special use permit are shown in Article 7.16.

The purpose of having these uses be special is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located and would meet other criteria as set forth in this section.

A special use permit allows flexibility within the zoning ordinance. A zoning ordinance cannot account for every situation, and the special use permit gives the decision authority discretion to allow uses for the benefit of the neighborhood that are not otherwise specifically allowed.

### 4.9.2 Approval Process

The deadline for which a special use permit application shall be filed with the UDO Administrator is the first business day of the month. The application shall be accompanied by a site plan drawn to scale, and necessary supporting text which shall include the following the information:

- A. Name, address, and phone number of the property owner or his or her agent, and the tax parcel number of the property. The property owner or an authorized agent are the only two parties who may initiate a request for a special use permit.
- B. A boundary survey and vicinity map, showing the property's total acreage, zoning classification(s), general location in relation to adjoining streets, railroads, and/or waterways, date and north arrow.
- C. The owner's names and addresses, tax parcel numbers and existing land use(s) of all adjoining properties.
- D. Proposed use of all land and structures including the number of residential units, if applicable.

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- E. Proposed number and location of all structures, their approximate area and their approximate exterior dimensions.
  - F. All existing easements, reservations and rights-of-way.
  - G. Delineation of areas within the regulatory floodplain, as shown on the official Federal Emergency Management Act (FEMA) flood hazard boundary maps for the town.
  - H. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.

#### 4.9.3 *Additional Information*

- A. In the course of evaluating the proposed special use, the Town Council may request additional information from the applicant. A request for any additional information may temporarily suspend any further consideration of the application by the Town Council.
- B. This information requested may include, but shall not be limited to, the following as considered necessary by the Town Council:
  - 1. Stormwater drainage plan.
  - 2. Existing and proposed topography at five-foot contour intervals or less.
  - 3. The existing and proposed location of all water and sewer lines and fire hydrants intended to serve the proposed development.
  - 4. Proposed number, type and location of signs.
  - 5. A transportation impact analysis of the proposed development prepared by a qualified transportation or traffic engineer or planner as defined by Article 4.11.
  - 6. If the Town Council deems there are environmental concerns in addition to those already addressed by Federal, State, County and Town requirements for Air Quality, Stormwater management, CAMA requirements, DENER requirements, etc., the applicant will be given a written list of concerns with a statement of specific concerns in order to prepare an environmental impact statement which contains the following information:

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- a. A cover sheet which provides, in summary form, a description of the proposed project;
  - b. A statement of purpose and need of the project;
  - c. For projects proposed by public entities, a list of alternatives of the proposed project;
  - d. A succinct description of the environment affected by the project;
  - e. A discussion of short and long-term consequences of the project on the environment including any adverse environmental impacts which cannot be avoided; and
  - f. A list of means which could be employed to mitigate any negative effects on the environment caused by this project.
7. A description of all screening and landscaping required by these regulations and/or proposed by the applicant.
  8. Proposed phasing, if any, and approximate completion time for the project.

#### 4.9.4 *Application Completeness*

- A. No application shall be deemed complete unless it contains or is accompanied by all items listed in Article 4.9.2 and as may be required by Article 4.9.3 and a fee, in accordance with a fee schedule approved by the Town Council for the submittal of special use permit applications (see Article 2.17).
- B. Eight copies of an application, and all attachments and maps, for a special use permit shall be submitted to the town.
- C. Once complete, the UDO Administrator shall notify the Board of Adjustment that an evidentiary hearing must be scheduled.

#### 4.9.5 *Notice/Hearing*

- A. Special use permit cases are quasi-judicial, and all witnesses are to be sworn in.
- B. Prior to the Town Council making a decision on a special use permit, a quasi-judicial evidentiary hearing shall be conducted. A quorum of the Board is required for this hearing. Mailed and posted notice of the hearing shall be in accordance with Article 4.1.4.
  1. Evidence/Presentation of Evidence.



- a. All persons who intend to present evidence to the Board of Adjustment shall be sworn.
- b. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may necessary findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
- c. The Town Council has the authority to limit testimony that is irrelevant.
- d. The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.
- e. Parties to a quasi-judicial hearing have a right to cross-examine witnesses.
- f. Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.
- g. If a Town Council member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the Board and parties at the beginning of the hearing.

#### 4.9.6 Town Council Review and Action

- A. Once the application has been accepted, and required notification have been completed the Town Council shall review the special use application at their next schedule meeting, as long as it is received at least 25 days in advance of the meeting.
- B. The Town Council may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Town Council may find appropriate. The conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

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Conditions and safeguards imposed under this subsection shall not include requirements for which the Town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the Town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

- C. In approving an application for a special use permit, the Town Council may attach fair and reasonable conditions to the approval. The applicant will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Board, which must be consented to in writing. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in a similar zoning district.
- D. The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which subsection E., below require.
- E. The Town Council shall issue a special use permit if it has evaluated an application through a quasi-judicial process and determined that:
  - 1. The proposed use will have either a minimal effect or positive effect on the public health or safety;
  - 2. The use meets all required conditions and specifications;
  - 3. The proposed use will have no material adverse effect on the value of adjoining or abutting properties unless the use is a public necessity; and
  - 4. The proposed use is in harmony with the CAMA Land Use Plan/Comprehensive Plan and/or other plans adopted by the Town Council.

#### *4.9.7 Effect of Approval*

If an application for a special use permit is approved by the Town Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the permit, or develop any other use listed as a permitted use for the general zoning district in which it is located.

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#### 4.9.8 *Binding Effect*

- A. Any special use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the Town Council. However, minor changes may be made with the approval of the UDO Administrator on a one-time basis only in the detail of the approved application which:
  - 1. Will not alter the basic relationship of the proposed development to adjacent property;
  - 2. Will not increase the gross floor area of any non-residential use by the smaller of 10% or 10,000 square feet;
  - 3. Will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five feet.
- B. Further changes to the development may only be made by the by the original issuing authority in accordance with the process for initial approval.
- C. For example, if a special use permit is issued for a building having a gross floor area of 100,000 square feet, under this provision the property owner could, subject to approval of the UDO Administrator, construct a building with a gross floor area of up to 110,000 square feet. If the property owner subsequently had the permit amended authorizing construction of a building of up to 150,000 square feet, the UDO Administrator could allow the construction of a building having a gross area of up to 160,000 square feet.

#### 4.9.9 *Certificate of Occupancy*

No certificate of occupancy for a use listed as a special use shall be issued for any building or land use on a piece of property which has received a special use permit for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the permit approved by the Board of Adjustment. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

#### 4.9.10 *Twelve-Month Limitation on Re-Application*

If a request for special use permit is denied by the Town Council, a similar application for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of the most recent denial. This waiting period shall

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not be applicable where the application for a special use permit is substantially different.

#### *4.9.11 Change in Special Use Permit*

Any request to materially change the special use permit once it has been issued must first be reviewed and approved in accordance with Article 4.9.2, requiring the same procedure as was used for the initial approval of the permit.

#### *4.9.12 Implementation of Special Use Permit (SUP/CUP)*

Unless the Town Council issues a special use permit, which either is specifically exempt from any time constraints or has some other agreed upon time period for implementation of the site-specific vesting plan, the vesting period has begun upon approval of the site-specific vesting plan and issuance of the permit (Article 4.8).

If the development project is not completed by the expiration of the vested rights or previously approved time frame, the UDO Administrator shall notify the applicant of this finding and, within 60 days of the notification, the Town Council shall make a recommendation concerning the revision of the special use permit. The Board, after having conducted an evidentiary hearing to consider the revision, may then rescind the permit or extend the life of the permit for a specified period of time. Due notice of the public hearing shall be given as prescribed in Article 4.9.5.

### **4.10 Appeal of Administrative Decision**

#### *4.10.1 Applicability*

As specified in N.C.G.S. Chapter 160D-405, an appeal by any person aggrieved by a final order, interpretation or decision of the UDO Administrator or other administrator in regard to the provisions of this Ordinance may be taken to the Board of Adjustment.

#### *4.10.2 Application Requirements*

- A. Any person who has standing under G.S. 1402(c) or the Town may appeal a decision to the Board of Adjustment. An appeal of an administrative decision shall be taken by filing a written notice of appeal with the UDO Administrator and the Board of Adjustment specifying the grounds for the appeal. The appeal shall be submitted on a form provided by the Town.
- B. A notice of appeal of an administrative decision shall be considered filed when a completed application is delivered to the UDO Administrator. The date and time of filing shall be entered on the notice.

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#### *4.10.3 Deadline for Submission of Application*

An appeal of an administrative decision shall be filed with the UDO Administrator and Board of Adjustment within 30 days of receipt of the written decision. The official who made the decision shall give written notice to the owner of the property subject to the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first class mail. Any person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the final decision or notice of determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to G.S. 160D-403(b) by first class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

#### *4.10.4 Notice and Public Hearings*

The Board of Adjustment shall hold a quasi-judicial evidentiary hearing and give posted and mailed notice in accordance with Article 4.1.4.

#### *4.10.5 Action by UDO Administrator*

The UDO Administrator shall transmit to the Board of Adjustment all the documents and exhibits constituting the record upon which the action appealed was taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner. The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness.

#### *4.10.6 Action by Board of Adjustment*

- A. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
- B. A motion to reverse, affirm or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

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- B. If a motion to reverse or modify is not made, or fails to receive the concurring vote of a simple majority of the members of the board, the appeal shall be denied. (G.S. 160D-406).

#### *4.10.7 Effect of Appeal*

- A. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the Board of Adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed.
- B. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.
- C. An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit). Only actions presumed in violation of this Ordinance are stayed.

### **4.11 Transportation Impact Analysis**

#### *4.11.1 Applicability*

A Transportation Impact Analysis may be required at the discretion of the UDO Administrator in conjunction with an application for:

- A. Zoning Map Amendments - Planned Unit Development (Article 4.4)
- B. Major Preliminary Plat of a Subdivision for more than 50 lots (Article 4.6)

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- C. Major Site Plan for a residential use expected to generate more than 300 Vehicle trips per day (Article 4.7) based on the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.  
Commercial projects may be required to submit a Traffic Impact Analysis if the project can be anticipated to generate at least 100 vehicle trips at peak hour or 1,000 vehicle trips per day based on the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
  - D. Special Use Permit (Article 4.9)

#### 4.11.2 Pre-Application Conference

- A. All applicants submitting a Transportation Impact Analysis shall schedule a pre-application conference with the UDO Administrator, in accordance with Article 4.1.1.
- B. The UDO Administrator shall determine the type and scope of the study during the pre-application conference, which may involve representatives from other agencies or departments including the NC Department of Transportation (NCDOT).

#### 4.11.3 Submittal Requirements

A Transportation Impact Analysis shall be submitted on forms supplied by the Town in accordance with Article 4.1.3 (Application Requirements) and may include some or all of the requirements listed below.

- A. *Type of Study.* A letter report, full Transportation Impact Assessment report, or special report (such as sight distance survey).
- B. *Definition of Impact Area.* Identification of the points of access and key streets and intersections to be affected by development of the subject tract. Traffic recorder and turning movement assessment locations may also have to be determined.
- C. *Period of Analysis.* The period of analysis shall be for both morning and afternoon peak hours.
- D. *Analysis Scenarios.* Scenarios for analysis shall include existing conditions, and opening year with and without development, and may include 5 or 10 years after opening with or without development.
- E. *Assumptions.* Trip generation and distribution assumptions including trip generation categories, diversion assumptions and distribution assumptions.

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Assumed rate of growth in background traffic and developments in the area that have been approved or are under review shall also be required.

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

F. *Existing Condition Survey.*

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

2. *Traffic Volumes.* Existing peak hour traffic volumes shall be provided for the impact area. Data shall be adjusted for daily and seasonal variations. Turning movement counts for peak hour shall also be required for critical intersections.
3. *Capacity Analysis.* Existing capacity of signalized and un-signalized intersections.
4. *Other Details.* Other details may be required at the discretion of the UDO Administrator depending upon the type and scale of the project. These may include, but are not limited to, queue length analysis, pedestrian counts, accident data, traffic speeds (both 50<sup>th</sup> and 80<sup>th</sup> percentile), and stopping distances.

- H. *Future without Development.* Capacity analysis should be based on the Highway Capacity Manual or other methodology approved in advance by the UDO Administrator. In addition, the expected traffic growth over the next 20 years based upon the developments currently approved by the County and all adjoining jurisdictions shall also be considered.

I. *Future with Development.*

1. Projections of peak hour traffic generation shall be made using the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual, unless the UDO Administrator determines that locally derived data will provide more accurate forecasts. Data from similar facilities may be used where the information is not available from the ITE.



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2. Special analysis shall be required to determine the need for signalization, minimum safe sight distances, gap analysis, turning radius requirements, queue length analysis, turning lane length analysis, curb cut locations or similar requirements.

#### *4.11.4 Mitigation Plan*

Where the analysis indicates that the project will create deficiencies in the impact area, improvements shall be recommended along with projected cost estimates. The design of improvements shall be in accordance with the NC Department of Transportation. Where a mitigation plan is not adequate to address the traffic impacts of the project, it shall serve as a basis for denial of a Planned Unit Development, preliminary plat, site plan or special use permit.

#### *4.11.5 Consultants*

The UDO Administrator may require that an independent consultant be hired by the Town to perform the required studies or to review all or part of a study prepared by the applicant's consultant. The UDO Administrator is authorized to administer the contract for any such consultant.

- A. The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
- B. The applicant shall provide an amount equal to the estimate to the Town, who shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest.
- C. The Town shall require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

#### *4.11.6 Period of Validity*

A Transportation Impact Analysis shall be valid for a specific site for no more than three (3) years, so long as no significant modifications to the development approved for the site are made.

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## 4.12 Permits and Certificates

Other permits or certificates beyond those included in this Article may be required. Consult with the UDO Administrator. Any development approval issued in accordance with this UDO shall be in writing. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement. Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this UDO attach to and run with the land.

### 4.12.1 Zoning Permit

#### A. *Applicability.*

1. No excavation shall be commenced; no wall, structure, premises, or land used, building or part thereof shall be built, constructed or altered; nor shall any building be moved; nor shall any sign be erected or structurally altered (unless exempted), until application has been made and the proper permit has been obtained. When the UDO Administrator, with the technical assistance of other Town Departments or consultant, has determined that the proposed land use may be permitted under the provisions of this Ordinance, a permit for the proposed use shall be issued. In the event of an appeal of a negative decision by the UDO Administrator, the Board of Adjustment may direct issuance of the Zoning Permit, but only after overturning the UDO Administrators decision to deny the Zoning Permit.
2. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use until the UDO Administrator has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this Ordinance.
3. Exemption: The UDO administrator may, upon proof of approval by a legally constituted HOA, POA, or similar entity, waive the zoning permit requirement for enclosing an existing structure attached to an existing single-family or duplex dwelling for the purpose of extending the established residential use (e.g. enclosing a sunroom to allow for climate control).

- B. *Timing of Application.* In all cases where a building permit is required, application to and approval from the Town for a zoning permit shall be made prior to the application to the County for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this Article.
- C. *Application Requirements.* All applications for a zoning permit shall be submitted in accordance with Article 4.1.3 (Application Requirements).
- D. *Action by UDO Administrator.*
1. If the proposed excavation, construction, moving, alteration or use of land, as set forth in an application for a zoning permit, is in conformity with the provisions of this Ordinance, the UDO Administrator shall issue a zoning permit, provided that all of the following conditions shall apply:
    - a. Issuance of a zoning permit shall in no case be construed as waiving any provisions of this Ordinance;
    - b. The UDO Administrator shall not grant any exceptions to the actual meaning of any clause, standard or regulation contained in this Ordinance to any person making application to excavate, construct, move, alter or use buildings, structures or land;
    - c. The UDO Administrator shall issue a permit when the imposed conditions of this Ordinance are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and
    - d. The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this Ordinance. Prior to the issuance of a zoning permit, the UDO Administrator shall consult with other applicable persons, as necessary.
  2. If the proposed excavation, construction, moving, alteration or use of land, as set forth in an application for a zoning permit, is not in conformity with the provisions of this Ordinance, the UDO Administrator shall not issue a zoning permit. If an application for a zoning permit is disapproved, the UDO Administrator shall state in

writing the cause of such disapproval and provide written notice to the applicant.

- E. *Expiration.* Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within 12 months. If the proposed excavation, construction, moving, alteration or use of land, as set forth in an application for a zoning permit, is discontinued for a period of 6 months or more, the zoning permit shall lapse and be of no further force and effect.
- F. *Appeal.* Final action on a zoning permit may be appealed to the Board of Adjustment in accordance with Article 4.10 (Appeal of Administrative Decision).

#### 4.12.2 (Final) Certificate of Occupancy/Compliance

No certificate of occupancy or compliance shall be issued by the Brunswick County (the "County") Building Inspector until:

- A. The UDO Administrator certifies that all applicable standards of this Ordinance have been met.
- C. No building, structure or lot for which a Zoning Permit has been issued shall be used or occupied until Building Inspections has, after final inspection, recommended the issuance of a Certificate of Occupancy indicating compliance has been made with all provisions of this Ordinance. However, the issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance.

#### 4.12.3. Temporary Use Permit – See Article 14

#### 4.12.4 Sign Permit – See Article 11

#### 4.12.5. Stormwater Permit (Reserved)

### 4.13 Temporary Moratoria Procedures

North Carolina General Statute 160D-107 explicitly recognizes the authority of cities/towns to adopt temporary moratoria. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions. Except in cases of imminent and substantial threat to public health or safety, before adopting an ordinance imposing a development moratorium with a duration of 60 days or any shorter period, the Town Council shall hold a public hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61

days or longer, is subject to the notice and hearing requirements of G.S. 160D-601. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section shall not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1110 is outstanding, to any project for which a special use permit application has been accepted, to development set forth in a site-specific or multi-phased development approved pursuant to G.S. 160D-108 or 160D-108.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid administrative or quasi-judicial permit or approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for public hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for public hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium.

Any ordinance establishing a development moratorium must expressly include at the time of adoption each of the following:

- 4.13.1 A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.
- 4.13.2 A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- 4.13.3 An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- 4.13.4 A clear statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the Town shall have taken all reasonable and feasible steps proposed to be taken by the Town in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must expressly include, at the time of adoption, the findings set forth in Article 4.13.1 through Article 4.13.4 of this Ordinance, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the appropriate division of the General Court of Justice for an order enjoining the enforcement of the moratorium, and the court shall have jurisdiction to issue that order. In any such action, the Town shall have the burden of showing compliance with the procedural requirements of this subsection.

**ARTICLE 5  
NONCONFORMITIES**

**5.1 General**

*5.1.1 Scope*

The regulations of this Article govern lots, uses, buildings, signs, and other aspects of development that came into existence lawfully, but do not conform to one or more requirements of this Ordinance. These are referred to as nonconformities.

*5.1.2 Purpose*

The regulations of this Article are intended to:

- A. Recognize the interests of property owners in continuing to use their property for lawful purposes;
- B. Promote reuse and rehabilitation of existing buildings;
- C. Place reasonable limits on the expansion or alteration of nonconformities that have the potential to adversely affect surrounding properties or the community as a whole.

*5.1.3 Change of Tenancy or Ownership*

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

*5.1.4 Nonconformity Resulting From Governmental Action*

Nonconformities resulting from governmental action shall obtain nonconforming status to the extent that said action causes noncompliance with any provision of this Ordinance.

*5.1.5 Nonconforming Use Certificates*

- A. The burden of proving that a situation is a nonconformity, as opposed to an illegal situation, rests with the subject landowner.
- B. It shall be unlawful to maintain or continue any nonconforming use until a Nonconforming Use Certificate has been issued. However, nonconforming uses existing as of the effective date of this Ordinance shall be permitted to continue for a 6 month period from the time of notification by the UDO

Administrator that there is a nonconformity that necessitates obtaining such Certificate.

- C. The Nonconforming Use Certificate shall indicate the date on which the use will be discontinued, or that the use may be continued indefinitely according to terms and limitations of this Ordinance.

## **5.2 Nonconforming Lot of Record**

### *5.2.1 Definition*

A nonconforming lot of record is a tract of land lawfully established as a lot on a plat of subdivision or deed recorded or registered, pursuant to statute, with the Register of Deeds of Brunswick County that does not conform to the dimensional requirements of the zoning district in which it is now located.

### *5.2.2 Continuation*

- A. Except as provided in Subsection B below, a nonconforming lot may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all yard, parking, and screening requirements of this Ordinance for the zoning district in which it is located.
- B. If two or more adjacent, nonconforming, unimproved lots are held in single ownership, such lots shall be recombined into a single building lot prior to developing the property.

## **5.3 Nonconforming Use**

### *5.3.1 Definition*

A nonconforming use is a principal use or an accessory use, other than a nonconforming sign, that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which it is now located.

### *5.3.2 Continuation*

Nonconforming uses of land or structures may continue only in accordance with the provisions of this Article.

- A. A nonconforming use shall not be expanded. Expansion shall include an intensification of use, a physical expansion that results in increased capacity or activity associated with the use, an extension of the hours of operation or number of days of activity and any similar change in activity or location.

- B. A nonconforming use may not be relocated, in whole or part, to another portion of the subject lot or parcel.
- C. A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, a nonconforming use shall not be re-established.
- D. Where a nonconforming use is discontinued or abandoned for a continuous period of 180 days, then the use shall not be re-established or resumed and any subsequent use of the land or structure shall conform to the requirements of this Ordinance.
- E. No structural changes shall be made in any structure occupied by a nonconforming use except as follows:
  - 1. Those structural changes ordered by an authorized official in order to insure the safety of the structure shall be permitted.
  - 2. Maintenance and repairs to keep a structure in sound condition shall be permitted.
  - 3. Structural changes necessary to convert the nonconforming use to a conforming use shall be permitted.
  - 4. An existing nonconforming residential structure may be enlarged or altered provided that no additional dwelling units result there from. Any such enlargement or alterations shall be in compliance with all yard requirements of the district and/or use.

## 5.4 Nonconforming Structures

### 5.4.1 Definition

A nonconforming structure is any aspect of a development, other than a nonconforming lot, nonconforming use or nonconforming sign that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Ordinance.

### 5.4.2 Continuation

Nonconforming structures may remain, subject to the standards of this Ordinance.

### 5.4.3 Enlargement or Modification

- A. A nonconforming structure may be modified or altered provided such



alterations do not increase the degree of nonconformity.

- B. Any enlargement of a nonconforming structure shall conform to the dimensional requirements of the zoning district unless a variance is granted by the Town Council.
- C. A nonconforming structure may not be moved or relocated unless it is made to comply with the dimensional requirements of the district in which it is relocated.

#### 5.4.4 *Damage or Destruction*

- A. Where a nonconforming structure is destroyed or damaged by fire, flood, wind or other act(s) of God, the structure may be repaired or restored to its original dimensions and footprint provided a building permit for the repair or restoration is issued within 12 months of the date of the damage.
- B. Nonconforming transmission towers existing as of the effective date of this Ordinance may be replaced if damaged by natural causes.

## 5.5 **Nonconforming Signs**

### 5.5.1 *Definition*

A nonconforming sign is a sign that was legally established subject to a lawfully issued permit in compliance 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 Article 11, (Signs) and has a valid Nonconforming Use Certificate. Nonconforming sign structures shall be included in this definition.

### 5.5.2 *Permits Required*

A Nonconforming Use Certificate shall be required for all nonconforming signs. A separate certificate shall be required for each nonconforming sign or sign structure.

### 5.5.3 *Continuation of Nonconforming Signs*

Nonconforming signs may remain in use, subject to the regulations of this Article and all other applicable requirements of the Town Code. Nonconforming signs must be maintained in good repair, and must comply with all other requirements of this Ordinance.

- A. Nonconforming signs and sign structures may not be structurally altered, enlarged or extended, or have additional lighting added, except that copy may be changed on an existing sign.
- B. Nonconforming signs and sign structures may not be moved on the site or relocated to another site.

#### 5.5.4 *Loss of Nonconforming Sign Status and Removal*

##### A. *Discontinuance*

1. A nonconforming sign that is removed may only be replaced with a conforming sign.
2. A nonconforming sign shall lose nonconforming status if the business activity on the premises is discontinued for a continuous period of 90 days or more, and must be removed.
3. Sign removal shall include the entire sign and any or all supports.

##### B. *Any nonconforming sign or sign structure which has been damaged by any cause shall lose nonconforming status if the damage to the sign or sign structure exceeds 25% of its replacement value and it must be removed.*

##### C. Outdoor Advertising Structures whose use is discontinued or abandoned for a continuous period of 180 days, then the use shall not be re-established or resumed and any subsequent use of the land or structure shall conform to the requirements of this Ordinance.

##### D. *Change of Conditions.* A nonconforming sign must be brought into compliance if additions or expansions of buildings, parking or removed if any or all of the following occurs:

1. If additions or expansions of buildings, parking areas or uses of open land occur which are greater than 3,000 square feet.
2. If any change in the existing use of the property occurs.
3. If an application for a sign permit is made to add new or additional signage to a property containing a nonconforming sign. Signs not meeting Ordinance requirements for which no Nonconforming Use Certificate has been issued shall lose their nonconforming status.

#### 5.5.5 Additional Requirements for Nonconforming Accessory Uses and structures

No nonconforming accessory use or accessory structure shall continue after the principal use of structure is terminated by abandonment, discontinuance, damage or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

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## ARTICLE 6 ENFORCEMENT

### 6.1 Purpose

This Article sets forth the procedures by which the Town seeks correction of violations of this Ordinance. It also sets forth the remedies and penalties the Town may apply where necessary to ensure correction of violations. The provisions of this Article are intended to encourage the voluntary correction of violations, and also when necessary, to assure that violations are quickly and effectively deterred and remedied.

### 6.2 Applicability

The UDO Administrator may initiate the process to revoke any permit or other authorization granted under this Ordinance for failure to comply with any provision of this Ordinance or with a term or condition of the permit or authorization, or for a false statement or misrepresentation made in securing the permit or authorization, or if the permit or authorization was mistakenly granted in violation of applicable State, County or Town law. Such revocation shall be in accordance with the process as was used in granting the initial approval, including any applicable notice and required hearing.

### 6.3 Violations

Any failure to comply with a requirement, prohibition or limitation imposed under the provisions of this Ordinance, or with a term or condition of any permit or other authorization granted pursuant to the Ordinance shall constitute a violation of this Ordinance.

### 6.4 Responsible Person

One or more of the following persons may be held responsible for a violation of this Ordinance and be subject to the remedies and penalties provided in this Article:

6.4.1 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.

6.4.2 An owner of the property on which a violation of this Ordinance occurs, or any tenant or occupant of that property who has control over, or responsibility for, its use or development.

### 6.5 Enforcement Procedures

#### 6.5.1 Investigation

On receipt of a complaint or other information indicating that there may be a violation of this Ordinance, the UDO Administrator, or any other official designated by the Town Council, shall investigate the situation and determine whether a violation exists.

#### 6.5.2 *Initial Notice of Violation*

- A. On determining that a violation exists, the UDO Administrator shall give the responsible person written notice of the violation by personal delivery, or by certified or registered mail, return receipt requested. The notice shall describe the nature of the violation, state the actions necessary to correct the violation, and invite the alleged violator to meet with the UDO Administrator within 10 days to discuss the violation and how it may be corrected. The UDO Administrator may provide the alleged violator additional written notices of violation. If the UDO Administrator believes personal service and/or service by registered or certified or registered mail may be unsuccessful, he may also provide notice by posting the written notice in a conspicuous place on the property for a period of not less than 10 days simultaneously with the attempts at service by the previously mentioned methods.
- B. The UDO Administrator may, by service effectuated pursuant to Article 6.5.2.A above, issue a cease and desist order to the responsible person, which order shall remain in effect until all violations have been corrected.
- C. Before revoking a permit or other authorization, the UDO Administrator shall give the holder of the permit or authorization 10 days' notice of intent to initiate the process to revoke the permit or authorization. The notice shall set forth the reasons for the intended revocation, and shall state that the holder may have an informal hearing on the intended revocation before the UDO Administrator. In revoking the permit, the UDO Administrator shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

#### 6.6 **Final Notice of Violation; Correction Order**

The UDO Administrator's final written notice of violation (which may, when appropriate, be the initial written notice) shall be served upon the responsible person in the same manner as the initial notice of violation, and shall order correction of the violation within 30 days of service of the notice. It shall set forth those remedies the UDO Administrator may pursue, and shall state that the correction order may be appealed to the Town Council. 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. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town Clerk that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

### **6.7 Reinstatement of Permit by UDO Administrator**

The holder of a permit or authorization that has been revoked may submit to the UDO Administrator a written request for reinstatement of the permit or authorization within 90 days of the revocation. Upon determining that the reasons for the revocation have been eliminated, and that the applicant has fully complied with all requirements of this Ordinance, the UDO Administrator or applicable responsible approval authority may reinstate the permit or authorization. A permit or authorization that has been revoked shall not be reinstated if an application for reinstatement has not been filed within 90 days. Under such circumstances the holder of the permit or authorization must reapply for the permit or authorization, which shall follow the same development review and approval process as was required for the initial permit approval.

### **6.8 Appeal to the Board of Adjustment**

6.8.1 Any person aggrieved by the UDO Administrator's determination of a violation or correction order may appeal that determination or order to the Board of Adjustment in accordance with the provisions of Article 4.10 (Appeal of Administrative Decision).

6.8.2 If the recipient of a correction order does not appeal the order to the Board of Adjustment within the time specified in Article 4.10 (Appeal of Administrative Decision), that person may not later appeal the subsequent imposition of a remedy or penalty specified in the order to the Town Council.

### **6.9 Extension of Time in Which to Correct Violation**

The recipient of a correction order, or the owner of the property on which the violation has occurred, may submit to the UDO Administrator a written request for an extension of time not to exceed 60 days beyond that set forth in the order to correct the violation. On concluding that the request contains 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 UDO Administrator may extend the time limit as reasonably necessary to allow timely correction of the violation.

### **6.10 Enforcement Action after Time Limit to Correct Violation**

Following the expiration of the time allowed for the correction of a violation, including any stay or extension thereof, the UDO Administrator shall determine whether the violation has been corrected. If the violation has been corrected, the UDO Administrator shall take no further action against the alleged violator. If the violation has not been corrected, the UDO

Administrator may impose one or more of the remedies and penalties specified in the correction order.

### **6.11 Emergency Enforcement without Notice**

If a delay in the correction of a violation would seriously threaten the enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the UDO Administrator may seek immediate enforcement without prior written notice through any of the remedies or penalties authorized in Article 6.12, below.

### **6.12 Remedies and Penalties**

The UDO Administrator may pursue one or more of the following remedies and penalties to prevent, correct or abate a violation of this Ordinance. Use of one of the authorized remedies or penalties does not preclude the UDO Administrator from using any other authorized remedies or penalties, nor does it relieve any party from the imposition of one remedy or penalty from the imposition of any other authorized remedies and penalties.

#### *6.12.1 Stop Work Orders*

Whenever a building, structure, sign, or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Ordinance, the UDO Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the owner, occupant, or person doing the work. 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. Such action shall be in accordance with N.C.G.S. Chapter 160A-321 or the North Carolina Building Code.

#### *6.12.2 Permit Revocation*

In accordance with the provision of Article 6.2, the UDO Administrator may initiate the process to revoke any permit or authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or with the terms and conditions for a permit or authorization granted under this Ordinance. Such revocation shall be in accordance with the process as was used in granting the initial approval, including any applicable notice and required hearing.

#### *6.12.3 Permit Denial*

So long as a violation of this Ordinance remains uncorrected, the UDO Administrator may deny or withhold approval of any permit or other authorization provided for in this Ordinance that is sought for the property on which the violation has occurred.

#### *6.12.4 Civil Penalty*

- A. A violation of this Ordinance subjects the violator to a civil penalty in the amount of \$500.00 per day in accordance with N.C.G.S. Chapter 14-4(a). The UDO Administrator may impose a civil penalty by giving the violator a written citation, either in person or by registered or certified mail, return receipt requested. The citation shall describe the nature of the violation, specify the amount of the civil penalty that is being imposed, and direct the violator to pay the civil penalty to the Town within 10 days from the day the citation is received. If the violator fails to pay the civil penalty within the time limit, the UDO Administrator may institute appropriate civil action in a court of competent jurisdiction to recover the civil penalty.
- B. For the purpose of assessing the amount of the civil penalty, each day the violation continues after the receipt of the correction order (or the receipt of the actual citation in the case of emergency enforcement) shall constitute a separate violation that subjects the violator to an additional civil penalty. The UDO Administrator may impose monetary penalties of \$ 500.00 for each day the violation continues.

#### *6.12.5 Criminal Penalties*

Any violation of this Ordinance may be enforced as a misdemeanor or infraction as provided by N.C.G.S., Chapters 14-1 and 113A-64, subject to a maximum fine of \$5,000.

#### *6.12.6 Injunction and Abatement Order*

The UDO Administrator may institute action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement commanding a violator to cease or correct a violation of this Ordinance. Pursuant to N.C.G.S., Chapters 160A-175 and 14-4, if the violator fails to comply with a court injunction or order of abatement and the Town executes the order, the Town will have a lien on the property on which the violation occurred for the Town's costs in executing the order.

#### *6.12.7 Alternative Equitable Relief*

In addition to the above remedies and penalties the UDO Administrator may institute any other appropriate equitable action or proceeding in a court of competent jurisdiction to prevent, correct or abate a violation of this Ordinance.

### **6.13 Stormwater Violations (RESERVED)**

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## ARTICLE 7 ZONING DISTRICTS

### 7.1 Zoning Districts Established

All areas within the zoning jurisdiction of the Town are hereby divided into zoning districts within which the use of land and water areas; the location, height, bulk, appearance and use of structures; the provision of parking and loading areas; and the provision of buffers and screening areas are regulated as herein provided. Standards for roads are provided in Article 12. **Note:** In the case of lots on the turning circle of a cul-de-sac, the curb width will be a minimum of 50% of the district lot width requirement but not less than 20 feet.

Zoning districts within the Town's jurisdiction fall within one of the following three categories:

#### 7.1.1 *General Use Zoning Districts*

Each general use district category serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the zoning jurisdiction. A general use district may be layered with an overlay district, which is a special type of general use district.

#### 7.1.2 *Conditional Zoning Districts*

- A. Typically, conditional districts are established as parallel or counterpart districts to a general use district. In such cases, references in the zoning ordinance to the general use district shall be construed to also include the counterpart conditional district. Conditional districts, like general use districts, may be layered with overlay districts.
- B. Each conditional district with a counterpart general use district is intended to accomplish the purposes of the counterpart district through the development of identified uses at a specific location in accordance with this Article. All regulations and uses which apply to a general use district also apply to the counterpart conditional district, and no use shall be allowed in the conditional district that is not allowed in its counterpart general use district.



- C. Additional conditions, which may be suggested by the petitioner as part of the rezoning process, shall be binding upon property within a conditional district in perpetuity or until the property is rezoned by the Town Council. Such conditions may include increased buffers, architectural features, access, parking, hours of operation, or any other feature of the development that is integral to meeting the spirit and intent of this Ordinance or that serves to mitigate the impacts of the development on adjacent property or the community at large. Such conditions must be enforceable by the Town, presented by the petitioner during the public hearing as part of the rezoning petition, and agreed to by the Town Council during the rezoning process.
- D. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative or speculative proposals which may not be undertaken for some time.

### 7.1.3 *Overlay Districts*

- A. Overlay districts are established to provide for certain additional requirements, to permit uses not otherwise permitted in the underlying district, to prohibit uses allowed in the underlying district, or to establish special development requirements for uses permitted. Thus, where overlay districts exist, and there is a conflict between the requirements and/or uses specified between the overlay and the underlying district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying district shall also be in effect for any area additionally zoned for an overlay district.
- B. A zoning map change either establishing or changing any overlay district shall be subject to the same procedures and requirements as any other zoning map change.

## 7.2 **Classification of Areas Under Water or Otherwise Unclassified**

- 7.2.1 All areas within the jurisdiction of the Town that are under water and are not shown as included within any district shall be subject to all of the regulations of the District which immediately adjoins the water area. If the water area adjoins two or more districts, the boundaries of each District shall be construed to extend into the water in a straight line until they meet the boundaries of another District or the jurisdictional limit.
- 7.2.2 All lands within the jurisdiction of the Town that are not under water and are not shown as included within the limits of any district shall be considered to be in R-20 Residential District until otherwise classified by an amendment to this Ordinance.

### **7.3 Establishment of Zoning Districts**

For the purpose of this Ordinance all areas within the zoning jurisdiction of the Town are hereby divided into the following zoning districts:

#### *7.3.1 General Use Zoning Districts*

- A. R-20 Residential District
- B. R-15 Residential District
- C. R-10 Residential District
- D. SBR 6000
- E. MR Multi-family Residential District
- F. EPUD Existing Planned Unit Development
- G. CN Commercial Neighborhood District
- H. CLD Commercial Low Density District
- I. CI Commercial Intensive District

#### *7.3.2 Conditional Zoning Districts*

- A. MR-CD Multi-family Residential - Conditional District
- B. PUD-CD Planned Unit Development -Conditional District

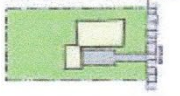
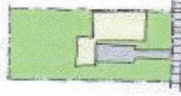
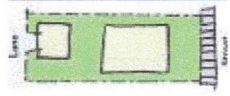
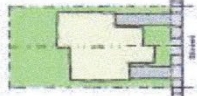

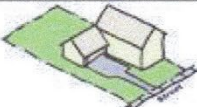


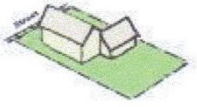
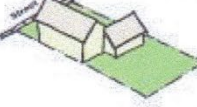
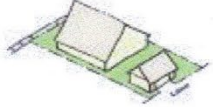

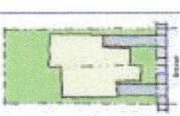
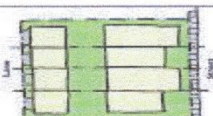
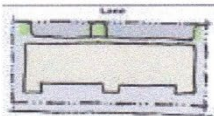
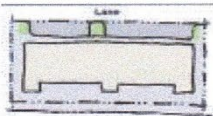

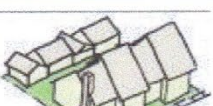




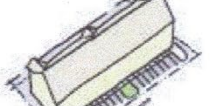

#### *7.3.3 Overlay Districts*

- A. SCO Sports Club Overlay
- B. CDO Corridor Development Overlay (Reserved)

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7.3.4 Housing Types

The following housing types are established to provide a common terminology for housing in St. James. All drawings are for illustrative purposes only.

Single Family Detached	Zero Lot Line	Traditional House	Semi-Attached House
<p>A dwelling unit located on a single lot with private yards on all four sides</p>	<p>A dwelling unit located on a single lot with private yards on three sides. The unit has only a single side yard comprising the equivalent of two side yards of a single-family detached house.</p>	<p>A dwelling unit located on a single lot with private yards on all four sides: however, the house shall be set much closer to the street than a single-family detached house.</p>	<p>Two attached single-family units located on two lots that share a common wall along the lot line, providing for fee-simple ownership.</p>
			
			
			
Duplex	Townhouse	Multifamily	Upper-Story Residential
<p>Two attached dwelling units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.</p>	<p>Three or more attached single-family units located on separately owned lots where the units are lined up in a row and share side walls, individual units can be mixed vertically.</p>	<p>Three or more units in a single structure on a single lot. Multifamily can vary in height from two to four stories (or higher subject to conditions); individual units can be mixed vertically.</p>	<p>A residential dwelling unit located on a floor above a nonresidential use</p>
			
			
			

## 7.4 R-20 - Residential District

The R-20 Residential District is established for low to moderate density single family detached dwellings where public water and sewer service is available. Limited non-residential activities may be permitted when they do not destabilize the essential rural residential character of the District. The overall gross density in the R-20 shall be no more than 2 units per acre.

### 7.4.1 Design Standards

#### A. *Minimum Lot Dimensions.*

1. Area: 20,000 square feet
2. Frontage: 100 feet at the setback line (120 feet for corner lots)

#### B. *Building Locations (Minimum Setbacks from Lot Lines).*

1. Front Yard Setback: 50 feet
2. Rear Yard: 45 feet . The Rear Yard setback may be reduced by 50% for properties where the Rear Yard does not abut another residential use.
3. Side Yard: 15 feet for each yard
4. Side yard abutting a street: 25 feet

#### C. Accessory buildings shall be a minimum of 20 feet from a rear or side lot line.

#### D. *Maximum Height.*

1. Principal building: 40 feet
2. Accessory building: less than 50 percent of the height of the principal building

### 7.4.2 Clustering Permitted

In accordance with the standards set forth in Article 9.13 of this Ordinance the clustering of residential lots within single family residential subdivisions is permitted within this district.

### 7.4.3 Permitted and Prohibited Uses

Uses permitted by right, under prescribed conditions, and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses By District are prohibited.

## 7.5 R-15 - Residential District

The R-15 Residential District is established for moderate density single family detached dwellings in developments where public water and sewer service is required. Limited non-residential uses may be permitted when they are compatible with this District's underlying moderate density residential character. The overall gross density in the R-15 shall be no more than 2.5 dwelling units per acre.

### 7.5.1 Design Standards

#### A. *Minimum Lot Dimensions.*

1. Area: 15,000 square feet
2. Frontage: 90 feet at the setback line (100 feet for corner lots)

#### B. *Building Locations (Minimum Setbacks from Lot Lines).*

1. Front Yard Setback: 40 feet
2. Rear Yard: 35 feet . The Rear Yard setback may be reduced by 50% for properties where the Rear Yard does not abut another residential use.
3. Side Yard: 10 feet (20 feet for corner lot abutting a street)

#### C. Accessory buildings shall be a minimum of 15 feet from a rear or side lot line.

#### D. *Maximum Height.*

1. Principal building: 40 feet
2. Accessory: less than 50% of the height of the principal building

### 7.5.2 Clustering Permitted

In accordance with the standards set forth in Article 9.13 of this Ordinance the clustering of residential lots within single family residential subdivisions is permitted within this district.

### 7.5.3 Permitted and Prohibited Uses

Uses permitted by right, under prescribed conditions and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses by District are prohibited.

## 7.6 R-10 - Residential District

The R-10 Residential District is established for moderate to high density single family detached dwellings in developments where public water and sewer service is required. Limited non-residential uses may be permitted when they are compatible with the District's residential character. The overall gross density in the R-10 shall be no more than 3.5 dwelling units per acre.

### 7.6.1 Design Standards

#### A. *Minimum Lot Dimensions.*

1. Single Family Dwellings
  - a. Area: 10,000 square feet
  - b. Frontage: 80 feet at the setback line (90 feet for corner lots)
2. Duplexes
  - a. Area: 15,000 square feet
  - b. Frontage: 120 feet at the setback line (150 feet for corner lot.

#### B. *Building Locations (Minimum Setbacks from Lot Lines).*

1. Front Yard Setback: 30 feet
2. Rear Yard: 25 feet . The Rear Yard setback may be reduced by 50% for properties where the Rear Yard does not abut another residential use.
3. Side Yard: 10 feet (20 feet for corner lot abutting a street)

#### C. Accessory buildings shall be a minimum of 10 feet from a rear or side lot line.

#### D. *Maximum Height.*

1. Principal building: 35 feet
2. Accessory: less than 50% of the height of the principal building

### 7.6.2 Clustering Permitted

In accordance with the standards set forth in Article 9.13 of this Ordinance the clustering of residential lots within single family residential subdivisions is permitted within this district.

### 7.6.3 *Permitted and Prohibited Uses*

Uses permitted by right, under prescribed conditions, and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses By District are prohibited.

## 7.7 **MR and MR-CD - Multi-Family Residential District**

The purpose of this District is to establish an area in which the principal use of the land is for high density residential purposes, limited to a density of no more than 10 dwelling units per gross acre. Multifamily (Condominium/or Rental) and Townhouses are permitted (see the graphic in Article 7.3.4 for definitions). These homes will be built in designated areas dedicated to this purpose. A development may consist of a mixture of Multifamily and Town Houses, however they must be in designated areas and there must be an aesthetically suitable transitional strategy buffering the two types of neighborhoods. See Articles 9 and 12 for additional standards, including Article 9.13 and Article 12.9 for open space and recreational space requirements.

### 7.7.1 *Design Standards for Multifamily (MR, MR-CD districts)*

#### A.. *Minimum Lot Dimensions*

1. Area: Minimum of 5 acres.
2. Frontage:  
Multifamily: 75 feet for the first structure and 20 feet per additional unit up to a total of 135 feet.
3. Lot area per unit (Multifamily): 1600 sq. ft.

#### B. *Maximum Density.* Not more than 10 dwelling units per gross acre.

#### C.. *Setbacks.* The setback and separation requirements between all buildings in the development shall be as set forth in Article 9.12 of this Ordinance. In addition to those requirements, all buildings on the periphery of the development shall meet the following additional standards:

- a. Front Yard Setback: 25 feet
- b. Rear Yard: Setback: 20 feet
- c. Side Yard: Setback: 20 feet

#### D.. *All buildings must be set back a minimum of 25 feet from the edge of the pavement of private driveways serving the development and a minimum of 15 feet from the edge of pavement of parking areas.*

#### E. *Maximum Height*

1. Multifamily: 50 ft.
2. The Planning Board, in consultation with the Zoning Administrator and the St. James Fire Department may permit additional building height at a rate of one (1) additional foot of height for every one (1) additional foot of setback (front, side and rear), up to a maximum of 75 feet. The maximum

height allowed must be consistent with the Fire Department equipment available (e.g. the maximum extension of their aerial ladder). Of particular concern will be emergency access and sufficient fire apparatus access. At a minimum, equipment access to two sides of the building is required.

- F. *All buildings must be in compliance with the International Fire Code with appendices, and the International Building Code with North Carolina Amendments.*
- G. *Parking: See Article 9.1.6 for minimum standards. All parking must be interior to the development (garage parking is encouraged). When reviewing the proposed development concept, additional off street parking (parallel or head-in, for example) interior to the development may also be required by the Planning Board if deemed appropriate to accommodate guest parking.*

#### 7.7.2 Design Standards for Townhouses

##### A. *Minimum Lot Dimensions*

1. Area: Minimum of 5 acres
2. Frontage: 22 ft. per unit.
3. Lot area per unit: 2200 sq. ft.

##### B. *Maximum Density.* Not more than 10 dwelling units per gross acre.

C. *Setbacks.* The setback and separation requirements between all buildings in the development shall be as set forth in Article 9.12 of this Ordinance. In addition to those requirements, all buildings on the periphery of the development shall meet the following additional standards:

1. Front Yard Setback: 25 feet
2. Rear Yard: Setback: 15 feet
3. Side Yard: Setback: 10 feet

D. *All buildings must be set back a minimum of 25 feet from the edge of the pavement of private driveways serving the development and a minimum of 15 feet from the edge of pavement of parking areas.*

##### E. *Maximum Height:*

1. Townhouses: 50 ft.
- 2.. The Planning Board, in consultation with the Zoning Administrator and the St. James Fire Department may permit additional building height at a rate of 1 additional foot of height for every 1 additional foot of setback (front, side, and rear) up to a maximum of 75 ft. Of particular concern will be emergency access and sufficient fire apparatus access. The height maximum allowed must be consistent with the Fire Department equipment available (e.g. the maximum extension of their aerial ladder). Of particular concern will be emergency access and sufficient fire apparatus access. At a minimum, equipment access to two sides of the building is required.



F. *All buildings must be in compliance with the International Fire Code with appendices, and the International Building Code with North Carolina Amendments.*

G. *Parking: See Article 9.1.6 for minimum standards. All parking must be interior to the development. At least one of the parking spaces allocated per unit must be garage parking. When reviewing the proposed development concept additional off street parking (parallel or head-in, for example) interior to the development may also be required by the Planning Board if deemed appropriate to accommodate guest parking.*

7.7.3 *Planned Developments/Planned Unit Developments: see Article 7.9.*

Uses permitted by right, under prescribed conditions and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses By District are prohibited.

## **7.8 SBR-6000 - Residential District**

The SBR-6000 Residential District is established for single-family site-built dwellings and is intended to provide for orderly suburban residential development. Housing types permitted are traditional houses, single-family detached houses, semi-attached houses, duplexes, zero lot line houses and townhouses. Due to the higher intensity developments contained in this district, it is intended to be applied only to properties served by public water and sewer systems. The overall gross density in the SBR 6000 shall be no more than 7.3 units per acre. Refer to Article 7.1 for special considerations applying to cul-de-sac lots.

### 7.8.1 Design Standards

A. **Minimum Lot Area:** 6000 SF. The Planning Board may approve lot areas less than the minimum, subject to density and accessible open space factors, as well as other key parameters the applicant may propose for consideration in the concept plan. Refer to Article 7.9.

### 7.8.2 Design Standards – Traditional Houses

A. **Minimum Lot Dimensions.** Lot width (frontage): 40 feet

B. ***Building Locations (Minimum Setbacks from Lot Lines)***

1. **Front Yard Setback:** 12 feet.
2. **Rear Yard Setback:** 10 feet.
3. **Side Yard:** 5 feet.

### 7.8.3 Design Standards - Single-Family Detached and Zero Lot Line

A. ***Minimum Lot Dimensions.*** Lot width (frontage): 42 feet.

B. ***Building Locations (Minimum Setbacks from Lot Lines)***

1. **Front Yard Setback:** 15 feet.

2. Rear Yard Setback: 10 feet.
3. Side Yard: 5 feet.

#### C. Special Standards for Zero Lot Line

Zero Lot Line houses shall be permitted in accordance with the Use Tables in Article 7.16, subject to the following:

1. These houses must be built in designated areas dedicated to this purpose. They may not be intermixed with traditional and/or single family detached houses.
2. A single side yard shall be provided comprising the equivalent of two side yards of a conventional single-family detached house. The side yard on one side of the lot shall have a setback of 0 feet and the opposite side yard shall have a minimum setback of 10 feet, provided that the separation of adjacent principal structures shall be no less than 10 feet.
3. An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjoining property line (no roof overhang shall be permitted to extend across the property line). The easement on adjoining property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.
4. If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjoining lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjoining lot, such as a clerestory window or a translucent window, shall be allowed.

#### 7.8.4 Design Standards - Semi-Attached House

- A. *Minimum Lot Dimensions.* Lot width: 35 feet.
- B. *Building Locations*
  1. Front Yard Setback: 15 feet.
  2. Rear Yard Setback: 10 feet.
  3. Side Yard-5 feet, however, the side yard requirement adjacent to the same structure shall be zero.

#### 7.8.5 Design Standards - Duplex

- A. *Minimum Lot Dimensions.* Lot width (frontage): 60 feet.
- B. *Building Locations (Minimum Setbacks from Lot Lines)*
  1. Front Yard Setback: 15 feet.
  2. Rear Yard Setback: 10 feet.
  3. Side Yard Setback: 7 feet.

---

### 7.8.6 Design Standards - Townhouse

- A. *Minimum Lot Dimensions.*
  - 1. Lot width (frontage): 22 feet (per unit).
  - 2. Lot area (per unit): 2,200 square feet.
- B. *Building Locations (Minimum Setbacks from Lot Lines)*
  - 1. Front Yard Setback: 20 feet.
  - 2. Rear Yard Setback: 15 feet.
  - 3. Side Yard Setback: 10 feet.

### 7.8.7 District Regulations Applicable to all Housing Types

- A. Accessory buildings must be located a minimum of 5 feet from any side or rear lot line.
- B. Maximum height: 40 feet for principal structure, with any accessory building less than 50% of the height of the principal building.
- C. The minimum number of acres contained in the entire development shall be 10 acres.
- D. The maximum density permitted shall be 7.3 dwelling units per acre.
- E. For Semi-Attached House or Townhouse structures, the side yard requirement adjacent to the same structure type shall be zero.

### 7.9 PD/PUD - CD (Planned Development/Planned Unit Development - Conditional District)

The Conditional District Planned Development districts are intended to allow a diverse mixture of residential and/or nonresidential uses and structures that function as cohesive and unified projects. The districts encourage innovation by allowing flexibility in permitted use, design, and layout requirements in accordance with a Concept Plan. Projects should provide opportunities for employment and services closer to residences. Factors that must be considered include accessible open space, recreational facilities, traffic patterns, neighborhood screening and adjoining neighborhood impacts (see Article 12 for established standards).

#### 7.9.1 Establishment of a PD/Planned Unit Development

- A. *Zoning Map Amendment.* A PD/PUD-CD may be established as provided in Article 4.4 - Zoning Map Amendments - Planned Unit Development.

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B. *Concept Plan.* See Article 4.4.5 for plan requirements.

#### 7.9.2 *Minimum Size*

The minimum size requirement for establishing a PD/PUD-CD district is 25 acres.

#### 7.9.3 *Permitted Uses*

All uses permitted in R-20, R-15, R-10, MR, MR-CD, SBR 6000 and CN are permitted within a PD/PUD-CD district subject to the conditions for each individual district. A PD-CD may also add permitted CLD and CI uses.

#### 7.9.4 *Phased Development*

PD/PUD-CD projects may be developed in phases provided that open space and common facilities are included such that at any given phase of development, the cumulative area of open space in all recorded phases, the total number of dwelling units and the gross land area devoted to nonresidential land uses approved in those phases comply with Article 12.

#### 7.9.5 *District Standards*

The standards in this Article, in the approved Concept Plan, in the approved Site Plan, and those in the approved Final Plat govern development within a PD/PUD.

- A. *Environmentally Sensitive Areas.* The following must be left natural and undisturbed except for street crossings, utilities, and erosion control devices:
1. Land within a Floodplain; and
  2. Wetlands, steep slopes, and other critical ecological areas.
- B. *Density.* Provisions governing the maximum residential density of the development are established by the Concept Plan.
- C. *Minimum Lot Size.* Provisions governing minimum lot size are established by the Concept Plan.
- D. *Minimum Perimeter Setback.* For portions of the development adjoining any R district, the interior setback standards of the adjoining district apply along the adjoining lot line.

- 
- E. *Minimum Street Setbacks.* Provisions governing minimum street setbacks are established by the Concept Plan.
  - F. *Common Recreational Facilities.* Common recreational facilities must conform to the design requirements of Article 12.
  - G. *Commercial Areas.* Commercial areas, adjacent residential and office areas must be designed to provide pedestrian access and circulation between and within such areas.
  - H. *Parking and Loading.* Off-street parking and loading must be provided in accordance with Article 9.1.
  - I. *Street Design.* Streets must be designed and located so that they are integrated into and provide continuations of the surrounding street network.

### **7.10 EPUD - Existing Planned Unit Development**

This district is established to accommodate and provide for the completion and continued use of the existing single family residential portions of the St. James Plantation (the Plantation) as it existed upon the effective date of the initial adoption of this Ordinance. Following the effective date of this ordinance, this district may be expanded only to include additional property containing single family residential areas and their associated recreational amenities and permanently protected open space that has been legally joined by restrictive covenants to the St. James Property Owners' Association

Given the existence of a private contractual arrangement between individual property owners within the Plantation and the St. James Property Owners' Association (POA), which regulates the development of single family dwellings on individual lots through a set of design guidelines, promulgated and enforced by the POA's Architectural Control Committee, it is the intent of this district to allow these regulations to continue to govern such development. A variety of housing types are permitted, however, the homes will be built in designated areas zoned and dedicated to housing type and purpose. A development may consist of a mixture of housing types, however, each type must be in its designated area and each area must be separated using an aesthetically suitable transitional strategy buffering the types of neighborhoods. See Article 12.9 for open space and recreational space requirements.

However, in order to ensure that the health, safety and general welfare of the residents and owners of property within this district are protected, the character of these residential areas is preserved and to prevent environmental damage, the following minimum standards shall apply.

#### **7.10.1 Design Standards - Detached Single-Family Dwellings**

- 
- A. *Minimum Lot Dimensions.*
1. Area: 7,500 square feet
  2. Frontage: 75 feet at the setback line (85 feet for corner lots)
- B. *Building Locations (Minimum Setbacks from Lot Lines).*
1. Front Yard Setback: 20 feet
  2. Rear Yard: 20 feet. The Rear Yard setback may be reduced by 25% for properties where the Rear Yard does not abut another residential use.
  3. Side Yard: 5 feet (10 feet for a corner lot abutting a street)
- C. Accessory buildings must be located a minimum of 5 feet from any side or rear lot line.
- D. *Maximum Height.*
1. Principal Building: 40 feet
  2. Accessory Buildings: Less than 50% of the height of the principal building.

#### 7.10.2 *Design Standards - Alternatives to Detached Single Family Dwellings*

Allowed alternatives to detached single family dwellings are Single Family Attached and Single Family Zero Lot Line Dwellings. These houses will be built in designated areas dedicated to this purpose. They will not be intermixed with traditional homes within the EPUD District as controlled by Article 7.10.1.

- A. *Design Standards - Single Family Attached.*
1. Minimum Lot Dimensions
    - a. Area: 5,000 square feet
    - b. Frontage: 60 feet at the setback line (70 feet for corner lots)
  2. Building Locations (Minimum Setbacks from Lot Lines)
    - a. Front Yard Setback: 20 feet
    - b. Rear Yard: 20 feet
    - c. Exterior Side Yard: 10 feet (15 feet for a corner lot abutting a street)
    - d. Interior Side Yard: 0 feet
  3. Accessory buildings must be located a minimum of 5 feet from any side or rear lot line.

- 
4. Maximum Height
    - a. Principal Building: 30 feet
    - b. Accessory Buildings: Less than 50% of the height of the principal building.

B. *Design Standards- Single Family Zero Lot Line*

1. Minimum Lot Dimensions
  - a. Area: 5,000 square feet
  - b. Frontage: 60 feet at the setback line (70 feet for corner lots)
2. Building Locations (Minimum Setbacks from Lot Lines)
  - a. Front Yard Setback: 20 feet
  - b. Rear Yard: 20 feet
  - c. The side yard on one side of the lot shall have a setback of 0 feet and the opposite side yard shall have a minimum setback of 10 feet, provided that the separation of adjacent principal structures shall be no less than 10 feet.
3. Accessory buildings must be located a minimum of 5 feet from any side or rear lot line.
4. Maximum Height
  - a. Principal Building: 30 feet
  - b. Accessory Buildings: Less than 50% of the height of the principal building.

C. *Design Standards – Single Family Semi-Attached*

See Article 7.8 for Standards for Semi-Attached Single Family Dwelling

D. *Design Standards – Multifamily (Condominium and/or Rental), and Townhouses*

For the districts within the EPUD zoned for Multifamily, the high density uses defined in Article 7.7 (MR and MR-CD) are permitted under the condition prescribed in Article 7.7. These include Multifamily (Condominium and/or Rental), and Townhouses. Townhouses are also permitted in the SBR6000 Districts (refer to Article 7.8).

## 7.11 CN - Commercial Neighborhood District

The purpose of this District is to provide convenient shopping facilities primarily of necessary goods and personal services required to serve a neighborhood. The District's principal means of ingress and egress shall be along collector roads, minor arterials, and/or major arterials. No Commercial Neighborhood District shall be less than two (2) nor more than five (5) acres in area. Areas zoned as a CN District should be located so

that their distribution pattern throughout the Town reflects their neighborhood orientation. They should be designed to be an integral, homogeneous component of the neighborhood they serve, oriented to both vehicular and pedestrian traffic. They should be so located as to protect the residential appearance of the neighborhood.

#### *7.11.1 Design Standards for Commercial Buildings*

- A. *Minimum Lot Dimensions.*
  - 1. Area: 15,000 square feet for commercial establishments
  - 2. Frontage: 100 feet at the setback line (120 feet for corner lots)
- B. *Building Locations - (Minimum Setbacks from Lot Lines).*
  - 1. Front yard Setback: 40 feet
  - 2. Rear Yard: 35 feet
  - 3. Side Yard: 10 feet each (20 feet for corner lot abutting a street)
- C. Accessory buildings shall be a minimum of 10 feet from a rear or side lot line.
- D. *Maximum Height.*
  - 1. Principal building: 40 feet
  - 2. Accessory building: less than 50% of the height of the principal building

#### *7.11.2 Permitted and Prohibited Uses*

Uses permitted by right, under prescribed conditions, and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses by District are prohibited.

### **7.12 CLD - Commercial Low Density District**

The Commercial Low Density District is applicable along outlying areas, adjacent to a major thoroughfare, with appropriate provisions for reducing conflicts with adjacent residential areas. It will contain substantial setbacks to reduce friction on adjacent major thoroughfares. Commercial uses in such District will serve the needs of the residential neighborhoods and also the needs of persons using the adjacent thoroughfares.

#### *7.12.1 Dimensional Requirements*

- A. *Minimum Lot Dimensions.*



1. Area: 15,000 square feet
2. Frontage: 100 feet at the setback line (120 feet for corner lots)

B. *Building Locations (Minimum Setbacks from Lot Lines).*

1. Front Yard Setback: 40 feet
2. Rear Yard: 35 feet
3. Side Yard: 10 feet each (20 feet for corner lot abutting a street)

C. Accessory buildings shall be a minimum of 10 feet from a rear or side lot line.

D. *Maximum Height.*

1. Principal building: 50 feet; however, for each additional 2 foot of setback added, an additional 1 foot in height can be added.
2. Accessory: less than 50% of the height of the principal building

**NOTE:** If approved by the planning board, church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, cupolas, domes, antennas (except satellite dish antennas), and similar structures and necessary mechanical appurtenances not intended for human occupancy are not subject to the height limit regulations contained in this Ordinance.

### 7.12.2 *Permitted and Prohibited Uses*

Uses permitted by right, under prescribed conditions, and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses By District are prohibited.

## 7.13 **CI - Commercial Intensive District**

The purpose of this District is to provide for uses that require close proximity to major highways. Anticipated uses include those that are necessary to serve more intensive commercial and industrial districts, such as warehousing, storage, moving, service and repair, distribution, wholesaling, marketing of specialty goods, and light manufacturing.

### 7.13.1 *Dimensional Requirements*

A. *Minimum Lot Dimensions.*

1. Area: 20,000 square feet for commercial establishments
2. Frontage: 200 feet at the setback line (300 feet for corner lots)

**B. *Building Locations (Minimum Setbacks from Lot Lines)***

1. Front Yard Setback: 50 feet
2. Rear Yard: 50 feet
3. Side Yard: 25 feet each (35 feet for corner lot abutting a street)

C. Accessory buildings shall be a minimum of 10 feet from a rear or side lot line.

**D. *Maximum Height.***

1. Principal building: 50 feet; however, for each additional 2 foot of setback added, an additional 1 foot in height can be added.
2. Accessory building: less than 50% of the height of the accessory building.

NOTE: If approved by the planning board, church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, cupolas, domes, antennas (except satellite dish antennas), and similar structures and necessary mechanical appurtenances not intended for human occupancy are not subject to the height limit regulations contained in this Ordinance

**7.13.2 *Permitted and Prohibited Uses***

Uses permitted by right, under prescribed conditions, and by a special use permit are set forth in the Table of Uses by District in Article 7.16, below. All uses not specifically permitted in the Table of Uses by District are prohibited.

**7.14 *SCO - Sports Club Overlay District***

The purpose of this District is to establish regulations for the development, modification, and continuing operation of sports club facilities within established predominantly residential areas in the Town. The purpose of these regulations is to ensure the continued existence and future viability of the existing sports club facilities and to provide for the expansion or addition of sports club related facilities and amenities in the future.

**7.14.1 *Applicability of Overlay District***

The Sports Club Overlay District may be applied to any area within the jurisdiction of the Town that exists within a predominantly residential area in which there is land, construction or facilities related to the operation or maintenance of sports club amenities. Such uses include but are not limited to golf courses, tennis courts,

swimming facilities, maintenance facilities, club houses, pro shops, and eating establishments within the boundaries of the facility.

*7.14.2 Uses*

The following uses shall be the only permitted uses within the Sports Club Overlay District, all other uses are prohibited:

- A. Golf Courses
- B. Tennis Clubs
- C. Swim Clubs
- D. Private clubs
- E. Accessory uses which are clearly incidental to the listed permitted uses. Permitted uses must comply with all the development standards set forth for the uses in Article 8.

*7.14.3 Design Standards*

Principal structures shall maintain a minimum front setback of 50 feet, and side and rear setbacks of 30 feet. Accessory structures shall maintain setbacks of 20 feet from all property lines.

*7.14.4 Other Standards*

If any sports club facility is constructed, enlarged or expanded on property which is adjacent to property that is being used for residential purposes, a Type II buffer must be established in accordance with the standards in Article 10.

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**7.15 Table of Uses by District**

When there are multiple proposed uses co-located on the same site, each use will be evaluated according to the conditions set forth for each use whether they are submitted simultaneously or sequentially. In addition to these principle uses, temporary uses may also be permitted that are not listed here. For permitted temporary uses, see Article 14.

**KEY**

- P - Use permitted by right
- PC - Use permitted under prescribed conditions
- S - Use permitted by a special use permit, with prescribed conditions
- Blank - Use not allowed

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
<b>RESIDENTIAL USES</b>										
Congregate Care Facilities	S			S	P		S		P	8.26
Duplex Dwellings			S		P					
Emergency Shelters					P		PC	PC	P	8.33
Family Care Home	P	P	P	P						8.36
Group Care Facilities	S	S	S	S			S			8.48
Multifamily Dwellings				P						
Semi Attached Housing					P				P	
Single Family Zero Lot Line Dwellings					P				P	
Single Family Detached Dwellings (Site Built & Modular)	P	P	P		P				P	
Manufactured Homes		S	S	S						8.57
Townhouses				P	P				P	
Traditional House					P				P	
Upper Story Residential Dwellings (In Commercial Structure)						P	P			
<b>ACCESSORY USES</b>										
Accessory Dwellings Units	S	S	S							8.2
Accessory Uses & Structures (Customary)	P	P	P	P	P	P	P	P	P	
Home Occupations (customary)	PC	PC	PC	PC	PC				PC	8.49
Satellite Dishes, TV & Radio Antennae (accessory)	PC	PC	PC	PC	PC	PC	PC	PC	PC	8.78

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Solar or Thermal Panel Collector Roof Mounted	P	P	P	P	P	P	P	P	P	8.84
Solar or Thermal Panel Collector Ground Mounted	P	P	P	P	P	P	P	P	P	8.84
Swimming Pools	PC	PC	PC	PC	PC				PC	8.88
Wind Turbines										
Yard Sales (2 Per Year)	PC	PC	PC	PC						8.102
<b>RECREATIONAL USES</b>										
Amusement Parks, Arena Water Parks, & Fairgrounds								S		8.4
Athletic Fields	S	S	S	S		PC	PC	PC		8.5
Batting Cages								S		8.13
Billiard Halls							P	P		
Bingo Halls							PC	PC		8.15
Bowling Centers							PC	PC		8.19
Coin Operated Amusements						P	P	P		
Dance Schools						PC	P			8.28
Fraternal Clubs & Lodges							PC	P		8.39
Go-cart Racetracks								S		8.43
Golf Courses, Miniature								S		8.45
Country Club/Golf Courses	S	S	S	S	P				P	8.44
Golf Driving Ranges					P			S	P	8.46
Sports/Martial Arts Schools/Camp						PC	P	P		8.61
Physical Fitness Centers					P	PC	P	P	P	8.69
Private Clubs or Recreational Facilities	S	S	S	S	P	S	P	P	P	8.70
Parks, Passive	PC	PC	PC	PC	PC	PC	PC	PC	PC	8.72
Parks, Active (with recreational facilities)	PC	PC	PC	PC	PC	PC	PC	PC	PC	8.73
Parks, Community Garden	PC	PC	PC	PC	PC	PC	PC	PC	PC	8.74
Parks, Dog Park (also called dog runs)					PC	PC	PC	PC	PC	8.75

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Skating Rinks								S		8.83
Swim Clubs	S	S	S	S		S	PC	PC		8.87
Tennis Clubs	S	S	S	S		S	PC	PC		8.92
<b>EDUCATIONAL &amp; INSTITUTIONAL USES</b>										
Ambulance Services	S	S	S	S		S	P	P		8.3
Auditoriums/Community Centers (Amended 05/06/08)	S	S	S	S			P	P		8.10
Cemeteries/Mausoleums							S	P		8.23
Colleges & Universities							S	S		
Day Care Centers - Adult (29 or less)						PC	PC			8.29.1
Day Care Centers - Adult (30 or more)							PC			8.29.2
Day Care Centers - Child (29 or less)						PC	PC	PC		8.29.4
Day Care Centers - Child (30 or more)							PC	PC		8.29.3
Day Care Homes - Adult (5 or less, Home Occupation)	PC	PC	PC	PC						8.29.5
Day Care Homes - Child (5 or less, Home Occupation)	PC	PC	PC	PC						8.29.6
Elementary or Secondary Schools	S	S	S	S		S	S	S		8.32
Fire/EMS Stations	PC	PC	PC	PC	PC	PC	PC	PC	PC	8.37
Fraternities/Sororities							S	S		8.40
Government Offices	S	S	S	S	P	S	P	P	P	8.47
Health Services/Clinics							P	P		
Hospitals							S	S		
Houses of Worship	PC	PC	PC	PC	PC	PC	P	P	PC	8.51
Libraries				PC	P	P	P	P	P	8.56
Museums & Art Galleries						P	P	P		
Nursing & Convalescent Homes					P	P	P	P	P	

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Police Stations					P	P	P	P	P	
Progressive Care Communities	S			S	P	S	S		P	8.71
Post Offices						P	P	P		
<b>BUSINESS, PROFESSIONAL AND RETAIL SERVICES</b>										
Accounting, Auditing, or Bookkeeping						P	P	P		
Administrative or Management Services						P	P	P		
Advertising Agencies or Representatives						P	P	P		
Appliance Repair Services								P		
ATM machines, Freestanding						S	P	P		8.6
Automobile Renting or Leasing								PC		8.7
Automobile & Truck Repair								S		8.8
Automobile Towing Service								S		8.9
Banks & Credit Unions						PC	P	P		8.11
Barber Shops						P	P	P		
Beauty Salons						P	P	P		
Bed & Breakfast	S					P	P	P		8.14
Boat Repair (no long-term storage)								PC		8.16
Body Piercing								S		8.18
Business Parks								S		
Business, Labor, Social & Service Organizations							P	P		
Car & Truck Washes							S	S		8.22
Clothing Alteration or Repair						P	P	P		
Computer Maintenance & Repair						P	P	P		
Computer Services						P	P	P		

## ARTICLE 7 ZONING DISTRICTS

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Contractors Offices (no storage)							P	P		
Day Spas						P	P	P		
Employment & Personnel Agencies							P	P		
Engineering, Architectural or Surveying Services							P	P		
Equipment Rental & Leasing (no outside storage)								S		8.34
Equipment Repair/Light (no outside storage)								S		8.35
Finance or Loan Offices						P	P	P		
Funeral Homes							P	P		
Funeral Homes with Crematorium								S		8.42
Furniture Repair Shop							P	P		
Hotels, Motels & Time Shares							S	S		8.50
Insurance Agency (no onsite claims inspection)						P	P	P		
Insurance Agency (with onsite claims inspection)							P	P		
Kennels							S	PC		8.52
Landscaping Services							PC	PC		8.53
Laundromats						S	P	P		8.54
Laundry & Dry Cleaning Establishment						S	P	P		8.55
Law Offices						P	P	P		
Medical & Dental Offices						P	P	P		
Office Uses not Otherwise Classified						S	S	S		8.65
Pest or Termite Control Services								P		
Photocopying & Duplicating Services						P	P	P		



ARTICLE 7 ZONING DISTRICTS

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Photography Studios						P	P	P		
Real Estate Offices						P	P	P		
Rehabilitation or Counseling Services							P	P		
Research, Development or Testing Services							S	P		8.76
Shoe Repair Shop						P	P	P		
Showroom								P		
Stock, Security or Commodity Brokers						P	P	P		
Tanning Salons						P	P	P		
Tattoo Establishments								S		8.89
Taxidermists								S		8.90
Television, Radio or Electronic Repairs							P	P		
Theaters							S	S		8.93
Travel Agencies						P	P	P		
Veterinary Services							S	S		8.96
Vocational Schools							S	S		8.97
Watch or Jewelry Repair						P	P	P		
<b>RETAIL USES</b>										
ABC Stores							P	P		
Antique Stores						P	P	P		
Appliance Stores							P	P		
Arts & Crafts Stores						P	P	P		
Auto Supply Stores								P		
Bakeries						P	P	P		
Bars							PC	PC		8.12
Boat Sales								PC		8.17
Book Stores						P	P	P		
Building Supply Sales (no outside sales)								P		
Camera/Cellular Stores						P	P	P		

ARTICLE 7 ZONING DISTRICTS

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Candy Stores & Confectioners						P	P	P		
Caterers						P	P	P		
Clothing, Shoe & Accessory Stores						P	P	P		
Coffee Shops (no drive through)						P	P	P		
Coffee Shops (with drive through)							S	S		8.24, 8.30
Computer Sales						P	P	P		
Convenience Stores (no gasoline)						P	P	P		
Convenience Stores (with gasoline)						S	P	P		8.27
Department/General Stores							P	P		
Drug Stores (no drive through)						P	P	P		
Drug Stores (with drive through)							S	S		8.30, 8.31
Fabric or Piece Goods Stores						P	P	P		
Flea/Farmer's Markets							S	S		8.38
Floor Coverings, Drapery or Upholstery Sales							P	P		
Florists						P	P	P		
Fuel Oil Sales								S		8.41
Furniture Sales							P	P		
Garden Centers & Retail Nurseries							P	P		
Gift or Card Shops						P	P	P		
Grocery Stores (Supermarkets)						P	P	P		
Hardware Stores							P	P		
Hobby Shops						P	P	P		
Home Furnishings Stores							P	P		

ARTICLE 7 ZONING DISTRICTS

USES	R-20	R-15	R-10	MR	SBR-6000	CN	CLD	CI	EPUD	Prescribed Conditions
Jewelry Stores						P	P	P		
Luggage or Leather Goods Stores						P	P	P		
Motor Vehicle Sales & Repairs								S		8.62
Motorcycle Sales							S	S		8.63
Musical Instrument Sales						P	P	P		
Music Stores						P	P	P		
Newsstands						P	P	P		
Office Machine Sales							P	P		
Optical Goods Sales						P	P	P		
Paint & Wallpaper Sales							P	P		
Pawn Shops								S		8.67
Pet Stores							S	S		8.68
Restaurants (no drive through)						S	P	P		8.77
Restaurants (with drive through)							S	P		8.30, 8.75
Service Stations, Gasoline						S	S	PC		8.81
Secondary Stores							P	P		
Shopping Center								S		
Specialty Beverages						S	S	S		8.85
Specialty Food Stores						PC	P	P		8.86
Sporting Goods Stores							P	P		
Stationary Stores						P	P	P		
Television, Radio and Electronics Sales						P	P	P		
Tire Sales								S		8.94
Tobacco Stores						P	P	P		
Video Rental and Sales						P	P	P		

WHOLESALE TRADE									
All Wholesale Uses								S	8.100
MANUFACTURING AND INDUSTRIAL USES									
Building, heating, plumbing, electrical, and (similar) other trade contractors who perform services off-site, but store equipment and materials or perform some fabrication or similar work on-site.								S	8.58
Catering facility, large scale								S	8.58
Clothing manufacturing								S	8.58
Commercial bakery								S	8.58
Concrete, cut stone, glass and Clay products with light Manufacturing plant								S	8.58
Contractor's office and storage Operations								S	8.58
Light equipment rental (with Outside storage)								S	8.58
Exterminator								S	8.58
Industrial equipment sales (indoors only)								S	8.58
Janitorial and building Maintenance service								S	8.58
Light manufacturing and Assembly								S	8.58
Movie production facility								S	8.58
Office-warehousing (enclosed Warehousing)								S	8.58
Printing, publishing and Lithography								S	8.58
Production of artwork								S	8.58
Repair of scientific or Professional instruments, Electric motors								S	8.58

ARTICLE 7 ZONING DISTRICTS

Research & Technology Laboratory and production								S		8.58
Sheet metal shop								S		8.58
Servicing and repair of Consumer goods								S		8.58
Servicing of industrial and Business equipment/machinery								S		8.58
Sign making								S		8.58
Soft drink bottling								S		8.58
Storage area used for Manufacturing								S		8.58
Welding, machine, tool repair Shop								S		8.58
Woodworking, including cabinet Makers and limited furniture Manufacturing								S		8.58
Wood products other than Containers								S		8.58
<b>TRANSPORTATION, WAREHOUSING, AND UTILITIES</b>										
Bulk Mail & Package Facilities								S		8.20
Bus Terminals								S		8.21
Communications & Broadcasting Facilities								S		8.25
Communication Towers							S	S	S	
Heliports								S	S	
Marinas (no dry storage)	S	S	S	S		PC	PC	PC		8.59
Marinas (with dry storage)	S	S	S	S		PC	PC	PC		8.60
Moving & Storage Services								S		8.64
Parking & Shuttle Lot								P		
Power Plants								S		
Self-Storage Facilities								S	S	8.80

ARTICLE 7 ZONING DISTRICTS

Solar Farms								P		8.84
Taxi Cab Service & Terminal								P		
Utility Company Offices						P	P	P		
Utility Equipment & Storage Yards								S		8.95
Utility Lines & Related Appurtenances	P	P	P	P	P	P	P	P	P	
Wind Turbines										
Utility Substations					S	S	S	S	S	
Warehouses (enclosed general storage)								S		8.98
Water Treatment Plants								S		8.99
<b>OTHER USES</b>										
Automobile Parking for a Principal Use	P	P	P	P	P	P	P	P	P	
Seasonal Agricultural Product Sales (30 day maximum)								PC		8.79
Sexually Oriented Businesses								S		8.82
Temporary Outdoor Events (2 week maximum)							PC	PC		8.91
Outdoor Storage						PC	PC	PC		8.66

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**ARTICLE 8**  
**PRESCRIBED CONDITIONS**  
**WITH SUPPLEMENTAL DEVELOPMENT STANDARDS FOR CERTAIN USES**

**8.1 Statement of Intent**

These conditions apply to uses permitted with Prescribed Conditions or by Special Use Permit in the applicable zoning district as shown in Article 7.15; Table of Uses.

**8.2 Accessory Dwelling Units**

- 8.2.1 There shall be only one (1) accessory dwelling unit on the same lot as a principal dwelling unit.
- 8.2.2 Both the principal dwelling unit and the accessory dwelling unit shall have the same mailing address and use the same mailbox.
- 8.2.3 Accessory dwelling units are not allowed on the same lot as duplexes, multi-family dwellings or family care homes.
- 8.2.4 Accessory dwelling units shall not be subdivided or otherwise segregated from that of the primary residence.
- 8.2.5 An accessory dwelling unit may not have more than 2 bedrooms.
- 8.2.6 An accessory dwelling unit shall be designed so as to maintain the architectural style, appearance and character of the principal dwelling unit. Such unit shall incorporate the design elements of the principal residence by using similar and compatible materials, facades, colors, window style/treatment and roof design and pitch.
- 8.2.7 The impervious surface coverage of the principal dwelling unit plus the accessory building shall not exceed the maximum impervious surface permitted on the lot.
- 8.2.8 An accessory building shall be served by the same driveway as the one that serves the principal dwelling unit, unless it is accessed from a right of way that is not used by the principal dwelling unit such as a rear alley or separate street access on a corner or through lot.
- 8.2.9 The floor area of an accessory dwelling unit shall not exceed 800 square feet.

8.2.10 An accessory dwelling unit shall be erected behind and at least 10 feet from the primary building.

### **8.3 Ambulance Services**

8.3.1 The building architecture will complement that of the underlining zoning district.

8.3.2 Vehicles shall be parked under roof.

8.3.3 Site development shall be in conformance with the landscaping and dimensional requirements of the zoning district.

8.3.4 Sufficient employee and public parking will be provided at the rear of the building to eliminate the need for on-street parking.

### **8.4 Amusement Parks, Water Parks, and Fairgrounds**

8.4.1 The minimum acreage for amusement parks, water parks and fairgrounds shall be 5 acres.

8.4.2 No building or structure shall be located within 50 feet of any property line.

8.4.3 Security fencing at least 8 feet in height shall be placed around the entire perimeter of the facilities.

8.4.4 The operation of amusement equipment, machinery, or any mechanical device is prohibited within 200 feet of any developed residential, public or institutional property.

### **8.5 Athletic Fields**

8.5.1 Service areas shall be separated from streets and abutting property by an opaque screen.

8.5.2 Athletic fields located in a residential district that are designed to serve the needs of residents shall not exceed 6 acres, nor be located within 750 feet of any other active sports complex nor have seating for spectators exceeding 100.

8.5.3 Parking requirements must be approved by the Planning Director.

8.5.4 All athletic facilities shall have primary access from a collector street or arterial road.



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**8.6 Automatic Teller Machine (ATM Freestanding)**

- 8.6.1 Automatic Teller Machines (ATM) inside retail facilities shall be permitted as an accessory use.
- 8.6.2 Outside foot traffic, sidewalk Automatic Teller Machines (ATM) other than for a bank or credit union shall be permitted as a separate use and not interfere with either pedestrian or vehicle traffic flow.
- 8.6.3 Drive through Automatic Teller Machines (ATM) will be permitted as a separate principal use; see Drive Thru Facilities.

**8.7 Automobile Renting or Leasing**

- 8.7.1 Automobile renting and leasing facilities shall serve only passenger vehicles and small trucks with a gross vehicle weight of less than 25 tons.
- 8.7.2 Automobile leasing and rental lots shall front on an arterial road or thoroughfare.
- 8.7.3 No more than 10 vehicles may be kept on the premises at any one time.
- 8.7.4 No motor vehicle display may be located closer than 35 feet from the property line and is prohibited from being located within any right of way, parking area or planting yard.
- 8.7.5 Vehicle display areas may not block sidewalks or parking areas, and may not impede vehicular or pedestrian traffic.

**8.8 Automobile and Truck Repair**

- 8.8.1 Storage of vehicles with expired tags, unlicensed vehicles, junk vehicles or parts, or any vehicle not used in the conduct of business operations for 10 days or more shall be prohibited.
- 8.8.2 Any repair, servicing, maintenance or other work on vehicles shall be conducted within an enclosed structure.
- 8.8.3 Vehicles in the process of being repaired or waiting to be repaired may be temporarily stored outside provided that such vehicles shall be concealed from view by a fence, wall or vegetative buffer at least 6 feet high and providing 100% opacity.
- 8.8.4 All bulk petroleum products must be stored in a containment area with walls and floors sealed to prevent contamination of groundwater water supply and/or watershed.

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**8.9 Automobile Towing Service**

8.9.1 Vehicles may be temporarily stored outside for no more than 10 days provided that such vehicles shall be concealed from view by a fence, wall or vegetative buffer at least 6 feet high and providing 100% opacity.

**8.10 Auditoriums/Community Center**

8.10.1 Freestanding auditoriums/community centers shall be placed on lots that are not less than 4 acres in size.

8.10.2 Auditoriums/community centers shall be located so that access is from an arterial road or thoroughfare and adequate space shall be provided on the site that allows vehicles to exit onto the street without backing into the road or street.

**8.11 Banks and Credit Unions**

8.11.1 The facility shall have direct access to an arterial road.

8.11.2 Foot Traffic Automatic Teller Machines (ATM) shall be permitted as accessory uses as either free standing or attached facilities. Drive through facilities shall be permitted separately as a principal use.

8.11.3 There shall be a maximum of 2 service lanes for window tellers.

8.11.4 At least 40 feet of separation shall be maintained between a residential lot line and a drive through facility.

8.11.5 Speaker systems associated with a drive through facility shall be designed and located so as to assure that adjacent areas and uses are not adversely affected.

**8.12 Bars**

8.12.1 There shall be no school or place of worship located within 250 feet of the facility.

**8.13 Batting Cages**

8.13.1 Facilities shall be placed on sites that are at least 3 acres in size.

**8.14 Bed and Breakfast**

8.14.1 No bed and breakfast establishment shall be located within 400 feet of a rooming house, a boarding house, or another bed and breakfast establishment.

8.14.2 There shall be not more than 6 guest bedrooms provided.

8.14.3 A resident manager shall operate the bed and breakfast establishment.

8.14.4 The establishment shall be located in a structure that was originally constructed as a dwelling.

8.14.5 The establishment shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.

8.14.6 No guest may remain in the facility for more than 15 continuous days, and there must be a break of 45 days between uses by the same guest.

8.14.7 There shall be no exterior advertising other than that which may be permitted for a home occupation.

### **8.15 Bingo Halls**

8.15.1 A freestanding facility shall be located on a lot that is no less than one (1) acre.

8.15.2 The facility of over 500 in capacity shall have direct access to an arterial road or thoroughfare.

8.15.3 Restaurants, and other uses shall be considered a separate principal use.

8.15.4 Non-profit organizations with games taking place within their own facility are exempt from Article 8.15.1 and Article 8.15.3.

### **8.16 Boat Repair**

8.16.1 No more than 15 watercraft shall be stored on the premises overnight.

8.16.2 Storage for more than 10 days of customer watercraft, watercraft with expired registrations or otherwise unregistered vehicles shall be prohibited.

8.16.3 Watercraft in the process of being repaired (if not within an enclosed structure) or waiting to be repaired may be temporarily stored outside provided that such vehicles shall be concealed from view by a fence, wall or vegetative buffer at least 6 feet high and providing 100% opacity.

8.16.4 Screening shall be provided for watercraft, parts or other materials by a fence that is a minimum of 6 feet high, opaque, and of acceptable material.

8.16.5 All bulk petroleum products must be stored in a containment area with walls and floors sealed to prevent contamination of groundwater and/or water supply and/or watershed.

### **8.17 Boat Sales**

8.17.1 Boat sales facilities shall be no less than 2 acres in size.

8.17.2 Adequate parking shall be provided for patrons who visit the sales facility. Permanent boat display areas may not be located in any required parking spaces.

8.17.3 Boat sales or display areas may not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.

8.17.4 No boat display may be located closer than 35 feet from the property line and is prohibited from being located within any right of way, parking area or planting yard.

8.17.5 An adequate on site loading and unloading area shall be provided for the purposes of loading and unloading boats. Such area shall not impede traffic in an adjoining right of way.

8.17.6 Boats may not be located in a required yard or buffer area even for temporary display purposes.

8.17.7 Junked or inoperable boats shall not be on the premises.

8.17.8 Boat repairs made on-site shall be considered as a separate principal use.

### **8.18 Body Piercing**

8.18.1 Body piercing establishments shall be restricted so as to assure that body-piercing activities cannot be viewed by other patrons in the establishment or by the public.

### **8.19 Bowling Centers**

8.19.1 A freestanding facility shall be located on a lot that is no less than one (1) acre.

8.19.2 Retail pro shops, restaurants, and other uses shall be considered a separate principal use.

### **8.20 Bulk Mail and Packaging Facilities**

8.20.1 A mail and packaging facility may not have more than 10,000 square feet of gross

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floor area unless the Planning Director finds that a larger area will not create a disturbance with respect to adjacent uses.

### **8.21 Bus Terminals**

8.21.1 A terminal may not have more than 10,000 square feet of gross floor area unless the Planning Director finds that a larger area will not create a disturbance with respect to adjacent uses.

8.21.2 On-site vehicle maintenance will be treated as a separate use.

8.21.3 Sufficient customer parking both short and long term will be provided to negate the need for on street parking.

8.21.4 Buses shall be parked overnight in or behind an enclosed building.

8.21.5 Bus terminals shall have direct access from an arterial road or a thoroughfare.

### **8.22 Car and Truck Washes**

8.22.1 Buildings shall be set back at least 75 feet from any interior or rear property line which adjoins residentially zoned property.

8.22.2 All car-washing activities shall be performed inside a building.

8.22.3 Specific outdoor areas shall be provided for the manual drying, waxing, polishing and vacuuming of automobiles and other motor vehicles when these services are offered on the site. These areas shall not conflict with on-site circulation patterns.

8.22.4 Adequate provisions shall be made for the safe and efficient disposal of waste products.

8.22.5 The driveways for a car wash shall be located so as not to impede the safe operation of any street or intersection.

### **8.23 Cemeteries/Mausoleums**

8.23.1 A minimum of 3 contiguous acres is required to establish a cemetery or mausoleum not located on the same tract of land as a church.

8.23.2 Primary access to the facility shall be by a collector, thoroughfare or arterial road.

8.23.3 Adequate space for parking and maneuvering of funeral entourages shall be provided within the site.

8.23.4 No interment shall be permitted within 50 feet of any lot line.

## **8.24 Coffee Shop**

8.24.1 Drive through facilities shall be permitted separately as a principal use.

## **8.25 Communications and Broadcasting Facilities**

8.25.1 Any antenna supporting structure, equipment enclosures and ancillary structures shall meet the setback requirements of the underlying zoning district plus an additional one (1) Foot for every one (1) foot of antenna support structure height.

8.25.2 A plan indicating potential tower fall zones shall be provided with the application. This plan shall be sealed or signed by a licensed professional engineer.

8.25.3 The entire antenna-supporting structure or tower and all appurtenances shall be designed pursuant to the wind speed design requirements of ASCE 7-95, including any subsequent modification to those specifications. Towers shall be of a monopole construction. The height shall be approved by the Technical Review Committee and the Planning Director after reviewing the applicant provided design/justification study.

8.25.4 Any facility shall be illuminated in accordance with FAA requirements to provide aircraft obstruction lighting, where required. 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. No strobes or other lighting shall be permitted unless required by the FAA.

8.25.5 A landscaped buffer shall surround the base of the broadcast antenna equipment compound. Existing trees and shrubs on the site should be preserved and may be used in lieu of some of the required landscaping where approved by the Planning Director, or designee. Grading shall be minimized and limited only to the area necessary for the new broadcast antenna.

A. If the proposed broadcast antenna is the principal use of the property, then landscaping for that particular district shall be applicable. Additionally a buffer equivalent to that required for an Industrial use adjoining a Residential use shall be provided around the broadcast antenna equipment compound adjoining a residential district.

B. If the proposed broadcast antenna is to be located in front of an existing structure on the same zone lot, a street buffer shall also be required.

8.25.6 No signage will be permitted.

8.25.7 A new antenna-supporting structure/tower shall be configured and located in a manner that minimizes adverse effects including visual impacts on adjacent properties. The applicant shall demonstrate that alternate locations, configurations, and facility types have been examined and shall indicate the impact of these options in relation to adjoining properties with regard to mass, scale, height, materials and color, and illumination.

## **8.26 Congregate Care Facilities**

8.26.1 Buildings will be located on a site that is at least 4 acres.

8.26.2 The building architecture will complement that of the underlining zoning district.

8.26.3 Outdoor recreation areas shall be located behind the front building(s) line in the side yard or rear yard only.

8.26.4 All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.

8.26.5 Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.

8.26.6 A congregate care facility may not be located within 1/2 mile of another congregate care facility, family care home, day care or group care facility.

## **8.27 Convenience Stores with Gasoline**

8.27.1 There shall be no more than 3,000 square feet of gross floor area in an establishment.

8.27.2 Outside storage of materials is prohibited.

8.27.3 There shall be not more than 2 gasoline service islands containing no more than 4 gasoline pumps per island.

8.27.4 Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.

8.27.5 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10:00 p.m. when the use abuts a legal, conforming residential use or a lot that is zoned residential.

8.27.6 Payphones are not permitted on the exterior of the building.

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**8.28 Dance Schools**

8.28.1 Hours of operation shall be no earlier than 9:00 a.m. and no later than 10:00 p.m.

**8.29 Day Care Centers, Various Types of***8.29.1 Day Care Centers for Adults (29 persons or less)*

- A. Outdoor recreation areas shall be located behind the front building line in the side yard or rear yard only.
- B. All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.
- C. Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.
- D. At least one (1) off-street passenger loading/unloading space separate from required parking shall be provided. An adequate onsite turnaround area shall be provided for all loading, unloading and parking spaces.
- E. Care shall not be provided on a 24-hour basis.
- F. A day care center may not be located within 1/2 mile of another family care home, day care or group care facility.

*8.29.2 Day Care Centers for Adults (30 persons or more)*

- A. Outdoor play and/or recreation areas shall be located behind the front building line in the side yard or rear yard only.
- B. The minimum lot size shall be 2 acres.
- C. All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.
- D. Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.
- E. One (1) off-street passenger loading/unloading space for every 20 adults separate from required parking shall be provided. An adequate onsite turnaround area shall be provided for all loading, unloading and parking



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spaces.

- F. Care shall not be provided on a 24-hour basis.
- G. Accessory structures shall be arranged to provide for adequate on site vehicular and pedestrian traffic.
- H. A day care center may not be located within 1/2 mile of another family care home, day care or group care facility.

#### *8.29.3 Day Care Center for Children (30 or more)*

- A. Outdoor play and/or recreation areas shall be located behind the front building line in the side yard or rear yard only.
- B. The minimum lot size shall be 2 acres.
- C. All outdoor play and recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.
- D. Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.
- E. One (1) off-street passenger loading/unloading space for every 20 children separate from required parking shall be provided. An adequate onsite turnaround area shall be provided for all loading, unloading and parking spaces.
- F. Care shall not be provided on a 24-hour basis.
- G. Accessory structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.
- H. A day care center may not be located within 1/2 mile of another family care home, day care or group care facility.

#### *8.29.4 Day Care Centers for Children (29 persons or less)*

- A. Outdoor play and/or recreation areas shall be located behind the front building line in the side yard or rear yard only.
- B. All outdoor play and recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides

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maximum safety.

- C. Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.
- D. At least (1) one off-street passenger loading/unloading space separate from required parking shall be provided. An adequate on-site turnaround area shall be provided for all loading, unloading and parking spaces.
- E. Care shall not be provided on a 24-hour basis.
- F. Accessory structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.
- G. A day care center may not be located within 1/2 mile of another family care home, day care or group care facility.

*8.29.5 Day Care Homes for Adults (5 persons or less - Home Occupation)*

- A. Outdoor recreation areas shall be located behind the front building line in the side yard or rear yard only.
- B. All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.
- C. Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.
- D. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling. All building and lot standards for the residential dwelling shall be maintained.
- E. Care shall not be provided on a 24-hour basis.
- F. The facility shall be staffed by persons residing in the dwelling in which the day care is located except that one (1) non-resident may also work at the day care center.
- G. The day care shall be located in a structure originally constructed as and designed for a single-family dwelling that shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes

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its value as a single-family dwelling or which changes its exterior residential character.

- H. The owners of the day care home shall reside on the premises.
- I. A day care center may not be located within 1/2 mile of another family care home, day care or group care facility.

*8.29.6 Day Care Centers for Children (5 persons or less Home Occupation)*

- A. Outdoor play and/or recreation areas shall be located behind the front building line in the side yard or rear yard only.
- B. All outdoor play and recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.
- C. Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.
- D. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling. All building and lot standards for the residential dwelling shall be maintained.
- E. Care shall not be provided on a 24-hour basis.
- F. The facility shall be staffed by persons residing in the dwelling in which the day care is located except (1) one non-resident may also work at the day care center.
- G. The day care shall be located in a structure originally constructed as and designed for a single-family dwelling that shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.
- H. The owners of the day care home shall reside on the premises.
- I. A day care center may not be located within 1/2 mile of another family care home, day care or group care facility.

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**8.30 Drive-Thru Facilities**

- 8.30.1 The primary presence along the major street frontage should be the building, not the drive-through aisle, parking lot, or menu board.
- 8.30.2 Where no street separates the use and a residentially zoned property, at least 40 feet of separation shall be maintained between the residential lot line and the drive-through facility.
- 8.30.3 The location of drive-through windows and associated facilities (for example: communications systems and access aisles) shall be identified on all site plans. Drive through menu signs shall be identified in all site plans.
- 8.30.4 Any speaker systems associated with a drive-through facility shall be designed and located so as not to adversely affect adjacent uses.
- 8.30.5 Drive-through alleys between the right-of-way of a roadway and a building shall require a parking buffer pursuant to Article 9 if the drive-through alley is within 50 feet of, and visible from, the roadway. Such buffer shall be installed and maintained along the entire length of the drive-through alley and the adjacent roadway.
- 8.30.6 Vehicle stacking areas shall be provided in accordance with Article 9; Vehicle Stacking Areas.

**8.31 Drug Stores**

- 8.31.1 Drive-thru's will be permitted as a separate use.

**8.32 Elementary or Secondary Schools**

- 8.32.1 All elementary and secondary schools shall have primary access through a thoroughfare street or arterial road.
- 8.32.2 An elementary or secondary school shall be located on a minimum of 3 acres.
- 8.32.3 All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.

**8.33 Emergency Shelters**

- 8.33.1 An emergency shelter shall be located no closer than 1/2 mile from another emergency shelter.

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8.33.2 Emergency shelters shall have restroom facilities that are adequate to meet the needs of the largest possible population.

8.33.3 Emergency shelters shall have adequate water available for use by persons who take shelter within their confines.

8.33.4 Emergency shelters shall have a minimum of 2 exits, or one (1) exit for every 100 people, whichever is greater. Exits shall remain unlocked at all times in which the shelter is used.

8.33.5 Emergency shelters shall be available to individuals as temporary shelters for no more than 3 months.

### **8.34 Equipment Rental and Leasing**

8.34.1 Outside and display storage is prohibited.

### **8.35 Equipment Repair (Light)**

8.35.1 Outside storage and repair is prohibited.

### **8.36 Family Care Homes**

8.36.1 A family care home may not be located within mile of another family care home or group care facility.

8.36.2 The home shall be located in a structure originally constructed as and designed for a single-family dwelling that shall be the principal structure on the lot. The structure shall not be altered nor the site used in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character.

8.36.3 Recreation areas shall be located behind the front building line in the side or rear yards only. If located in the side yard, a minimum side yard setback of 10 feet shall be observed. On corner or through lots, a minimum 20-foot setback as measured from the abutting street right of way line shall be required.

### **8.37 Fire/EMS Stations**

8.37.1 Buildings will be located on a site that is at least 2 acres. Side and Rear Setbacks may be reduced to zero feet from property lines for building and associated improvements.

8.37.2 The building architecture will complement that of the underlining zoning district.

8.37.3 Fire/rescue vehicles will be parked under roof.

**8.38 Flea & Farmer Markets**

- 8.38.1 Hours of operation shall be no earlier than 8:00 a.m. and no later than 10:00 p.m.
- 8.38.2 The facility shall have direct access to an arterial road.
- 8.38.3 The site will provide sanitation facilities.

**8.39 Fraternal Clubs and Lodges**

- 8.39.1 The facility shall have direct access to an arterial road.
- 8.39.2 No active part of the site on which the facility is located (buildings, parking, recreational areas, etc.) is permitted within 100 feet of an adjacent single-family residential area.

**8.40 Fraternity & Sororities**

- 8.40.1 No fraternity or sorority establishment shall be located within 400 feet of a residential home.
- 8.40.2 A resident manager shall operate the establishment.
- 8.40.3 The establishment shall be located in a structure that complements the neighborhood.
- 8.40.4 The establishment shall contain only one (1) kitchen facility. Meals served on the premises shall be only for residents of the establishment and their guests.

**8.41 Fuel Oil & Propane Sales**

- 8.41.1 A wholesale and/or retail truck loading will be located on a minimum of 4 acres and shall not be within ½ mile of a residential district, or a site/use where large numbers of persons congregate on a frequent or infrequent basis.
- 8.41.2 All delivery vehicles shall be parked under roof at night.
- 8.41.3 Security fencing at least 8 feet in height shall be placed around the entire perimeter of the facilities.

**8.42 Funeral Homes with Crematorium**

- 8.42.1 The building shall be screened by large trees and shrubs from adjoining residential

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uses or residentially zoned property to diminish, to the maximum extent possible, the view of the crematory, accessory smokestack, and other features that identify the use.

#### **8.43 Go-Cart Racetracks**

8.43.1 Go cart racetracks shall be placed on sites that are at least 3 acres in size.

8.43.2 Security fencing at least 8 feet in height shall be placed around the entire perimeter of the facilities.

#### **8.44 Golf Courses**

8.44.1 There shall be a minimum 50-foot setback between the clubhouse and other buildings and any adjacent residentially zoned property.

8.44.2 Instructional facilities such as golf training shall be allowed.

8.44.3 Retail pro shops, restaurants, conference centers and other uses shall be considered a separate principal use and may be allowed to operate in conjunction with the facility where permitted in the Table of Uses, subject to any restrictions on those uses.

#### **8.45 Golf Courses, Miniature**

8.45.1 Facilities shall be placed on sites that are at least 2 acres in size.

#### **8.46 Golf Driving Ranges**

8.46.1 The minimum distance from the tees to the end of an open air driving area shall be 1,000 feet. The minimum distance may be reduced if the end of the driving area is controlled with netting or other measures to prevent golf balls from leaving the driving area.

8.46.2 Fencing, netting, trees, berms or other control measures shall be provided around the perimeter of the driving area to prevent golf balls from leaving the premises of the driving range.

#### **8.47 Government Offices**

8.47.1 Government facilities shall have a minimum frontage of 200 feet and a minimum area of 1 acre.

8.47.2 The building architecture will complement that of the underlying zoning district.

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**8.48 Group Care Facilities**

- 8.48.1 A group care facility shall not be located within 1/2 mile of another permitted family or group care facility, family care home or emergency shelter.
- 8.48.2 A group care facility shall not serve more than 6 patrons.
- 8.48.3 The home shall maintain an appearance compatible with the neighborhood and shall meet all State requirements and all applicable housing and building code requirements.
- 8.48.4 All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.

**8.49 Home Occupations (Customary)**

The following are the conditions for home occupations within the Town of St. James. Areas under the administration of a POA, HOA, or similar legal entities may have additional conditions.

**8.49.1 Definition**

A home occupation (customary) is a business whereby all, or a portion, of revenues attributed to a proprietary enterprise are generated from services, manufacture, assembly, sale, and/or resale of commercial goods within a residential dwelling or accessory structures.

**8.49.2 Conditions**

- (a) The home occupation must clearly be incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
- (b) A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a residential dwelling. See Article 2.7 and Article 7 for accessory building rules and design standards shown for each zoning district.
- (c) Permanent advertising signage is prohibited on the premises. Any signage which is displayed on a vehicle and is greater than two hundred (200) square inches in total area, shall not be visible during non-work hours, including overnight, weekends, and holidays. This may be accomplished by inside (garage) parking, magnetic sign covers or removal of magnetic signs, or similar means.
- (d) Traffic and parking associated with the use shall not be detrimental to the neighborhood or create congestion on the street where the home occupation is located. The need for parking shall be met off the street. Vehicles used primarily as passenger vehicles shall be permitted in connection with the home occupation. Only one commercially licensed vehicle shall be allowed. This vehicle shall not exceed one ton capacity rating.
- (e) No display of goods, products, or services shall be visible from off site. There shall



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be no external evidence of commercial activity at the site including window displays, outside storage, smoke, noise, odors, electrical or magnetic interference, vibration, heat, glare, or other nuisances emitted from the premises.

- (f) No hazardous materials may be stored, processed, or disposed of on the premises. The home occupation shall not discharge any amounts of waste-products, including toxic chemicals, infectious waste, waterborne or airborne contaminants, sewage or gray water onto any pervious or impervious surface, or, into any watercourse including ponds, creeks, swales, ditches, or the Intracoastal waterway.
- (g) Outdoor kilns used for the firing of pottery shall be provided with a semi-opaque screen to obstruct the view from the street and from adjacent properties and shall have a secured work area and shall be a minimum of ten (10) feet from abutting property lines. Such structures shall comply with the Design Standards of UDO Article 7.
- (h) A home occupation shall not store excessive amounts of flammable materials, explosives, ammunition, fireworks, or any other unstable substances on any property. For example, ammunition to be used recreationally for hunting or target shooting, or for purposes of home defense shall not be considered "excessive". Ammunition which is held for resale shall not be stored in bulk inventory in amounts greater than for normal inventory turnover. Excessive amounts of such materials shall, without exception, be reported to the St. James Fire Department.
- (i) A home occupation shall not raise, breed, or keep farm animals or exotic animals (large carnivores).
- (j) The home occupation shall comply with all local, state, and federal statutes, rules, and procedures.

### **8.50 Hotels, Motels and Time Shares**

8.50.1 A maximum of 3,000 square feet of gross floor area is permitted for a restaurant accessory to a hotel or motel.

8.50.2 All hotel and motel buildings and vehicular use areas shall be located at least 50 feet from any property line adjoining a residential district or use.

8.50.3 Any associated commercial activities shall not be located along the side of the property adjacent to a residential district or use. Retail shops, restaurants, conference centers and other uses shall be considered a separate principal use and may be allowed to operate in conjunction with the facility where permitted in the use table, subject to any restrictions on those uses.

8.50.4 Any outdoor recreation facilities, such as swimming pools, shall not be located along

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the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of Article 8.85, Swimming Pools, with regard to fencing.

### **8.51 Houses of Worship**

8.51.1 Convents, rectories, parsonages or similar uses may be placed on the site as accessory uses.

8.51.2 Accessory uses such as church offices, religious bookstores serving only the immediate congregation, parking lots, family life centers, multi-purpose facilities and outdoor recreational facilities on the same site or sites contiguous to the principal use shall be permitted. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.

8.51.3 Church accessory uses that are not permitted as principal uses in a district shall adhere to the following restrictions:

- A. No merchandise or merchandise display shall be visible from outside the building.
- B. No business or identification sign pertaining to the accessory uses shall be visible from outside the building.
- C. Except as set forth in Article 8.51.2, above, accessory uses that are not permitted as principal uses are prohibited.
- D. Direct access to the site shall be provided by a thoroughfare.

8.51.4 The minimum site area shall be 3 acres.

### **8.52 Kennels**

8.52.1 The property on which a kennel is to be located shall be a minimum of 2 acres and be no closer than 100 feet from a residential district.

8.52.2 Any run located partially or wholly outdoors shall be located at least 100 feet from any lot line and 500 feet from any residential lot.

8.52.3 No more than 5 outside runs shall be permitted.

8.52.4 It shall be the responsibility of the owner of the kennel to take and demonstrate prior to permitting appropriate measures to assure that animal noise, including barking, is

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abated.

8.52.5 Aromas emanating from the kennel may not permeate beyond the boundaries of the property, and it shall be the responsibility of the owner of the kennel to take appropriate measures to assure that animal aromas are abated.

8.52.6 All animals shall be provided pens that shall be fully enclosed. Other than when using a run, animals must be kept confined. The use of outdoor runs or facilities is restricted to the hours between 8:00 a.m. and 5:00 p.m. when the location abuts a residential use or a lot that is zoned residential.

8.52.7 The facility must be heated and air-conditioned.

8.52.8 Only domesticated animals and birds may be kept in the kennel. Reptiles and wild animals are prohibited.

### **8.53 Landscaping Services**

8.53.1 Up to 4 storage containers/trailers may be stored outdoors on the lot.

8.53.2 Storage containers shall be set back a minimum of 20 feet from any adjoining property line or street right of way.

8.53.3 The area for storage or display of live plants shall be no closer than 10 feet from an abutting street right of way, and the area of storage for all other items shall be no closer than 40 feet from an abutting street right of way.

### **8.54 Laundromats**

8.54.1 There shall be a maximum of 3,000 square feet of gross floor space in a Laundromat.

8.54.2 The hours of operation for a Laundromat shall be from 8:00 a.m. to 10:00 p.m.

### **8.55 Laundry and Dry Cleaning Establishments**

8.55.1 There shall be a maximum of 3,000 square feet of gross floor space in a laundry or dry cleaning establishment.

8.55.2 The hours of operation for a laundry and dry cleaning establishment shall be from 8:00 a.m. to 9:00 p.m.

### **8.56 Libraries**

8.56.1 Buildings will be located on a site that is at least one (1) acre.

8.56.2 The building architecture will complement that of the underlying zoning district.

## **8.57 Manufactured Homes**

### *8.57.1 Areas in Which Manufactured Housing Is Permitted*

- A. A manufactured home is permitted only in those areas that are approved as manufactured home parks.
- B. Manufactured home parks are allowed in R20, R15, R10 and MR districts by special use permit, requiring concept plan and site plan approvals.
- C. Ten (10) acres is the minimum and (15) acres is the maximum in which a manufactured home park is permitted.
- D. Mobile home parks shall be constructed as subdivisions with manufactured homes on individual lots for sale.
- E. Only Class A manufactured homes (dwellings) that meet or exceed the requirements set forth in this Article and Appendix A of this Ordinance for Class A manufactured homes are permitted within the R-20 district.

### *8.57.2 Prescribed Conditions for Manufactured Homes*

- A. The dwelling shall be set up in accordance with the standards set by the North Carolina Department of Insurance.
- B. There shall be a paved parking area adjacent to the dwelling.
- C. The dwelling shall have a permanent masonry foundation, not to include unfinished concrete block. The foundation wall shall be continuous and unpierced except for required ventilation and access as required by the State of North Carolina regulations for manufactured/mobile homes.
- D. The dwelling shall have all wheels, axles, transporting lights, and towing apparatus removed.
- E. The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding whose reflectivity does not exceed that of gloss white paint, wood or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- F. All entrances to the dwelling shall be provided with permanent steps, porch or similar suitable entry.

- G. Each manufactured dwelling shall also meet the following requirements, the intent of which is to insure that a Class A manufactured dwelling, when installed, shall have substantially the appearance of an onsite, conventionally built single-family dwelling.
1. The manufactured dwelling has a length not to exceed 4 times the width, with the length measured along the longest axis and the width measured at the narrowest part of the other axis.
  2. The manufactured dwelling shall have a minimum of 1,000 square feet of enclosed heated living area.
  3. The pitch of the roof of the manufactured dwelling shall have a minimum vertical rise of 2 and 2/10 feet for each 12 feet of horizontal run and the roof shall be finished with a type of shingle that is commonly used in standard residential construction.
  4. All roof structures shall provide an eave projection of no less than 6 inches that may include a gutter.

#### *8.57.3 General Requirements*

- A. All subdivision standards shall be met.
- B. Existing manufactured home parks that are not subdivided into individual deeded lots may continue operation, but may not be expanded or moved except in conformity with this Ordinance.
- C. For proposed neighborhoods an application to classify property as a manufactured home park shall require a Site Plan that shows the location and hierarchy of streets and public spaces, the location of residential and non-residential street sections and/or plans, phasing, and any other information which may be required to evaluate the subdivision's adherence to the standards of this Ordinance.

### **8.58 Manufacturing and Industrial Uses**

Characteristics: Firms engaged in the manufacturing, assembly, repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products mainly by providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site.

#### **8.58.1 Office space, parking, indoor storage (of material and final product), and limited**

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retail activity for each enterprise shall be permitted accessory uses. They shall meet the associated requirements set forth elsewhere in this document.

8.58.2 Cafeteria facilities for businesses with more than 20 employees (at this site) shall be permitted accessory use.

8.58.3 Outside processes shall not be permitted. Outside storage shall be screened from and roadway.

8.58.4 Hazardous material storage shall be permitted in accordance with the Use Tables in Article 7. Hazardous material used in manufacturing processes shall meet all federal and state requirements.

8.58.5 The facility shall have direct access to a major or minor arterial road.

8.58.6 The building shall be suitably insulated to prevent noise from reaching neighboring properties.

8.58.7 The use shall not generate objectionable odors, visible particulate discharge or vibrations that are detectable by neighboring properties. In addition, all NCDENR Division of Air Quality regulations with regard to toxic air pollutants must be adhered to.

8.58.8 A security fence is optional but if employed it must meet the landscaping requirements set forth elsewhere in this Ordinance.

### **8.59 Marinas without Dry Storage**

8.59.1 All required state and federal permits are issued by the appropriate agencies.

8.59.2 No net loss of protected wetlands and/or other unique wildlife habitat shall be permitted. In-stream marinas and inland facilities are preferred over those located in marshlands.

8.59.3 Fueling facilities (including underground storage, pipelines and pumps) shall be permitted only at commercial marinas, not at communal or individual docks.

8.59.4 Commercial marinas with fueling facilities shall ensure that no fuel is kept on non-commercial piers or docks (fuel must be kept in appropriate containers ashore or aboard).

8.59.5 Retail shops, boat sales, boat services and other uses shall be considered separate principal uses and may be allowed to operate in conjunction with the facility where permitted in the use table, subject to any restrictions on those uses.

8.59.6 Minimum parking spaces will be provided equal to 50% of the boat slips.

**8.60 Marinas with Dry Storage**

8.60.1 Marinas with dry storage will meet all the condition of marinas without dry storage.

8.60.2 Additional parking spaces equal to 50% of the storage capacity (slots/bays) will be provided.

8.60.3 Sufficient slips or dock space to support 30% of the boat dry storage capacity will be provided in addition to the nominally rented/sold wet slips.

**8.61 Martial Arts Schools**

8.61.1 Hours of operation shall be no earlier than 9:00 a.m. and no later than 10:00 p.m.

**8.62 Motor Vehicle Sales**

8.62.1 No motor vehicle display may be located closer than 35 feet from the property line and is prohibited from being located within any right of way, parking area, or planting yard.

8.62.2 Motor vehicle sales facilities shall be no less than 4 acres in size.

8.62.3 Adequate parking shall be provided for patrons who visit the sales facility. Permanent vehicle sales areas may not be located in any required parking spaces.

8.62.4 Vehicle sales or display areas may not block sidewalks or parking areas, and may not impede vehicular or pedestrian traffic.

8.62.5 An adequate on site loading and unloading area shall be provided for the purposes of loading and unloading motor vehicles. Such area shall not impede traffic in an adjoining right of way.

8.62.6 Vehicles may not be located in a required yard or buffer area even for temporary display purposes.

8.62.7 Junked or inoperable vehicles/heavy equipment shall not be on the premises.

8.62.8 Vehicle repairs made on-site shall be subject to the same restrictions under Automotive and Truck Repair.

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**8.63 Motorcycle Sales**

- 8.63.1 No motorcycle may be located closer than 35 feet from the street curb or edge of pavement and is prohibited from being located within any right of way, parking area, or planting yard.
- 8.63.2 Motorcycle sales facilities shall be no less than 2 acres in size.
- 8.63.3 Adequate parking shall be provided for patrons who visit the sales facility. Permanent motor cycle sales areas may not be located in any required parking spaces.
- 8.63.4 Motorcycle sales or display areas may not block sidewalks or parking areas, and may not impede vehicular or pedestrian traffic.
- 8.63.5 An adequate on site loading and unloading area shall be provided for the purposes of loading and unloading motorcycles. Such area shall not impede traffic in an adjoining right of way.
- 8.63.6 Junked or inoperable motorcycles shall not be on the premises.
- 8.63.7 Motorcycle repairs made on-site shall be subject to the same restrictions under Automotive and Truck Repair.

**8.64 Moving and Storage Services**

- 8.64.1 A warehouse may not have more than 10,000 square feet of gross floor area unless the Zoning Administrator finds that a larger area will not create a disturbance with respect to other uses within one (1) mile of the warehouse. No warehouse shall have more than 30,000 square feet of gross floor area.
- 8.64.2 There shall be at least one (1) off-street loading area for each entrance to the warehouse.
- 8.64.3 No portion of a loading area may project into the street right of way, and all loading and unloading activities shall take place on private property.
- 8.64.4 Vehicles, and other materials, shall be kept in or behind an enclosed building.

**8.65 Office Uses not otherwise Classified**

- 8.65.1 The proposed use shall not be detrimental to the surrounding offices and facilities.

**8.66 Outdoor Storage**



8.66.1 Outdoor storage shall be minimized and shall not be visible from any normal vehicular or pedestrian routes.

8.66.2 Outdoor storage shall be located on the same property as the principle use and shall be shown on the approved site plan.

**8.67 Pawn Shops**

8.67.1 The site shall not be located within a minimum of 1,000 feet of a church, a daycare center, a school, a public recreation, publicly owned land, or the property line of a residential zoning district.

8.67.2 Such use shall be located a minimum of 500 feet from any other pawn shop facility.

**8.68 Pet Stores**

8.68.1 It shall be the responsibility of the owner of the pet store to take and demonstrate, prior to permitting, appropriate measures to assure that animal noise, including barking, is abated.

8.68.2 Aromas emanating from the pet store may not permeate beyond the boundaries of the store, and it shall be the responsibility of the owner to take appropriate measures to assure that animal aromas are abated.

8.68.3 All animals shall be provided pens that shall be fully enclosed.

8.68.4 The facility must be heated and air-conditioned.

8.68.5 Only domesticated animals and birds may be kept in the pet store. Reptiles and wild animals are prohibited.

**8.69 Physical Fitness Centers**

8.69.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10:00 p.m.

8.69.2 The facility shall have direct access to an arterial road.

**8.70 Private Clubs or Recreational Facilities**

8.70.1 The facility shall have direct access to an arterial road.

8.70.2 No active part of the site on which the facility is located (buildings, parking, recreational areas, etc.) is permitted within 200 feet of an adjacent single-family residential area.

8.70.3 An outdoor facility shall be separated by an opaque screen from any abutting property located in a residential district or containing a legal, conforming residential use.

### **8.71 Progressive Care Facilities**

8.71.1 Buildings will be located on a site that is at least 4 acres.

8.71.2 The building(s) architecture will complement that of the underlining zoning district.

8.71.3 Outdoor recreation areas shall be located behind the front building(s) line in the side yard or rear yard only.

8.71.4 All outdoor recreation areas shall be surrounded by a fence or wall at least 4 feet in height that is constructed in a manner that provides maximum safety.

8.71.5 Outdoor activities are permitted only in the fenced area between the hours of 8:00 a.m. and 9:00 p.m.

8.71.6 A congregate care facility may not be located within 1/2 mile of another congregate care facility, family care home, day care or group care facility.

### **8.72 Parks, Passive**

8.72.1 In conformance with Article 4.7.9, the completed site plan shall display site development, design and usage intensity appropriate for the site; any required fencing/screening, the location of trash handling, recycling, and other waste and maintenance related facilities employed in the normal operation for the use; adequacy of traffic pattern design and traffic control; adequacy of storm water facilities, water supply, and any other planned utilities (e.g., electric power).

The completed application shall also provide the normal hours of operation and user rules to be posted.

8.72.2 The applicant shall submit a plan for parking that will meet the needs for normal use of the park. (Article 4.7.9 E and Article 9)

8.72.3 Overflow parking (in addition to required parking) shall be designated on the site plan and kept available to handle all traffic from special events such as tournaments and outdoor concerts.

8.72.4 All parks larger in size than 10 acres shall have primary access to an arterial road or thoroughfare.

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8.72.5 All uses identified in the Table of Uses (Article 7.16) co-located with a park are to be treated and approved according to the conditions set for that use.

8.72.6 All dogs brought into a park must be on a leash and under control of the responsible person(s) or securely tethered at all times.

### **8.73 Parks, Active with Recreational Facilities**

In addition to the conditions of Article 8.72, the following conditions apply:

Characteristics: See Definitions, Appendix A.

8.73.1 An outdoor facility shall be separated by an opaque screen from any abutting property located in a residential district or containing a legal, conforming residential use (Article 9.9.2).

8.73.2 The facility shall be located at least 200 feet from the closest point of any abutting property located in a residential district.

8.73.3 The lot size shall be no less than 3 acres.

### **8.74 Parks, Community Gardens**

In addition to the conditions of Article 8.72, the following conditions apply:

Characteristics: See Definitions, Appendix A

8.74.1 Landscaping/buffering: Article 9.9.2 and Article 10. Opacity required is 0.2 for all locations as addressed in Article 10.8.9.

### **8.75 Parks, Dog Park Conditions**

In addition to the conditions of Article 8.72, the following conditions apply: Characteristics: See Definitions, Appendix A

8.75.1 The completed application shall indicate intended capacity (maximum number of dogs at one time).

8.75.2 Design Standards/Fencing requirements: a minimum of 5' high, including separate double gated entry/exit points for dog entry/unleashing and leashing/exit. Separate gates shall be provided for maintenance access. Gates must be lockable. Fencing panels shall be buried to a depth of 6" (alternatively, tension cables installed at the base of the fencing may be used to fulfill this requirement). The appropriateness of the planned fencing type and materials is to be evaluated by the Planning Board in consultation with the Applicant and Zoning Administrator (Article 10).

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- 8.75.3 Design Standards: The completed site plan shall specify play surface (e.g., decomposed granite, grass, etc.), safety & security, water drainage and run-off mitigation, tools for waste pick up and disposal, separation from other park areas if co-located, and signage stating hours of operation, capacity limit, user rules and leash rules, etc.
- 8.75.4 Consistent with the requirements for outside dog runs, the off leash area of the dog park shall be at least 100' from the property line of the lot it is located on and the distance to residential lots and institutional and educational facilities (such as churches, schools, libraries, etc.), shall be at least 500 feet. Exception: If a property line abuts a "never to be developed" conservancy, such as Federal Wet Lands, the minimum 100' setback requirement may be reduced to a minimum of 35'.
- 8.75.5 Landscaping/buffering: for purposes of determining the amount needed, the dog Run property shall use the same opacity requirements as commercial property (see Article10).
- 8.75.6 Consistent with the conditions for Kennels (Article 8.52.4), it shall be the responsibility of the management of the dog park to demonstrate appropriate measures to assure that animal noise, including barking, is abated prior to granting of a permit.
- 8.75.7 Consistent with the conditions for Kennels (Article 8.52.5), aromas emanating from the dog park may not permeate beyond the boundaries of the property, and it shall be the responsibility of the management of the park to take appropriate measures to assure that animal aromas are abated.

## **8.76 Research, Development or Testing Services**

- 8.76.1 Research, Development and/or Testing services will be located in "Corporate Parks" unless otherwise permitted under a Special Use Permit.

## **8.77 Restaurants**

- 8.77.1 An establishment may not have more than 5,000 square feet of floor area in a Commercial Neighborhood District.
- 8.77.2 An opaque fence that is at least 6 feet high shall be erected adjacent the property line of abutting residences, churches, elementary or secondary schools, or public parks.
- 8.77.3 Drive-thrus shall be considered a separate principal use and may be allowed to operate in conjunction with the facility where permitted in the use table, subject to any restrictions on those uses.

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8.77.4 The facility shall have direct access to an arterial road or thoroughfare.

**8.78 Satellite Dishes, TV, and Radio Antennae (Accessory)**

8.78.1 Only small television antennae, (less than 3 foot diameter) dish satellite or radio towers shall be permitted in the residential districts when they are completely camouflaged or hidden from view at the street level.

8.78.2 Short wave radio antennae in excess of 90 feet in height shall not be permitted.

**8.79 Seasonal Agricultural Product Sales (30 day maximum)**

8.79.1 Seasonal agricultural product sales shall be permitted outdoors only when the products sold are locally grown food and floral produce or products made from produce such as fruit preserves, candies, cakes, wreathes, etc., or when there are special seasonal products such as Christmas trees. There must be a break of at least 30 days between uses in the seasonal facility if the facility is to be used more than once in a calendar year.

8.79.2 No more than one (1) storage container or stand per vendor shall be used to store goods for sale.

8.79.3 Activities may be located only on a vacant lot.

**8.80 Self Storage Facilities**

8.80.1 A Self-storage facility shall be located on a major road or thoroughfare.

8.80.2 Self-storage facilities shall be surrounded by an 8 foot of higher security fence whose design and appearance are consistent with the nature of the community.

8.80.3 All storage shall be contained within a fully enclosed building. However, outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial occasional use vehicles is permitted. Said outdoor storage area shall be identified on all site plans.

8.80.4 A landscaped buffer not less than 25 feet in width shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use.

8.80.5 The following activities shall be prohibited on the premises:

- A. Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of

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the self-storage mini-warehouse complex may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with State of North Carolina regulations.

- B. Servicing, repair, or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
- C. Operation of a transfer-and-storage business.
- D. Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.
- E. Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
- F. Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.
- G. Habitation of storage units by humans or animals.

### **8.81 Service Stations, Gasoline**

- 8.81.1 Hours of operation shall be no earlier than 6:00 a.m. and no later than 10:00 p.m. when the location is in a CN District, or abuts a legal, conforming residential use or a lot that is zoned residential.
- 8.81.2 Any wrecked, partially dismantled or inoperative vehicle located on the lot shall be kept in an enclosed building or in an enclosed storage yard in which the contents of the yard are not visible. No vehicle shall be kept on the premises longer than 30 days.
- 8.81.3 The overnight storage of all merchandise and vehicles shall be indoors or in an enclosed storage yard, and all repair work and similar activities shall be conducted entirely within enclosed structures.
- 8.81.4 All fuel pumps shall be located a minimum of 50 feet from any adjacent property line.
- 8.81.5 Motor vehicle repairs and car washes associated with the service stations are permitted separately and subject to the prescribed conditions for these uses.
- 8.81.6 There shall not be more than 2 gasoline service islands containing no more than 4 gasoline pumps per island in a Commercial Neighborhood District.

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## **8.82 Sexually Oriented Business**

- 8.82.1 Sexually oriented businesses include, but are not limited to, adult arcades, adult bookstores or adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios, sexual encounter centers, or any combination of these uses.
- 8.82.2 No sexually oriented business shall be located within one (1) mile of any other sexually oriented business, as measured in a straight line from property line to property line.
- 8.82.3 No sexually oriented business shall be located within one (1) mile of a church, public or private elementary or secondary school, child day care or nursery school, public park, residentially zoned property, or any establishment with an on premise ABC license, as measured in a straight line from property line to property line.
- 8.82.4 The gross floor area of any sexually oriented business shall not exceed 3,000 square feet.
- 8.82.5 Except for an adult motel, sleeping quarters are prohibited in sexually oriented businesses.
- 8.82.6 There shall be no more than one (1) sexually oriented business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any sexually oriented business.
- 8.82.7 Hours of Operation shall be limited to 11:00 a.m-10:00 p.m. Monday through Thursday and until 12:00 a.m. on Friday and Saturday. No sexually oriented business shall be open on Sunday.
- 8.82.8 All viewing booths shall be open and visible to the manager of the establishment.
- 8.82.9 No viewing booth may be occupied by more than one (1) person at a time.
- 8.82.10 If applicable, a minimum separation of 6 feet between patrons and performers shall be maintained.
- 8.82.11 Servers of food and beverage shall at all times wear shirts and pants.

## **8.83 Skating Rinks**

- 8.83.1 The lot size shall be no less than 3 acres.

8.83.2 The facility shall have direct access to an arterial road or thoroughfare.

8.83.3 An outdoor facility shall be separated by an opaque screen from any abutting property located in a residential district or residential use.

8.83.4 The facility shall be located at least 200 feet from the closest point of any abutting property located in a residential use.

## 8.84 Solar Energy

Applies to both Photovoltaic and Thermal Systems unless otherwise noted

### 8.84.1 Appearance/Impact

- A. The applicant shall indicate, in writing, that the solar system shall not:
  - 1. Interfere with the permitted uses of adjacent properties.
  - 2. Interfere with traffic or create a safety hazard.

### 8.84.2 Design

- A. Applications for pitched roof mounted solar energy systems for new construction shall be accompanied by Plan, Elevation, Section and Site Plan to-scale drawings that must show the specific location of the pitched roof mounted system on the building, with dimensions indicated consistent with the specific dimensional requirements of the UDO. The method of fastening the solar energy system to the roof shall be specified with particular attention given to meeting or exceeding the local building code requirements. The roof and solar panel colors shall be specified. Data sheets for all primary and critical components to be installed shall be included.
- D. Applications for the addition of pitched roof mounted solar energy systems for existing construction shall be accompanied by drawings or photographs of the existing building with Plan, Elevation, Section and Site Plan to-scale drawings of the solar energy system shown on the building with all dimensions indicated on the photographs or drawings consistent with the specific requirements of the UDO. The method of fastening the solar energy system to the roof shall be specified with particular attention given to meeting or exceeding the local building code requirements. The roof and solar panel colors shall be specified. Data sheets for all primary and critical components to be installed shall be included.
- C. Applications for a flat roof mounted solar system shall be accompanied by Plan, Elevation, Section and Site Plan to-scale drawings that must show distances to the roof edges, the pitch of the solar energy panels, the method of fastening the



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solar panels to the roof (meets or exceeds the local building load requirements), and any parapets on the building as required by the UDO. Data sheets for all primary and critical components to be installed shall be included.

- D. Applications for ground based solar energy systems shall be accompanied by a to scale dimensioned Site Plan with all existing and proposed buildings, existing and proposed vegetation, and solar energy systems shown. The method of securing the solar energy system to the ground, the materials or vegetation to be used under the solar energy panel installation, methods to screen visibility of the site shall be identified
- E. All application packages shall include the manufactures installation instructions as well as identifying the specific and applicable requirements of the Brunswick County Building Code
- F. All solar collector systems shall
  - 1. Conform to the International Building Code with North Carolina eastern side amendments.
  - 2. Have a UL listing.
  - 3. Secure all exterior electrical and/or plumbing lines in a conduit.
  - 4. Have panels coated with anti-reflective coatings.
  - 5. House any ground based supporting equipment within the primary or auxiliary structure or screened it from view.
  - 6. Be installed by a licensed and certified North American Board of Certified Energy Practitioners (NABCEP) installer.

#### 8.84.3 Other

- A. Any upgrades, modifications or changes that materially alter the size or placement of an existing Solar Energy System shall comply with the provisions of this Article and be submitted and approved by the Planning Board.
- B. If the applicant ceases operation of the energy project or begins, but does not complete construction of the project, the applicant shall restore the site to its original state within six months. The lack of use for a six month period shall be deemed abandonment unless the Town is notified and a grace period granted.
- C. Easements cannot be purchased and/or acquired from or granted by owners of neighboring properties in order to increase solar access. This applies to buildings, trees, or other structures.

- D. Any system to be used by someone other than the property owner shall provide evidence of agreement between both of the parties.

#### 8.84.4 System Configurations

##### **Collector Mounted on Pitched Roof**

- A. Height limit set at one and one half (1.5) feet below ridgeline. Panels shall not be within one and one half (1.5) feet of any eave or valley or edge to allow accessibility and must be set back from any other edge by a minimum of one (1) foot.
- B. The top edge of each solar panel will be parallel to the roof's ridge line within one quarter (1/4) inch per foot.
- C. The solar panels (and any other roof mounted equipment) shall match as close as practical, the color of the roof.
- D. The panels shall not have a highest finished pitch that is more than five (5) percent steeper than the roof pitch on which the system is mounted, and shall be no higher than ten (10) inches above the roof surface.

##### **Collector Mounted on Flat Roof**

- A. Height limit set at 2 feet below the Districts height limit. The equipment shall be screened by a permanent wall that exceeds the height of the equipment by one foot.
- B. The systems shall not cover more of the flat roof upon which the panels are mounted that is allowed by a structural engineering analysis.

##### **Collector Mounted on Ground**

- A. Year round screening shall be provided for all components of the system that is not housed in the primary or accessory structure.
- B. No portion of the solar system shall be located within the front or side yards, or along any street frontage. Corner lots are exempt from the fronting requirement on the secondary road.
- C. The maximum equipment height shall not exceed six (6) feet; screening shall be at least seven (7) feet in height.
- D. Any structure with solar panels more than six (6) feet but less than ten (10) feet off the ground shall be limited to usage in a Commercial Intensive District.

##### **Solar Farm Specific**

- A. Equipment shall be limited in height to less than ten (10) feet.
- B. The applicant shall include a site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines, trees to be removed and location of driveway(s), fencing and screening. No portion of the system area may encroach into the required setbacks and buffer area(s) as required by the zoning district in which it is located. Any proposed structure(s) and parking are also to be indicated.
- C. The applicant shall provide a surety bond to the Town for the estimated cost for decommissioning and site restoration of the complete system should the project be abandon. Abandonment is defined as the lack of construction or the generation of electricity for a period of six (6) months.

#### **Collector Mounted on Poles (specific)**

- A. Pole mounted systems shall only be approved for use by governmental agencies and utilities after demonstrating that they offer the best approach to achieving the projects objectives. Poles will have the same height limitations as prescribed by the street lighting requirements for that District and should as best possible, mimic light poles in the area. Poles must be set back from all property lines so that the fall zone from any tower shall not cross adjoining property lines.

#### **Thermal Systems Specific**

- A. All tanks shall be enclosed in the primary or an accessory structure.

### **8.85 Specialty Beverages**

8.85.1 No Specialty Beverages business shall be located within 500 feet of a church, public or private elementary or secondary school, child day care or nursery school, public park, residentially zoned property, or any establishment with an on premise ABC license, as measured in a straight line from property line to property line.

### **8.86 Specialty Food Stores**

8.86.1 Hours of operation shall be no earlier than 8:00 a.m. and no later than 10:00 p.m.

8.86.2 The facility shall have direct access to an arterial.

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**8.87 Swim Clubs**

8.87.1 The facility shall have direct access to an arterial road.

8.87.2 An outdoor facility shall be separated by an opaque screen from any abutting property located in a residential district or containing a legal, conforming residential use.

8.87.3 The facility shall be located at least 200 feet from the closest point of any abutting property located in a residential district.

8.87.4 For an outdoor facility, the site shall be enclosed with a 6 foot high fence with the appropriate buffering.

8.87.5 The lot size shall be no less than 3 acres.

**8.88 Swimming Pools**

Swimming pools located on any site, including single-family residential sites, shall be:

8.88.1 Located in a side or rear yard only.

8.88.2 Located a minimum of (5) five feet from any property line; to include the decking and equipment associated with the swimming pool.

8.88.3 Completely enclosed by a fence or wall no less than 4 feet in height above grade as measured on the side of the fence or wall that faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device. (See Article 9.7 for additional fence requirements.)

**8.89 Tattoo Establishments**

8.89.1 The site shall not be located within a minimum of 1,000 feet of: a church, a daycare center a school, a public recreation, publicly owned land, or the property line of a residential zoning district.

8.89.2 Such use shall be located a minimum of 500 feet from any existing tattoo facility.

8.89.3 Such use shall be located a minimum of 500 feet from any major arterial.

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**8.90 Taxidermists**

8.90.1 Any exhaust/venting from the facilities must be processed so as to eliminate noxious odors.

**8.91 Temporary Outdoor Events (2 week maximum)**

8.91.1 Hours of operation shall be no earlier than 8:00 a.m. and no later than 10:00 p.m., when the location abuts a residential use or a lot that is zoned residential.

8.91.2 The facility shall have direct access to a major arterial road.

8.91.3 Seating and entertainment areas shall not be permitted within 100 feet of a residential lot line or street.

8.91.4 Music, loud speakers and similar noise devices shall be directed to the interior of the lot and shall only be permitted with the approval of the UDO Administrator.

**8.92 Tennis Clubs**

8.92.1 The facility shall have direct access to an arterial road.

8.92.2 An outdoor facility shall be separated by an opaque screen from any abutting property located in a residential district or containing a legal, conforming residential use.

8.92.3 The facility shall be located at least 200 feet from the closest point of any abutting property located in a residential district.

8.92.4 The lot size shall be no less than 3 acres.

**8.93 Theaters**

8.93.1 Theaters shall not be located adjacent to residential uses.

8.93.2 Theaters shall be located so that access is from a major thoroughfare.

**8.94 Tire Sales**

8.94.1 All storage of materials, merchandise, repair and servicing equipment shall be within the principal building.

8.94.2 All repair work shall be conducted within the principal building.

8.94.3 Vehicles shall be kept in or behind an enclosed building.

8.94.4 Accessory buildings are prohibited.

8.94.5 Automotive wreckers or other service vehicles shall be stored inside the principal building after business hours.

8.94.6 Wreckers and service or customer vehicles shall be parked on the premises in a manner which will not create traffic hazards or interfere with vehicular maneuvering areas necessary for service bays, required off-street parking spaces or access to trash storage facilities.

### **8.95 Utility Equipment and Storage Yards**

8.95.1 All utility equipment and sub-stations less than 600 square feet in size shall be exempt from minimum lot requirements in any zoning district. Utility equipment and sub-stations 600 square feet or larger shall comply with all lot area and yard requirements

8.95.2 Utility equipment and substations shall be screened from the public roadway and shall comply with district landscape and buffering requirements.

8.95.3 Security fencing at least eight (8) feet in height shall be placed around the entire perimeter of the facility.

### **8.96 Veterinary Services**

8.96.1 Any structure that houses animals that is not fully enclosed shall be located at least 100 feet from any lot line and 500 feet from a legal conforming residential use or lot located within a residential or mixed use district.

8.96.2 Any run located partially or wholly outdoors shall be located at least 100 feet from any lot line and 500 feet from a lot containing a legal, conforming residential use or lot located within a residential or mixed use district.

8.96.3 Outdoor runs are considered a separate use and will be permitted separately.

### **8.97 Vocational Schools**

8.97.1 All schools shall have primary access through a collector road, thoroughfare or arterial road.

8.97.2 All schools shall be located on a minimum of 3 acres.

8.97.3 If the facility is located within 30 feet of an adjacent property line of existing

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residentially occupied or zoned property, screening and buffering shall be required in accordance with Article 9.9 and Article 10.

### **8.98 Warehouses**

8.98.1 A warehouse shall have no more than 30,000 square feet of gross floor area.

8.98.2 Outdoor storage is prohibited.

8.98.3 There shall be at least one (1) off-street loading access to the building.

8.98.4 No portion of a loading area may project into the street right of way, and all loading and unloading activities shall take place on private property.

8.98.5 No indoor storage material, racks, bins, shelving or other evidence of the warehousing or wholesaling operation shall be visible from the public right of way. If there are glass doors and windows, they shall contain curtains, blinds or other suitable treatments to screen the interior of the building from view. Windows shall not be boarded or paneled over either from the outside or the inside.

### **8.99 Water Treatment Plants**

8.99.1 Approval of appropriate State and County agencies is required.

8.99.2 Security fencing at least 8 feet in height shall be placed around the perimeter of the facilities.

### **8.100 Wholesale Trade (Reserved)**

### **8.101 Wireless Telecommunication Facilities**

#### *8.101.1 Exemptions*

The following are exempt from these Wireless Telecommunications facilities (WTF) conditions:

- A. Satellite dishes less than 4 feet in diameter in residential districts.
- B. Regular maintenance and/or upgrade of antenna elements of any existing wireless communications facility that does not include the addition of any new antenna elements, feed lines, and associated support equipment on the facility or the placement of any new wireless communications facility.
- C. A government-owned wireless communications facility, upon the declaration

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of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town or County; except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division section beyond the duration of the state of emergency.

- D. Antenna supporting structures, antennae and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission.

#### 8.101.2 Standards

- A. *Nonconforming Towers.* Replacement of non-conforming WTFs existing as of the effective date of this Ordinance, damaged by natural causes, will meet the standards of this Ordinance. Repairs to non-conforming WTFs, damaged by natural causes, will be made in accordance with the Ordinance under which it was initially installed.
- B. *Siting.*
1. Siting of a WTF shall be in accordance with the following descending hierarchy:
    - a. Attached to an existing WTF.
    - b. Attached to a Utility Infrastructure (such as an overhead power transmission line).
    - c. Attached as a Stealth WTF to an existing building or structure in a nonresidential zoning district.
    - d. Attached to an existing building or structure in a nonresidential zoning district.
    - e. Located as a Monopole in a nonresidential zoning district.
    - f. Attached as a Stealth WTF to an existing nonresidential building or structure in a residential zoning district.
    - g. Attached to an existing nonresidential building or structure in a residential zoning district.
    - h. Located as a Monopole on a lot of a nonresidential use within a residential zoning district.
  2. The applicant must file relevant information as indicated in an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the Geographic Search Area, higher ranked options are not technically feasible, practical, or justified given the identified needs of the service provider, the location of the proposed (and alternate) sites.



3. The WTF shall be contained within one parcel.
4. When located next to a residential zoning district, new WTFs may only be permitted on parcels with a minimum lot size of 5 acres.

### 8.101.3 Dimensions

WTFs shall conform to the following dimensional requirements:

#### A. Design.

Towers shall be a monopole construction; guidelines and guyed towers shall not be permitted. Towers will be designed to support a minimum of 4 users.

#### B. Height.

1. Attached WTF: The top of the WTF may not be more than 30 feet above the building or structure to which it is attached.
2. Freestanding WTF: This measure shall include the foundation of the WTF, but exclude lightning rods for the dissipation of lightning or lights required by the FAA that do not provide support for any antennae. The maximum height will be 160 feet in all districts. An additional 20 feet in height will be allowed for every 4 additional antennae.
3. Mitigation of an existing WTF: The maximum height of a new WTF arising from mitigation shall not exceed 125% of the height of the tallest WTF that is being mitigated.

#### C. Setbacks.

1. Attached WTF: The building or structure to which the WTF will be attached shall maintain the normal setbacks of the district.
2. Freestanding WTF: Setbacks for WTFs shall be determined according to the underlying zoning district, plus an additional one foot of setback (on each side) for every one-foot of tower height. The Zoning Administrator may approve reductions to this setback requirement as a part of the special use permit approval with certification by a registered engineer that the resulting setbacks provide adequate fall area in case of a tower collapse.
3. Mitigation of an existing WTF: A new WTF approved as mitigation shall not be required to meet setback requirements so long as the new WTF is no closer to any property lines or dwelling units as the WTF being mitigated and

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a certification by a registered engineer that the resulting setbacks provide adequate fall area in case of a tower collapse.

D. *Buffers.*

1. A landscaped buffer shall surround the base of the WTF equipment compound. Existing trees and shrubs on the site shall be preserved and may be used in lieu of some or all of the required landscaping as approved by the Zoning Administrator. Grading shall be minimized and limited only to the area necessary for the new WTF.
2. If the proposed WTF is to be located in front of an existing structure on the same lot, a street buffer shall also be required.
3. Security fencing at least 8 feet in height shall be placed around the entire perimeter of the facilities.
4. Security fencing at least 8 feet in height shall be placed around the entire perimeter of the facility.

E. *Location of Existing Towers.* In no case shall a telecommunications tower be located closer than two miles from another tower unless the builder, user, carrier, etc., can establish through competent evidence and documentation either that:

1. It is in the best interests of the community that the proposed tower be located less than two miles from another tower; or
2. It is necessary for technical and/or capacity reasons that the proposed tower be located less than two miles from another tower.

*8.101.4 Aesthetics*

- A. Stealth attached WTFs, including feed lines and antennae, shall be designed so as to be compatible with the facade, roof, wall or structure on which it is affixed so that it matches the existing structural design, color and texture.
- B. Freestanding WTFs shall be designed so as to be compatible with adjacent structures and landscapes to the extent feasible with specific design considerations as to height, scale, color and texture.
- C. Commercial messages may not be displayed on any WTF.

*8.101.5 Application Requirements*

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In addition to all of the requirements of a Site Plan Review, the following information must be supplied with the application for WTFs:

- A. Identification of the intended user(s) of the WTF and evidence supporting the need for a new antenna or a new tower.
- B. A certified report by a registered engineer or other qualified professional of diligent efforts to locate an appropriate site based on the hierarchy established elsewhere in this Article.
- C. For the proposed use of an existing facility, a report evaluating the adequacy of all alternative existing facilities to meet the applicants need and the reasons existing higher hierarchical preferred facilities cannot be used.
- D. In the case of a new WTF:
  - 1. Evidence that no existing WTF can accommodate the applicant's proposed antenna (e); or that use of such existing WTFs would prohibit personal wireless services in the area of the Town to be served by the proposed WTF structure.
  - 2. Evidence that the WTF has sufficient structural integrity to accommodate multiple future users, and the number of additional users that can be accommodated on the proposed WTF is specified. The builder, user, carrier, etc., shall also submit documentation that the owner of the tower or antenna is willing to permit other user(s) to attach accessory communications facilities which do not interfere with the primary purpose of the tower or antenna, provided that such other user(s) agree to negotiate a reasonable compensation to the owner from such liability as may result from such attachment.
  - 3. That in the event of a collapse, the proposed WTF facility has been engineered to fall in a radius of less than the provided setback.
  - 4. Report on service gaps or service expansions that are addressed by the proposed WTF ("the proposed service"), and accompanying maps and calculations.
  - 5. That the facility meets or exceeds applicable American National Standards Institute (ANSI) standards as adopted by the FCC in order to protect the public from unnecessary exposure to electromagnetic radiation.
  - 6. A statement that the proposed facility is the Least Visually Obtrusive, as

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defined herein, and that the proposed facility conforms with State of the Art, as defined herein, or alternatively, that State of the Art technology is unsuitable for the proposed facility. Costs of State of the Art technology that exceed customary facility development costs shall not be presumed to render the technology unsuitable.

7. A listing and locations of any possible/future additional towers that may be necessary to meet the users long term overall goals.

#### *8.101.6 Third Party Review*

When due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the Zoning Administrator may require the applicant to pay for a technical review by a third party expert selected by the Town, the costs of which shall be in addition to other applicable fees. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.

#### *8.101.7 Mitigation*

The intent of WTF mitigation is to reduce the number of WTFs (especially nonconforming facilities) and replace existing WTFs with new facilities to improve network functionality and increase overall compliance with this Article. To qualify as WTF mitigation, a proposal shall accomplish a minimum of one of the following:

- A. Reduce the number of overall WTFs;
- B. Reduce the number of nonconforming WTF types; or,
- C. Replace an existing WTF with a new WTF resulting in compliance with this Article.

#### *8.101.8 Approval Authority*

- A. The Zoning Administrator shall be responsible for the approval of Stealth attached WTFs, and co-location on existing antenna supporting structures, except those located within 300 feet of a designated State of North Carolina Scenic Byway.
- B. In addition to the requirements for Special Use Permits, the Planning Board, in determining whether a WTF is in harmony with the area, or the effects and general compatibility of a WTF with adjacent properties may consider the aesthetic effects of the WTF as well as mitigating factors concerning aesthetics. The Planning Board may disapprove an application on the grounds that the WTFs aesthetic effects are unacceptable, or may condition approval on changes in WTF height, design, style, buffers, or other features of the WTF or its surrounding area. Such changes need not result in performance identical to that of the original application. Factors relevant to

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aesthetic effects are: the protection of the view in sensitive or particularly scenic areas and areas specially designated in adopted plans such as unique natural features, scenic roadways and historic sites, the concentration of WTFs in the proposed area, and whether the height, design, placement or other characteristics of the proposed WTF could be modified to have a less intrusive visual impact.

#### *8.101.9 Construction and Operation*

- A. WTFs shall be constructed and maintained in conformance with all applicable building code requirements.
- B. WTFs may not interfere with normal radio and television reception in the vicinity.
- C. Lighting may not exceed the FAA minimum standard. Lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.
- D. The WTF equipment compound may not be used for the storage of any excess equipment or hazardous materials, nor be used as habitable space. No outdoor storage yards shall be allowed in a WTF equipment compound.
- E. There shall be minimum 8 foot high fence installed and maintained by the owner of the telecommunications tower around the perimeter of the tower compound, except that security fencing shall not be required for accessory communication facilities.

#### *8.101.10 Public Service Access*

At the request of any local governing authority, a license shall be granted to such local governing authority to place public service communication antennae or other public service communication devices on the telecommunications tower or antenna, provided that such communication antennae or other public service communication devices do not interfere with the function of the telecommunications tower or antenna, or array of antennae of the operator or owner or other existing service providers located on the tower or antenna.

#### *8.101.11 Interference with Public Safety Communications*

- A. In order to facilitate the Town regulation, placement, and construction of WTFs and their interaction with the Town Public Safety and Emergency Services Communications Equipment, all applicants requesting a permit for a WTF under this section shall agree in a written statement, to the following:
  - 1. Compliance with Good Engineering Practices as defined by the FCC in its Rules and Regulations;

2. Compliance with FCC regulations regarding susceptibility to radio frequency interference (RFI), frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to RFI; and
  3. In the case of co-location of telecommunications facilities, the applicant, together with the owner of the site, shall provide a composite analysis of all users of the site to determine that the applicant proposed facilities will not cause RFI with the Town Public Safety and Emergency Services Communications Equipment.
- B. When a specific base station is identified as causing RFI with the Town Public Safety and Emergency Services Communications Equipment, the following steps shall be taken:
1. Upon notification by the Town of interference with Public Safety and Emergency Services Communications equipment, the owners of the WTF equipment shall utilize the hierarchy and procedures set forth in the FCC Wireless Telecommunications Bureau Best Practices Guide. If the WTF owner fails to cooperate with the Town in applying the procedures set forth in the Best Practices Guide in order to eliminate the interference, then the Town and/or County may take steps to contact the FCC to eliminate the interference.
  2. If there is a determination of RFI with the Town Public Safety and Emergency Services Communications Equipment, the party which caused the interference shall be responsible for reimbursing the Town for all costs associated with ascertaining and resolving the interference, including, but not limited to, any engineering studies obtained by the Town to determine the source of the interference.

#### *8.101.12 Removal of Telecommunications Towers or Antenna No Longer in Use*

Any telecommunications tower or antenna or accessory communication facility which is unused for the original permitted use for a period of 180 consecutive days shall be removed by the owner of such tower or antenna or accessory communication facility, within 120 days of receipt of notification to that effect. If the owner fails to so remove the tower or antenna or accessory communication facility as required by this section, then the Town shall remove the tower or antenna or accessory communication facility, and the owner shall reimburse the town for all expenses incurred thereby, including without limitation all engineering, demolition, transportation, disposal, and legal fees and costs.

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**8.102 Yard Sales**

- 8.102.1 A yard sale may be held on only one (1) lot on a residential block for a maximum of 2 days.
- 8.102.2 No resident may conduct more than one (1) yard sale a year.
- 8.102.3 A yard sales may only be conducted between the hours of 8:00 a.m. 6:00 p.m.
- 8.102.4 Items to be sold at the yard sale may only be displayed between the hours of 7:00 a.m. and 7:00 p.m. of the day(s) of the sale.
- 8.102.5 There shall be no loudspeaker announcements of the yard sale.
- 8.102.6 All signs advertising the yard sale shall be temporary in nature. They may be placed only in accordance with the signage requirements imposed pursuant to Article 11 no more than three days prior to the date of the sale and must be removed no later than one day after the sale.
- 8.102.7 Yard sales items shall be limited to the sale of household and craft items.

## ARTICLE 9 DESIGN AND PERFORMANCE STANDARDS

### 9.1 Off-Street Parking and Loading

#### 9.1.1 *Statement of Intent*

- A. Vehicles require adequate space for both safe operation and parking conditions for all land uses, public and private. The Town has a unique and sensitive environment whereby space for vehicle parking and loading shall have the least necessary impervious surface and shall not drain directly into the waters of the Town.
- B. Landscape features to buffer large areas for parking and loading are required for aesthetic reasons and for relief from heat build-up of large surface areas.

#### 9.1.2 *Applicability*

No Building Permit, Certificate of Zoning Compliance, or Certificate of Occupancy shall be issued for uses of land, structures and buildings, either initially or for a change in use or expansion of an existing use, unless the off-street parking and loading requirements of this Article are satisfied.

#### 9.1.3 *Activities Exempt*

- A. A change in use or expansion of an existing use meeting either of the following criteria shall be exempt from the requirements of this Article:
  - 1. Expansions of less than 1,000 square feet or 5% of the total enclosed floor area; or
  - 2. The new use has the same or a lesser parking requirement than the previous one.
- B. Restriping of a parking area or other vehicular use area which does not result in reconfiguration of the parking spaces shall be exempt from the requirements of this Article.

#### 9.1.4 *Plans Required*

Applications for permits and/or certificates shall include information as to location and dimension of off-street parking, and means of ingress and egress to such space.



### 9.1.5 *Design Standards*

#### A. *General Requirements.*

1. Parking areas shall be designed to allow unobstructed movement into and out of each parking space without interference from fixed objects such as lighting fixtures, dumpsters, signage, or vehicles.
2. All parking areas shall be designed to provide for internal circulation such that each parking space is accessible to all other parking spaces without necessitating the use of a public or private street.
3. Cross access drives between adjacent uses and properties may be required.

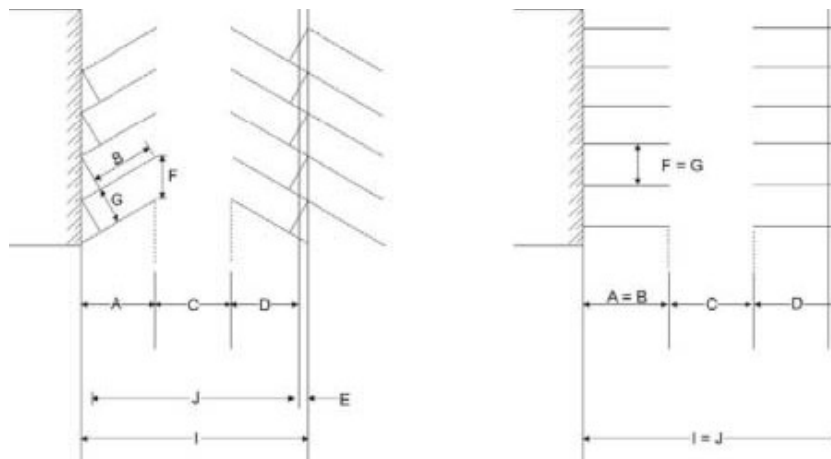
#### B. *Paving.*

1. Where an existing tree is adjacent to a parking area, paver bricks, tree grates, or other pervious surface shall be used within the dripline of the tree.
2. Unless alternative surfaces are specified elsewhere in this document or are approved by the Planning Board, all required parking and loading spaces, except for those associated with single-family dwellings, shall be surfaced with asphalt bituminous or concrete material and shall be maintained in a smooth, well-graded condition.

#### 3. *Alternative Parking Surfaces.*

- a. Pervious pavers or concrete, stabilized grass lawn, or other pervious parking surfaces may be permitted for specific uses as set forth below, provided they are approved by the Planning Board, in consultation with others as needed. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass or lawn is caused to be damaged or destroyed to the extent that it ceases to grow, then paving of the area in accordance with this Article may be required.
- b. All driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass lawn or other pervious parking surface for the following:

- i. Uses which require parking on an average of less than 10 days per month;
  - ii. Parks, playgrounds, ball fields, fairgrounds, and other similar outdoor recreation areas; and
  - iii. Surplus parking areas above the required number of parking spaces (see Article 9.1.6, Required Parking).
- C. *Lighting.* Any lighting shall be internally oriented and shall be installed in conformance with the Town of St. James Community Appearance Manual.
- D. *Signage.* On-premises instructional signs may be provided in conformance with Article 11.
- E. *Dimensional Requirements.*
1. New or altered off-street parking areas shall conform to the following dimensions:



Label	Dimension	Angle			
		45	60	75	90
A	Stall Depth to Wall (feet)	17	18.5	19	18
B	Stall Depth Parallel to Vehicle	18	18	18	18
C	Aisle Width	12	16	22	25
D	Stall Depth to Interlock	15	17	18	18
E	Stall Depth Reduction due to	2	1.5	1	0
F	Stall Width (Parallel to Aisle)	14.1	11.5	10.3	10
G	Stall Width Perpendicular to	10	10	10	10
I	Module Width Wall to Wall	46	54	60	61
J	Module Width Interlock to	42	51	58	61

2. For bumper overhang deduct 1.5 feet from stall depth to wall or 3 feet from module width wall to wall for 45° and 60° parking. Deduct 2 feet from stall depth to wall or 4 feet from module width wall to wall for 75° and 90° parking.
  3. Where natural and/or man-made obstacles, obstructions or other features such as but not limited to landscaping, support columns or grade difference exist, the Planning Board may approve a reduction in stall width, stall length and/or module width. In all instances where a reduction is requested, attention to emergency vehicle access must be considered and incorporated into the parking lot design.
  4. Parking spaces designed to be located parallel to a curb or roadway shall be 23 feet long and 10 feet wide.
  5. Parking in driveways and aisles shall not be permitted.
  6. Parking and loading areas shall provide sufficient maneuvering area to accommodate emergency services vehicles and solid waste vehicles. A minimum turning radius of 40 feet shall be required between internal aisles, driveways, and other vehicular use areas. This radius may be reduced if the Planning Board determines that the resulting dimension does not impair the intent of this requirement.
- F. *Parking Decks and Parking Garages.* Required parking and loading spaces need not be at ground level. Decks and garages shall be treated either as part of the principal structure and subject to all requirements over such structures, or as principal uses by themselves, meeting all requirements for principal structures and uses when permitted.
- G. *Design Standards for Handicapped Accessible Parking.*
1. All off-street handicapped accessible parking spaces shall be designed in compliance with the North Carolina Accessibility Code.
  2. All off-street handicapped accessible parking spaces shall be located in the closest parking area to a public entrance to the building.
  3. All off-street handicapped accessible parking spaces shall be designated by a sign or other means specified by State requirements.

### 9.1.6 Required Parking

#### A. Minimum Requirements.

1. Off-street parking spaces shall be provided for all uses listed below in the amounts specified below. Uses not listed shall be reviewed by the UDO Administrator, for a determination of the required spaces. Buildings with multiple uses shall calculate parking based on the square footage of each use in the building.
2. Where a building is constructed without a specific use identified, such as a “flexible-use” building that may be occupied by multiple uses, parking requirements shall be satisfied as follows:
  - a. Adequate space shall be reserved either on-site or through an approved alternative parking plan (see Article 9.1.7) to accommodate the requirements for the use with the highest parking requirements permitted in the zoning district. This “reserve area” need not be paved, but shall be indicated on all required plans and shall be counted toward the impervious cover calculations for a development when located in an area where impervious parking and loading is required.
  - b. The actual number of spaces required to be paved shall be one space per 300 square feet of enclosed floor area. This requirement may be modified by the Planning Board.
3. Calculation of spaces shall be in whole units only. If a calculation results with a fraction, that fraction shall be rounded up to the next whole number. Unless otherwise specified, enclosed floor area shall be deemed to be gross enclosed floor area.

Uses		Spaces Required
<b>Residential</b>		
Single-Family	All household living, except as listed below	2 per dwelling unit (accessory dwellings shall be considered a separate dwelling unit)
	Family Care Home	1 per 4 licensed beds
	Upper Story Residential	1.5 per dwelling unit
Group Living	All Group Living, except as listed below	1 per 3 beds
	Boarding House	1 per bedroom
Multi-family	Multi-family Structures	2 per dwelling unit plus 3 per multi-family structure

Uses		Spaces Required
Home Occupation	All home occupation	1 plus residence requirements
<b>Public and Civic</b>		
Community Service	Fraternal Club or Lodge	1 per 100 SF floor area
	Auditorium	1 per every 3 seats
	Community Center	1 per 250 SF floor area
	Day Care Facilities	1 per employee plus 1 per 10
	Day Care Home	1 plus residence requirements plus off- street drop-off area (minimum 1 drop-off space)
Educational Facilities	Educational facilities, except as listed below	6 per classroom plus 1 per 300 SF administrative office plus dormitory (group living)
	Elementary or Junior High schools	2 per classroom plus 1 per administrative
Emergency Shelter	All Emergency Shelters	1 per 500 SF floor area
Government	Government Offices and Buildings	1 per 400 SF floor area
Medical Facilities	All Medical Facilities, except as listed	1 per 250 SF floor area
	Hospitals	1 per 2 beds plus 1 per doctor and nurse plus 1 per 4 employees on largest shift
Parks and Open Areas	Parks and Open Areas, except as listed below	As determined by the UDO Administrator
	Cemeteries, mausoleums, columbaria, memorial gardens	1 per 20 SF in the chapel or assembly area
Passenger Terminal	Bus Passenger Terminals	1 per 200 SF waiting floor area plus 1
Place of Worship	All Places of Worship	4 plus 1 per 3 seats in the assembly area (day care, schools, and other uses calculated)
Utilities	All Utilities, except as listed below	1 per 1,000 SF enclosed floor
	TV/HDTV/AM/FM Broadcast Antennae	1 per 500 SF enclosed floor area
<b>Commercial Uses</b>		
Funeral Home	All Funeral Homes	1 per 20 SF in the chapel or assembly area plus 1 per
Indoor Recreation	All Indoor Recreation, except as listed	1 per 250 SF enclosed floor area
	Adult & Sexually Oriented Business	1 per 100 SF enclosed floor area
Outdoor Recreation	Outdoor Recreation, except as listed below	1 per 500 SF of enclosed floor area plus 1 per 1,000 SF of
	Boating Facilities, Marinas and Docks	1.5 per slip plus 1 per 500 SF enclosed floor area

<b>Uses</b>		<b>Spaces Required</b>
	Golf Courses (see A restaurants) for additional parking requirements associated with eating facilities)	2 per hole plus 1 per 500 SF enclosed floor area
	Pools	1 per 200 SF pool and deck area
Overnight Accommodation	All Overnight Accommodation, except as listed below (see Tourist Homes) for short-term rentals)	1.25 per room plus 1 per 100 SF conference/banquet/restaurant
	Bed and Breakfast	1 per guest room plus 2 per owner/manager
Planned Development	Planned Building Groups	Generally, minimum required for the individual uses
	Planned Unit Development/Mixed Use	
Retail Sales and Service	All Retail Sales and Service, except as listed below	1 per 200 SF floor area for the first 50,000 SF of gross leaseable area and 1 per 250 SF of leaseable area after that
	Flea Markets	1 per 300 SF vendor area
	Kennel Veterinary Establishment, Animal Hospital	1 per 250 SF enclosed floor area
	Performing Arts Studio	1 per 400 SF enclosed floor area
	Personal Service Establishments	1 per 500 SF enclosed floor area
	Restaurants	1 per 100 SF floor area or 1 per 4 seats whichever is greater (including outdoor eating areas)
Self-Service Storage Facility	Self-Service Storage Facility	Minimum 5 or 1 per 100 storage units, whichever is greater
Vehicle Sales and Service	All Vehicle Sales, except as listed below	1 per 500 SF display space (indoor and outdoor)
	Vehicle Service	3 per service bay
	Car Wash	1.5 per wash bay plus required stacking spaces
<b>Office</b>		
Office Uses	All office uses	1 per 300 SF enclosed floor area
	Banks and Financial Institutions	1 per 250 SF enclosed floor area
Warehouse and Storage	All Warehousing and Storage	1 per 5,000 SF of floor area
Wholesale Sales and Service	All Wholesale Sales and Service	1 per 1,000 SF floor area

- B. *Maximum Parking Permitted.*
1. No use, except single family or two family dwellings, shall provide more than 110% of the required parking shown in the table above unless any parking above the 110% threshold is pervious or is provided through use of an elevated parking structure or pervious pavement.
  2. Where a project is intended to be developed in phases, the Planning Board may approve development of a parking area intended to serve current and future development.
- C. *Modifications.* The Planning Board may reduce the required number of spaces by up to 20% for reasons of topography, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided the reduction in the required number of parking spaces satisfies the intent of this Article.
- D. *Parking for the Disabled.* In accordance with the North Carolina Accessibility Code the following numerical requirements shall apply for handicapped/ disabled spaces:

Total Number of Spaces in	Minimum Number of Accessible
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
150-200	6
201 or more	7 plus one per every 100 over 700

NOTE: Minimum number of accessible spaces is in addition to the total number of required spaces.

### 9.1.7 *Alternative Parking Plans*

- A. *General.* Innovative approaches which reduce the amount of impervious cover within the Town are encouraged when the public interest is served and protected. The UDO Administrator or Planning Board, as specified, may reduce the minimum amount of off-street parking required (beyond that permitted by Article 9.1.6.C, Modifications) where developer-submitted parking data, prepared and sealed by a registered engineer with transportation expertise, illustrates that the standards of this Article do not accurately apply to the specific development. The data submitted for an alternative parking plan shall include, at a minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses. The following factors may also be considered.
- B. *Factors Considered in Alternative Parking Plans.*
1. *Public Parking.* Up to 35% of the required off-street parking spaces may be waived by the Planning Board if publicly-controlled-parking is located within a 500 foot walking distance along public walkways from the main entrance of the proposed use and the UDO Administrator also determines that adequate parking spaces are available within the publicly-controlled parking area to accommodate the anticipated use.
  2. *Off-Site and Cooperative Parking.*
    - a. Cooperative provision of required parking space and other innovative parking arrangements that protect and serve the public interest are encouraged.
    - b. The Planning Board may approve the location of up to 50% of required off-street parking spaces on a separate lot from that on which the principal use is located if the off-site parking complies with all of the following standards. This factor shall not be used to satisfy the off-street parking requirements for convenience stores or similar convenience-oriented uses or for handicapped accessible parking.
    - c. *Location.* No off-site parking space shall be located more than 500 feet from the primary entrance of the use served (measured along public walkways). Off-site parking spaces shall not be separated from the use served by a highway, unless a grade-separated pedestrian walkway is provided, or traffic control or remote parking shuttle bus service is



provided. Off-site parking shall be located in a district where commercial parking is a permitted principal use.

- d. *Agreement for Off-Site and Cooperative Parking.* If an off-site parking area is not under the same ownership as the principal use served, a written agreement between the record owners shall be required. The owner of the off-site parking area shall enter into a written agreement in a form acceptable to the Town Attorney, (with enforcement running to the record owners of the area and the Town) providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that such agreement shall bind heirs, successors, and assigns.
3. *Valet Parking.* The Planning Board may approve valet parking as a means of satisfying otherwise applicable off-street parking requirements where all of the following standards have been met.
    - a. Adequate assurance of the continued operation of the valet parking, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services shall be provided;
    - b. An equivalent number of valet spaces shall be available to replace the required parking spaces. Such valet spaces do not require individual striping, and may take into account the tandem or mass parking of vehicles.

#### 9.1.8 *Vehicle Stacking Areas*

- A. *Vehicle Stacking Areas.* The vehicle stacking standards of this Article shall apply unless otherwise expressly approved by the Planning Board. Additional stacking spaces may be required where trip generation rates suggest that additional spaces will be needed.
- B. *Minimum Number of Spaces.* Off-street stacking spaces shall be provided as follows:

Activity Type	Minimum Stacking	Measured From
Automated teller machine	3	Teller
Bank teller lane	4	Teller or Window
Car wash bay, full-service	6	Bay
Car wash bay, self-service	3	Bay
Dry cleaning/laundry drive-	3	Cleaner/Laundry Window
Gasoline pump island	2	Pump Island
Gatehouse, staffed	4	Gatehouse
Gate, unstaffed	2	Gate
Pharmacy pickup	3	Pharmacy Window
Restaurant drive-through	6	Order Box
Restaurant drive-through	4	Between Order Box and Pick-Up
Valet parking	3	Valet Stand
Other	Determined by UDO Administrator in consideration of an approved study prepared by a registered engineer with expertise in Transportation Engineering.	

- C. *Design and Layout of Stacking Spaces.* Required stacking spaces shall be subject to the following design and layout standards:
1. *Size.* Stacking spaces shall be a minimum of 8 feet in width by 25 feet in length.
  2. *Location.* Stacking spaces shall not impede on or off-site traffic movements or movements into or out of off-street parking spaces.
  3. *Design.* Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the UDO Administrator, for traffic movement and safety.
  4. *Landscaping and Screening Requirements.* In order to protect adjacent properties from noise and visual impacts, vehicle stacking areas shall be screened from adjacent residential property in accordance with the screening requirements of Article 9.9 (Screening) and Article 10.

### 9.1.9 Loading Areas

#### A. Location.

1. No loading spaces shall be located within 30 feet of street intersections or in any required front, side, or rear yard or within a triangular sight distance.
2. A minimum setback of 50 feet shall be required where loading docks face a residential district or a structure with first-floor residential uses.
3. Loading areas shall be located on the same lot and provide the most convenient access to the use being served. Generally, loading areas should be within 50 feet of the building.

#### B. Surfacing. Generally, all open off-street loading areas shall be paved with an all-weather material such as concrete or asphalt, designed to carry the heaviest vehicle loads that can commonly be expected. Consideration should be given to the weight of fire and sanitation equipment as well as delivery vehicles.

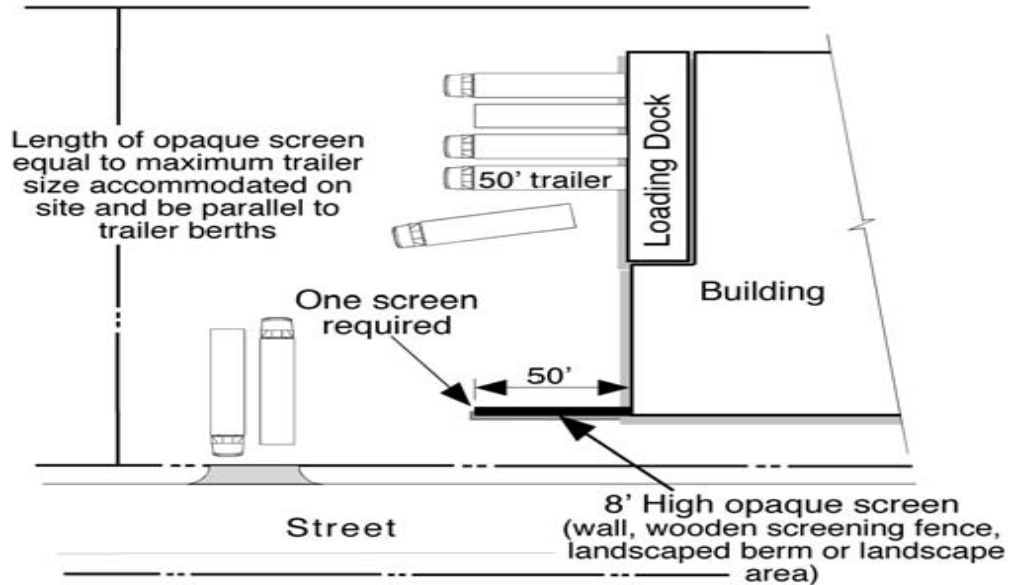
#### C. Design.

1. Loading berths for office uses shall be a minimum of 12 feet wide by 35 feet long with a height clearance of 14 feet.
2. All other loading berths shall be a minimum of 12 feet wide and 55 feet long with a height clearance of 14 feet.

#### D. Utilization. Space allocated to any off-street loading space, accessory drives, or aisles, shall not be used to satisfy the space requirements for any off-street parking or trash handling facilities.

#### E. Ingress and Egress. Each required off-street loading space shall be provided with a means of unobstructed ingress and egress to a private or a public street wide enough to accommodate expected vehicles. Where such ingress and egress is made into a public street, it shall be through driveways or openings which meet required standards. Permanent wheel stops or curbing shall be provided to prevent any vehicle using the loading area from encroachment on the required front yards, side yards, or adjacent property.

- F. *Off-Street Loading Requirements.*
1. Loading spaces shall be required for uses which normally handle large quantities of goods, including but not limited to industrial plants, wholesale establishments, warehouses, freight terminals, hospitals and retail establishments.
  2. Off-street loading spaces may be either inside or outside the building and on the same or adjoining lots.
  3. The loading spaces shall be of sufficient size and number to allow normal loading and unloading operations appropriate to the property to be served.
  4. In no case shall the loading space hinder the movement of traffic or pedestrians. The loading spaces shall be indicated on site plans submitted for approval.
  5. The Planning Board may require one or more additional loading areas if the magnitude of the use would anticipate the need for more loading or standing space.
  6. Loading areas shall be signed to indicate "No Idling".
  7. Any loading area located adjacent to a residential district shall not receive deliveries between the hours of 8 p.m. and 7 a.m.
- G. *Repair and Service.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any district.
- H. *Landscaping and Screening Requirements.* Loading areas shall be screened from public streets and adjacent residential uses and Residential Districts in accordance with the screening requirements of Article 9.9 (Screening), and Article 10. The screen shall be at least as long as the longest trailer to be accommodated by the area (approximately 50 feet) and a minimum of 8 feet in height. The UDO Administrator may reduce or waive this requirement if it can be determined that other elements would provide adequate screening. These elements may include, but are not limited to, existing site features or landscaping installed to satisfy other requirements.



- I. *Signage.* On-premises instructional signs may be provided in conformance with Article 11.6.5.
- J. *Number of Spaces Required.* The numbers in the table below shall serve as a guideline for determining the number of loading spaces required.

Gross Floor Area of Building	Number of Spaces
0 - 5,000	0
5,001 - 39,999	1
40,000 - 99,999	2
100,000 - 159,999	3
160,000 - 239,999	4
240,000 and over	5

NOTE: The Planning Board may require additional loading spaces. See Article 9.1.9 F(5).

## 9.2 Commercial Access

### 9.2.1 General

- A. Every lot shall have direct access to a public or private street. Access must provide a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

- B. The minimum width of the access required is 36 feet wide to accommodate as much as a 24 foot driveway.
- C. Access and circulatory commercial development shall provide connections to adjacent commercially zoned parcels, or if adjacent parcels are underdeveloped, stub-cuts must be provided. Shared driveways from a street are required between commercially zoned properties.

#### 9.2.2 *Driveway Permit Required*

A NCDOT driveway permit may be required for driveways serving any new use or change from an existing use that accesses a state maintained road. Consult the UDO Administrator for more information.

#### 9.2.3 *Driveway Design*

- A. In general, driveways shall be not less than 18 feet in width for one-way traffic and 24 feet in width for two-way traffic.
- B. However, 18 foot wide driveways shall be allowed for two-way traffic when all of the following exist:
  - 1. The driveway is not longer than 75 feet; and
  - 2. The driveway provides access to 6 or fewer parking spaces.
- C. Sufficient turning space shall be provided so that vehicles need not back into public street.
- D. 18 foot wide driveways may also be permitted for two-way traffic if the UDO Administrator determines that not more than ten trips per day will be generated to and from the vehicular area being served by that driveway; and such vehicular area is not used by the general public.
- E. Designated parking spaces shall not be located within the area of the driveways.

#### 9.2.4 *Sight Triangles*

- A. *Driveways.* For any driveway, a sight triangle measuring 10 feet from the back of curb and extending 70 feet from the edge of each side of the driveway shall be required.

*.Design.*

*Standards.* Within the sight triangle, no materials that would impede traffic visibility shall be allowed. Structures, fences and plant materials that extend into the sight triangle above 2 2 feet, as measured from the grade of the street or drive, shall not be allowed.

### 9.2.5 Access to Major Thoroughfares Restricted

- A. All uses located adjacent to a Major Thoroughfare identified on the NCDOT Major Thoroughfare Plan for Brunswick County and/or the Town shall require a driveway permit from NCDOT prior to the issuance of a zoning permit by the Town.
- B. When a subdivision involving platting of a new street (or streets) borders on or contains an existing or proposed thoroughfare street, lots may not have direct driveway access to the thoroughfare.
- C. When a lot or development borders on or contains an existing or proposed thoroughfare as delineated by a County or NCDOT Transportation Plan access to the thoroughfare may be limited by one of the following means:
  1. A separation of 400 feet is required from the nearest centerline of any other proposed or existing driveway access along the same side of the thoroughfare. Reduced separation may be authorized only by review and recommendation of the UDO Administrator and NCDOT.
  2. Lots shall be subdivided so as to provide access onto a frontage road. The centerline of the frontage or reverse frontage road where it intersects the thoroughfare shall be no closer than 800 feet to the centerline of the nearest proposed or existing driveway access or road.
  3. Driveway access closure may be required for any change in use of a lot based upon review and recommendation of the UDO Administrator and NCDOT.

### 9.3 Large Scale Commercial Development Design Standards

#### 9.3.1 General Purpose and Intent

- A. The purpose of this Article is to supplement development standards elsewhere in these zoning regulations with specific criteria that apply to the design of commercial buildings and projects which are 200,000 gross square feet or greater in area.
- B. The Town's goal is to create and maintain a positive ambiance and community image and identity by providing for architectural and site design treatments that will enhance the visual appearance of the applicable commercial development and the quality of life.
- C. The applicable commercial development depends on high visibility from public streets. In turn, design of certain commercial buildings and sites determines much of the image and attractiveness of the streetscapes and character of the community. Massive, duplicative or generic projects that do not contribute to, or integrate with, the community in a positive manner can be detrimental to a community's image and sense of place.
- D. This Article incorporates a basic level of architectural design which, in conjunction with site design, landscaping, lighting and sign treatments located elsewhere in this Ordinance, is intended to result in a comprehensive scheme for building design and site development. However, this Article is not intended to require any specific style of architecture.
- E. This Article is also intended to:
  - 1. Promote high standards in architectural design and the construction of creative, innovative, aesthetically pleasing structures;
  - 2. Encourage landowners, designers and developers to look closely at local conditions and the development site, and produce new development that enhances and complements both the built and natural environment;
  - 3. Ensure that development and building design is sensitive to the specific site, consistent with the existing and proposed character of the area, including residential and nonresidential uses in the surrounding area, and does not detract from the positive elements of the community and existing neighborhood characteristics.



### 9.3.2 Standards

The standards found in this Article shall be in addition to all other applicable standards found in this Ordinance.

- A. *Building Materials.* Predominant exterior building materials shall be high quality material. These include, without limitation: brick, natural decay resistant quality exterior wood siding, rock, stone or tinted and textured concrete masonry units, and transparent glass windows and doors. Facade colors shall be neutral or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors, but these colors may not comprise more than 15% of any building facade.
- B. *Requirements for Building Mass and Articulation.* The design shall help integrate the development with its surroundings by breaking down the apparent mass and scale of the building on all sides.
1. The first floor should be taller than upper floors. Lower floors should be differentiated architecturally to create a sense of human scale.
  2. Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible facades. Building wall offsets, including projections, recesses, and changes in floor level, shall be used in order to add architectural interest and variety; relieve the visual effect of a single, long wall; and subdivide the wall into human scale proportions. No more than 60,000 gross square feet of the structure shall be designed as a distinct mass.
  3. All facades visible from a public roadway shall be given equal design significance. There shall be no blank, featureless walls, including rear walls. The design shall present a continuity of style on all facades visible from the public roadway, except where separated by a party wall located on a lot line. The primary façade shall be designed to comply with the requirements of Article 9.4 (Building Façade Design).
  4. Similarly, roofline offsets shall be provided to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.
  5. Outparcels shall be designed and integrated with the main project.
  6. Internal and new streets shall be constructed in accordance with the regulations set forth in Article 9.2 (Commercial Access).

## 9.4 Building Façade Design

### 9.4.1 Applicability

The following shall comply with the requirements of this Article:

- A. Where compliance with these standards is explicitly required in other portions of this Ordinance.
- B. All uses except for one (1) or two (2) family residences.
- C. Expansion or modification of an existing commercial or office use that increases the total enclosed floor area by at least 50% or 5,000 square feet, whichever is greater.

### 9.4.2 Standards

- A. The primary facade shall be constructed of one or a combination of the following materials: concrete, aggregate, stucco, brick, stone, glass, natural decay resistant quality exterior wood siding or faced concrete block. Artificial materials that closely resemble these materials shall also be allowed. Façade colors shall be neutral or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors, but these colors may not comprise more than 15% of the building façade.
- B. The remaining sides of the building shall be treated with the same materials of construction of the primary façade. As an alternative, for the principal use building(s), powder coated painted metal panels may be used on the non-primary façade walls under the following conditions (The goal is to use architectural detail to provide visual interest).
  - 1. Metal panels can only be used on buildings in the CI district.
  - 2. Metal panels can be used for roofing material.
  - 3. The (wall) metal panels will have deep, embolden ribs (or equivalent) to bring definition to the wall (e.g. MBCI ShadowRib™) with colors complementing or matching the primary façade. Other approaches to achieve the desired appearance will be considered at the pre-application conference.
  - 4. Long continuous building walls are prohibited. No single metal wall shall extend unbroken more than 15% of the total wall length or

15 feet (whichever is greater) in a horizontal plane. Primary façade material should be used to trim out and/or break up the metal walls in both the horizontal and vertical planes.

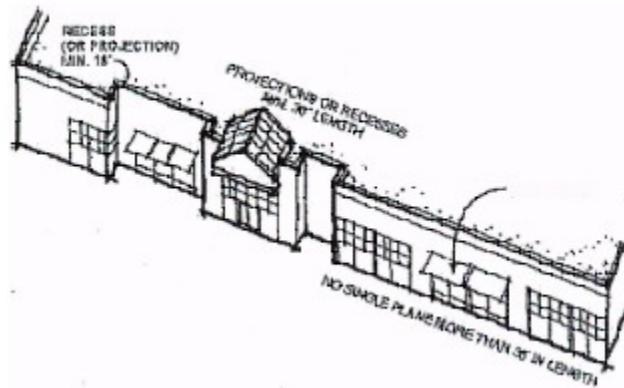
### REMAINING FAÇADE



### FAÇADE

### PRIMARY

- C. No building façade facing the public street right-of-way shall be devoid of architectural enhancements or interest. For street corner buildings, both street elevations shall be architecturally enhanced as a front façade.
- D. Long continuous building walls are prohibited and no single façade extending unbroken more than 35 feet in a horizontal plane may be visible from a public roadway. Compliance may be obtained through one of the following:
  - 1. The use of projections or recesses (articulation). When used, each projection or recess shall have a projection (depth) dimension of no less than 18 inches and a width of no less than 36 inches; or
  - 2. The use of columns or other architectural detail to provide visual interest. Where used, columns should be harmonious with the general design of the structure.
- E. At least 25% of the first floor of the street façade shall be transparent.



- F. Roofs shall be simple forms such as hip, flat, shed, mansard, gable to front, or gable to side, and shall avoid excessive articulation. Recommended roofing materials include slate shingles, asphalt and fiberglass shingles and metal standing seam or tiles.
- G. As an alternative, powder coated painted metal panels may be used on all the walls of an accessory structure in the CLD or CI District under the following conditions. (The goal is to use architectural detail to provide visual interest and/or landscaping buffers to screen the structure).
1. The accessory structure shall be no closer than 200 feet from the primary structure.
  2. The accessory structure shall be no closer than 35 feet from the nearest lot line for buildings under 12 feet in height; for every foot higher than this, the required distance to the lot line shall be increased by 4 feet.
  3. Colors shall be neutral or earth tone complementing the primary structure.
  4. Where possible, architectural enhancements shall be used to break up long continuous walls.
  5. With architectural enhancements, a screening of 0.4 opacity shall be required on all sides; without enhancements, a screening of 0.8 opacity shall be required.
  6. All access points (e.g. driveways) shall not eliminate the need for continuous landscaping on the access point side.

7. Metal panels can be used for roofing material.

## **9.5 Outdoor Lighting**

All lighting shall be internally oriented and shall be installed in conformance with the Town of St. James Community Appearance Manual and Standards.

## **9.6 Outdoor Display and Storage**

### *9.6.1 Applicability*

Outdoor display shall be permitted only in nonresidential districts. A binding site plan illustrating the extent of the permitted area for outdoor display shall be required.

### *9.6.2 Exempt*

The following activities and uses shall be exempt from the requirements of this Article:

- A. Vehicles and boats for sale, lease or rent as part of a properly permitted use; and
- B. Plant material and landscaping material at a Retail Garden Center or Retail Nursery.

### *9.6.3 Outdoor Display*

- A. The outdoor location of soft drink or similar vending machines shall be considered outdoor display where the location is visible from neighboring residential development.
- B. Menu boards associated with a drive-through that are visible from a public roadway or neighboring residential development shall be considered outdoor display.

### *9.6.4 Outdoor Storage*

Outdoor storage shall be permitted only in nonresidential zoning districts meeting the conditions set forth in Article 8.

## 9.7 Fences and Walls

### 9.7.1 Height

- A. The maximum height (in feet) of a fence or wall shall be as shown in the table below, unless a higher fence or wall is required by other provisions of this Ordinance.
- B. Fences or walls within required yards fronting on a public street shall comply with the front yard height standard.

District	Front Yard	All Other
<b>Residential</b>		
R-20, R-15, R-10	4	6
MR, EPUD, SBR6000	4	6
<b>Commercial</b>		
C-N	4	8
CLD, C-I	6	8

NOTE: Fences and walls over 50 feet from the right-of-way are subject to the "All Other Yards" standards.

- C. The minimum height of a security fence shall be at least 8 feet above ground level and shall comply with all applicable local, state, and/or federal government requirements.

### 9.7.2 General

- A. No fence or wall shall impede the visual locating of 911 emergency street addresses.
- B. No fence or wall shall block access from doors or windows. Fences must have a clearance of at least 4 feet from building walls, except where fences project from or to a building wall.
- C. Fences or walls shall not alter or impede the natural flow of water in any stream, creek, drainage swale or ditch.
- D. A finished side shall face off site.
- E. No portion of a wall or fence constructed after the effective date of this Ordinance may encroach on an adjacent property line.

- F. Pedestrian connections through fences and walls that connect to adjacent neighborhoods or other uses are encouraged.
- G. Additional wall or fence requirements applicable to a particular activity or use may be specified elsewhere in this Ordinance.

#### 9.7.3 *Fence Placement*

- A. Fences or walls may not be located within the required sight triangle (see Article 9.2.4).
- B. When located between the structure and a street, the fence or wall may be placed anywhere between the edge of the structure and the street right-of-way or easement line.
- C. Along all other boundaries, the fence may be placed anywhere between the edge of the structure and the property line.
- D. Fences may be located within a required easement, subject to any additional restrictions imposed by the easement agreement. However, the property owner shall remain solely liable for any repair or replacement if any portion of the fence is damaged during maintenance or construction activities within the easement by the easement owner or their agent.
- E. Walls may not be placed within a required easement unless specifically allowed by the easement agreement.

#### 9.7.4 *Fence Material*

- A. The following types of fence material are permitted in all zoning districts:
  - 1. Ornamental iron;
  - 2. Vinyl or similar material;
  - 3. Wood or similar material;
  - 4. Chain link or similar security material when approved by the UDO Administrator.
- B. The following types of fences are prohibited in all zoning districts:
  - 1. Fences constructed primarily of barbed or razor wire;
  - 2. Fences carrying electrical current;

3. Fences constructed in whole or in part of readily flammable material such as paper, cloth or canvas; and
4. Fences topped with barbed wire or metal spikes except those serving a use requiring a security fence for public safety purposes.

#### 9.7.5 *Walls*

- A. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, exposed aggregate concrete, brick, stone or architectural block in a structurally safe and attractive condition.
- B. Alternative walls may be permitted with the approval of the UDO Administrator if such alternative walls are in keeping with the architecture of the surrounding development. No walls of exposed, painted-only, plain concrete cinder block shall be permitted.
- C. No wall shall be located within any required drainage, utility or similar easement.

#### 9.7.6 *Retaining Walls*

Retaining walls may be located within required yards.

#### 9.7.7 *Maintenance*

Any fence or wall which, through neglect, lack of repair, type or manner of construction, method of placement or otherwise, diverges from its original appearance, form or function or constitutes a hazard or endangers any person, animal or property is hereby deemed a nuisance. If such conditions exist, the UDO Administrator shall require the owner or occupant of the property upon which the fence or wall is located to repair, replace or demolish the fence causing the nuisance.

### **9.8 Utility, Dumpster, Recycling and Trash Handling**

#### 9.8.1 *Applicability*

This Article shall apply to all nonresidential and multi-family development.

#### 9.8.2 *Location*

All utilities (including heating or air conditioning units and other mechanical equipment), dumpsters and trash handling facilities shall be located on the same lot as the use served. No such facilities shall be located in a required front yard.



- A. Mechanical equipment at ground level shall be placed on the side of buildings away from streets and away from buildings on adjacent sites.
- B. All utility equipment (including, but not limited to meters, boxes, valves) shall be designed and located to be as inconspicuous as possible and shall not be located on the street side of a principal structure.

#### 9.8.3 *Screening*

All utilities (including heating or air conditioning units and other mechanical equipment), dumpsters and trash handling facilities shall be screened in conformance with Article 9.9.

#### 9.8.4 *Access*

All required dumpster, recycling and trash handling facilities shall be designed with appropriate means of access to a street or alley in a manner that will least interfere with traffic movement and will most facilitate the service of the facilities.

#### 9.8.5 *Utilization*

Space allocated to any off-street dumpster and/or trash handling facilities shall not be used to satisfy the space requirements for off-street parking or loading facilities, nor shall any parking or loading spaces be used to satisfy the space requirements for any dumpster or trash handling facility.

### 9.9. **Screening**

#### 9.9.1 *Applicability*

The following uses in multi-family and nonresidential development shall be screened as required by this Article:

- A. Outdoor storage and loading areas.
- B. Self-Storage warehouses.
- C. Air handlers and similar mechanical equipment.
- D. Trash handling facilities, including dumpsters and recycling bins.

#### 9.9.2 *Standards*

Features and uses specified above shall provide a visual obstruction from neighboring properties in conformance with the following standards:

- 
- A. *Rooftop Equipment.* Mechanical, HVAC or other equipment located on the roof of a building or structure shall be screened by a permanent wall to the height of the equipment plus 6 inches. This may be accomplished by a parapet wall or other enclosure to obscure view of the equipment.
- B. *All Other Uses.*
1. When visible from an adjoining residential use of residentially zoned property (including across a street), the screen shall be composed of view-obscuring vegetation (used individually or in combination with) a wall, semi-opaque fence or berm designed to obscure views to a height of 6 feet from the ground, except for mechanical equipment which shall be screened to the height of the equipment plus 6 inches.
  2. One upright shrub shall be installed per 4 linear feet of any screen wall or fence that faces off-site. These plantings shall be placed such that they obscure the screen wall or fence and may be credited toward any plantings required elsewhere in this Ordinance.
  3. Plants must be a least 2 feet tall at the time of installation and reach the desired height within 3 to 5 years of planting. All berms, when provided, must be covered with plant materials within 1 to 3 years.
  4. All landscaping shall be maintained in accordance with Article 10.

## **9.10 Emergency Management Standards**

### *9.10.1 General Provisions*

The following provisions shall apply to all development where noted:

- A. With the exception of single family and two family dwellings, structures exceeding 30 feet or 3 stories in height shall provide at least 3 means of fire apparatus access.
- B. Structures or portions of structures exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
- C. Structures having a gross enclosed floor area of over 62,000 square feet shall be provided with 2 separate and approved fire apparatus access roads.
- D. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than

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30 feet in height.

- E. At least one of the required access routes shall be located at least 15 feet, but no more than 30 feet from the structure and shall be parallel to one entire side of the building.
- F. Fire hydrants must be maintained for easy accessibility and visibility for fire protection in accordance with the National Fire protection Agency requirements. No construction or landscaping is permitted that may impede the fire protection requirements.

#### *9.10.2 Applicability*

The following codes relating to emergency management services shall be adopted and made applicable to all development activities:

- A. North Carolina State Fire Code, 2002 Edition, "Table B105.1 Minimum Required Fire Flow and Flow Duration for Buildings" as amended.
- B. North Carolina State Fire Code, 2002 Edition, "Table C105.1 Number and Distribution of Fire Hydrants" as amended.
- C. North Carolina State Fire Code, 2002 Edition, "Appendix D, Fire Apparatus Access Roads" as amended.

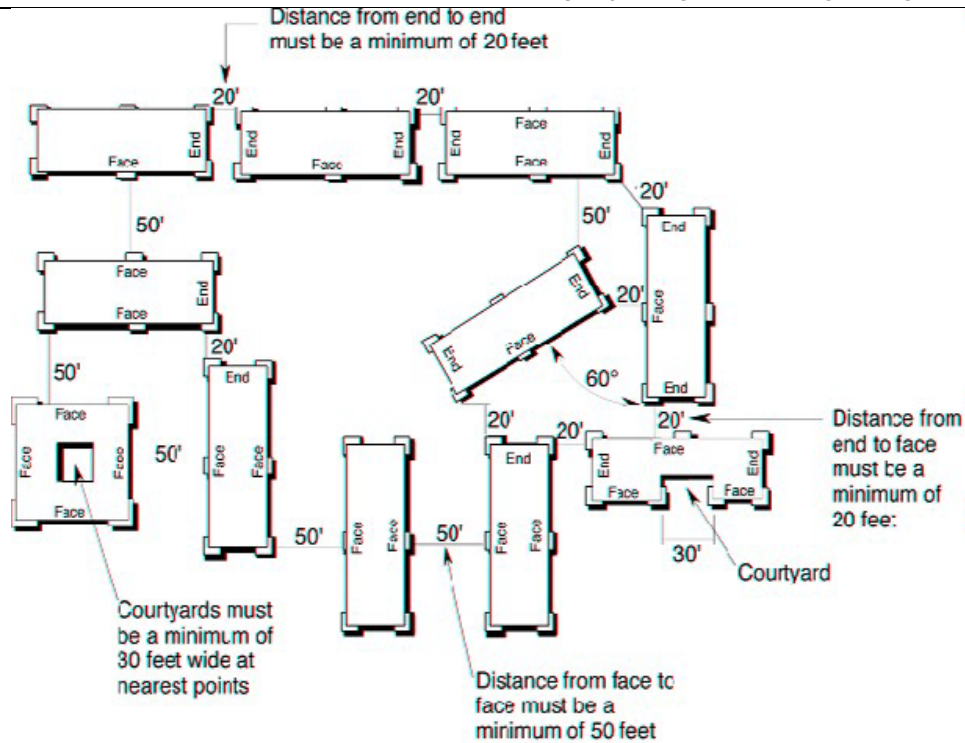
### **9.11 Utility Services**

All electric and telecom wiring shall be installed underground.

### **9.12 Planned Building Groups**

Except as otherwise stated, the purpose of this Article is to assure that where there are groups of buildings there are adequate provisions for the separation of the buildings from each other. Planned Building Groups in all Zoning Districts covered by this Ordinance shall be subject to the provisions that follow.

The minimum required separation between a building facing another building shall be as follows:



“Faces” are the two longest planes of a building, or any exterior plane of a building that is 40 feet in length or greater. “End” is any exterior plane of a building that is not a “face”.

### 9.13 Cluster Development

#### 9.13.1 Purpose

The purpose of these regulations is to provide developers with greater flexibility in the design and creation of residential subdivisions while preserving significant amounts of open space and environmentally sensitive areas. This is achieved by allowing the clustering of residential lots with reduced area, frontage and setback standards in relation to the underlying district, on areas of the proposed site which are best suited for development and leaving the remaining land as permanently protected open space.

#### 9.13.2 Minimum Area for a Cluster Subdivision

The minimum area for a cluster subdivision is 25 acres.

#### 9.13.3 Minimum Open Space Dedication

The minimum amount of open space that must be dedicated and permanently protected within a cluster subdivision is 20% of the gross acreage of the proposed subdivision. In exchange for dedication of the additional land for open space preservation, further reductions in lot frontage and setback standards shall be granted in accordance with paragraph F below.

#### 9.13.4 *Maximum Number of Lots*

- A. The maximum number of lots that may be created in a cluster development shall be computed from the gross area of land to be developed minus 20% that represents the approximate area needed for roadways, drainage, and other improvements.
- B. Divide the remainder by the minimum lot area requirement for single-family dwellings of the zoning district where the development is located.
- C. The result is the maximum number of lots that may be created in the development. Where fractions of lots remain, the result will be rounded down to the nearest whole number of lots. The 20% factor shall be constant regardless of the actual amount of land used for the streetsystem.

EXAMPLE: The maximum number of lots allowed in a proposed cluster subdivision consisting of 100 gross acres of land which is zoned R-15 would be calculated as follows:

100 acres: 20% = 80 acres

80 acres x 43,560 sq. ft. = 3,484,800 sq. ft.

$$\frac{3,484,800 \text{ sq. ft.}}{15,000 \text{ sq. ft.}} = 232 \text{ lots}$$

#### 9.13.5 *Minimum Lot Area*

The minimum residential lot area requirements of the underlying zoning district may be reduced by up to 25% within a cluster subdivision. In no case shall any residential lot within a cluster subdivision be smaller than the standards shown below:

R-10: 7,500 sq. ft.

R-15: 11,250 sq. ft.

R-20: 15,000 sq. ft.

#### 9.13.6 *Minimum Lot Frontage and Building Setbacks*

The minimum lot frontage and building setback requirements of the underlying zoning district may be reduced by up to 25% within a cluster subdivision. In exchange for the dedication of additional land for open space preservation, the lot width and building setback requirements may be reduced by an additional 1% for each additional 1% of the gross acreage of the project that is dedicated for open space preservation. In no case shall the lot width or building setback requirements be reduced below 50% of the requirements of the underlying zoning district.

EXAMPLE #1: If the minimum open space dedication of 20% were proposed by the developer of a 100 acre cluster subdivision within an 'R-15' zoning district then the minimum lot frontage and building setback standards within the subdivision would be reduced by 25% as shown below:

Lot Frontage:	67.5 feet
Front Setback:	30 feet
Side Setback:	7.5 feet
Rear Setback:	26.25 feet

EXAMPLE #2: If the same developer were to propose the dedication of 35% of the gross acreage of the subdivision to open space preservation then the minimum lot frontage and setback standards would be reduced by 40% as shown below:

Lot Frontage:	54 feet
Front Setback:	24 feet
Side Setback:	6 feet
Rear Setback:	21 feet

#### 9.13.7 *Peripheral Lot Standards*

Lots located on the periphery of a cluster subdivision which is adjacent to property that is zoned or used for residential purposes shall conform to the minimum standards of the underlying zoning district as set forth in Article 7 of this Ordinance. For the purpose of this Article, peripheral lots shall be defined as any lot that contains a point which lies within 30 feet of the boundary of the subdivision.

#### 9.13.8 *Open Space Standards*

- A. All open space dedicated to satisfy the requirements of this section shall be deeded to the Town or another government entity, a homeowner's association, or a nonprofit land trust or conservation organization. In consideration of the purposes served by a cluster subdivision, the title to such areas as provided shall be preserved to the perpetual benefit of the public generally or the private properties in the development and shall be restricted against private ownership for any other purposes.
- B. To the greatest extent possible, the parcels containing open space dedicated to satisfy the requirements of this Article shall be contiguous and compact. The Planning Board shall approve the design of all required open space areas prior to approving the preliminary plat for a cluster subdivision.
- C. Improvements upon land dedicated as open space shall be limited to those which contribute to the passive enjoyment of the open space. Examples of allowed passive improvements include multi-use paths, hiking trails,

boardwalks, picnic shelters, viewing platforms, kayak or canoe launching areas and similar improvements. If provided within the dedicated open space, motor vehicle parking shall utilize pervious pavement technology over 100% of the parking area. Under no circumstances shall improvements cover more than 10% of the dedicated open space.

#### *9.13.9 Access to Open Space*

All lots created within the development shall have direct access to all parks or open space as provided by means of public streets, dedicated walkways, other public lands, or lands in common ownership by all residents.

#### *9.13.10 Phase Developments*

A cluster subdivision may be developed in phases provided that:

- A. The entire project receives approval before any phase of development begins.
- B. All required open space for the entire project be recorded and/or provided for in the homeowner's association with the development of the first phase. However, cluster developments which do not involve a required homeowner's association and which contain open space deeded to the Town may be recorded provided that the open space is deeded to and accepted by the Town prior to development of the first phase.
- C. If a corporation or association is established for the open space, it will provide for total project membership.

**ARTICLE 10**  
**LANDSCAPING, BUFFERING, SCREENING, AND TREE PROTECTION**

**10.1 Purpose**

The purpose of these provisions is to establish minimum requirements for the provision and maintenance of functionally adequate, attractive screening and buffering of structures, parking areas, driveways, and other facilities and land uses, while providing standards for the protection of existing and new trees and vegetation and their root zones. These requirements are intended to carry out the following objectives:

- 10.1.1 To promote and increase design compatibility between different land uses, while ensuring attractive views from streets and adjacent properties.
- 10.1.2 To assist in delineating separations of spaces, structures, uses, and activities on a site, or between adjacent sites.
- 10.1.3 To shield adjacent properties from potentially adverse external impacts of development, and development from potential negative impacts of adjacent land uses and activities.
- 10.1.4 To enhance the streetscape by separating the pedestrian from motor vehicles; abating glare and moderating temperatures of impervious areas; filtering air of fumes and dust; providing shade; attenuating noise; and reducing the visual impact of large expanses of pavement.
- 10.1.5 To promote the preservation of open space; existing tree canopy and vegetation; and natural diversity, using supplemental plantings when necessary to meet the performance criteria of this Article.
- 10.1.6 To mitigate adverse grade changes between adjacent properties.
- 10.1.7 To improve the quality of the built and natural environments through air quality enhancements; energy conservation; reductions in the amount and rate of stormwater runoff and erosion; stormwater runoff quality improvements; and increase in the capacity for groundwater recharge.
- 10.1.8 To enhance the appearance and value of both residential and non-residential properties.
- 10.1.9 To create a process whereby some properties are required to obtain a tree clearing certificate, recognize some properties are exempted from the requirement to obtain a tree clearing certificate prior to the removal of vegetation, and establish penalties for



removal of all or substantially all of the required vegetation within required vegetation protected areas.

## **10.2 Applicability**

### *10.2.1 Exemptions*

The requirements of this Article shall not apply to the uses and activities listed below.

- A. An existing or proposed single or two-family detached dwelling on its own residentially zoned lot.
- B. Routine maintenance of existing vegetation outside the public right-of-way, such as pruning, watering, and fertilizing.
- C. The removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, the burden of proof being placed on the remover.

### *10.2.2 Application*

These requirements shall apply to the following:

- A. **New Principal Building or Use.** Principal buildings or open uses of land constructed, reconstructed, or established after adoption of this Article.
- B. **Changes in Use.** Changes in use of an existing use, structure, or parking lot shall meet the requirements of this Article. The requirements outlined in this Article are reduced in certain situations for changes in uses.
- C. **Expansions.** All expansions of buildings, parking areas, or open uses of land, except the first 1,000 square feet of expansions to buildings, parking areas, or open uses of land existing at the time of adoption of this Article. The requirements of this Article shall be applicable to all portions of the property to be expanded.

## **10.3 Tree Preservation and Tree Clearing Requirements**

### *10.3.1 Tree Clearing Certificate*

The Tree Clearing Certificate requirement has been developed to implement the enabling legislation granted to the Town by the North Carolina General Assembly. The requirements for obtaining a Tree Clearing Certificate and penalties for non-compliance are applicable to all undeveloped properties which are zoned for residential or nonresidential use located within the town limits. For the purposes of

this Article, “undeveloped properties” shall include any property within the town’s jurisdiction which is not subject to an approved development plan.

### *10.3.2 Exemptions from Tree Clearing Certificates*

The requirement to obtain a Tree Clearing Certificate shall not apply to the activities listed below.

- A. Normal forestry activities taking place on property which is taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the North Carolina General Statutes, and provided such activities are accomplished in compliance with this Article.
- B. Properties with a Town or County-approved development plan, provided such plan has not expired and that any clearing or vegetation removal is done in strict accordance with the approved development plan.
- C. The removal of vegetation by public or private agencies within the lines of any public street rights-of-way, utility easements, or other Town property, as may be necessary to ensure public safety, to obtain clear visibility at driveways or intersections, to perform authorized field survey work, or to preserve or enhance the symmetry and beauty of such Town property.
- D. The Town-initiated or approved removal of any vegetation which is in an unsafe condition, constitutes a nuisance or noxious weed, or which by its nature is injurious to sanitary sewers, electrical power lines, gas lines, water lines, stream or conveyance channels, or other public improvements, or vegetation which is infected with any injurious fungus, insect, or other pest.
- E. The removal of vegetation on property located within an approved residential subdivision which is zoned for single family use, and provided such vegetation is not a portion of a required streetscape or other landscaping buffer.

### *10.3.3 Required Buffers and Vegetation Protection Areas*

Other than that necessary to gain reasonable access to the property, clearing and/or removal of trees and other vegetation shall be prohibited in the areas listed below. In situations where one or more buffer zones or vegetation protection areas overlap on the same site, then the more restrictive requirement shall apply.

- A. Within required project boundary buffer yards.
- B. Within required street yard buffers.

- C. Any other areas necessary for the protection of existing vegetation as indicated within this Ordinance (e.g., riparian buffers).

#### *10.3.4 Protection of Monumental Trees and Stands*

To the greatest extent practicable, monumental trees and monumental tree stands should be protected and preserved during and after development. Measures such as the relocation or reconfiguration of buildings, parking areas, streets, and other features will be required by the UDO Administrator if deemed necessary to fulfill the intent of this Ordinance. Monumental trees are considered a subset of protected trees and all regulations for protected trees shall apply to monumental trees.

#### *10.3.5 Application Requirements*

- A. An application for a Tree Clearing Certificate is not required for those activities which can demonstrate an exemption in accordance with the provisions of Article 10.3.2 above.
- B. An application for a Tree Clearing Certificate may be filed only by all the owners of the property or by such owners' authorized agent.
- C. An application for a Tree Clearing Certificate shall be filed with the Town on a form provided by the Town, along with the fee prescribed by the Town Council.
- D. The application form shall be accompanied by a Vegetation Protection Plan which shall include, at a minimum, the following information on a sheet size no larger than 24 by 36 inches at a minimum scale of 1 inch equals 50 feet:
  - 1. Vicinity map showing the location of the tract at a readable scale.
  - 2. A map of the entire tract, including the property boundary of the entire tract by courses and distances with references to true meridian and the location and dimension of all on-site and adjacent off-site easements (e.g., drainage, utility, public access, aerial utility, conservation, permanent and temporary construction easements).
  - 3. General information about the tract, including but not limited to the owner of the tract; the current zoning of the tract, the area of the tract, and the special use zoning conditions, planned unit development master plan requirements, if applicable.
  - 4. The location and use(s) of all existing building(s) on the tract.
  - 5. The owner, current zoning and present use of all contiguous properties (including property on opposite side of adjoining streets).

6. The general classification of all existing and proposed adjacent roadways and the ultimate right-of-way boundaries associated with these roadways.
  7. The location and width of all future/existing buffers and associated vegetation protection areas, including riparian buffers, perimeter buffers and perimeter streetscapes.
  8. The proposed limits of timbering activities, including the location and extent of all tree protection fencing as required under Article 10.4.
  9. The location of all required protected trees (see Appendix B), as well as all other existing trees to be retained through the development process.
- E. The UDO Administrator may reduce or waive the requirements for a Vegetation Protection Plan in situations where it can be demonstrated that all vegetation removal will take place outside of required vegetation protection areas.

#### *10.3.6 Procedure*

Prior to the commencement of any vegetation clearing or removal on any undeveloped property, the owner or the owner's agent must demonstrate exemption from the requirements of this Article, or submit the required application materials and applicable fees for a Tree Clearing Certificate.

- A. Upon receipt of documentation that a property is exempted from obtaining a Tree Clearing Certificate, the UDO Administrator shall review all materials and make a determination if a property is exempted from the requirements, or if the requirements apply. In situations where exemption status is claimed based on forestry use, this documentation shall include proof that the property is taxed under the present-use value standard or a copy of the valid forestry management plan prepared or approved by a North Carolina registered forester. The decision of the UDO Administrator may be appealed to the Zoning Board of Adjustment pursuant to the provisions of Article 6.8 of this Ordinance.
- B. If a property is not exempted from the provisions pertaining to a Tree Clearing Certificate, then such application materials shall include a Vegetation Protection Plan consistent with the requirements listed in Article 10.3.5.D above.
- C. The Vegetation Protection Plan shall be reviewed by the UDO Administrator based upon the provisions of this Article. The Administrator may defer the

decision on the Vegetation Protection Plan to the Planning Board if he or she has concerns about the plan's ability to meet the standards of this Ordinance. In the event the Administrator disapproves the plan, an appeal may be filed with the Board of Adjustment within 10 days of disapproval. If an appeal is filed, the Board of Adjustment shall decide whether to consider the appeal by majority vote and may affirm, reverse or modify the Administrator's disapproval.

- D. An applicant for a Tree Clearing Certificate shall be notified upon approval of the Vegetation Protection Plan, and shall be free to erect or install any and all barriers necessary to protect existing vegetation within required buffer areas and vegetation protection areas from damage during tree clearing and/or removal activities. Failure to protect these areas shall result in penalties as indicated in Article 6.
- E. Once all barriers for the protection of existing vegetation have been installed, a property owner or agent shall request inspection of such barriers for compliance with the requirements of this Ordinance.
- F. Upon a passing inspection of vegetation protection barriers, the UDO Administrator shall issue a Tree Clearing Certificate, and authorized vegetation clearing and/or removal may commence.
- G. An approved Tree Clearing Certificate shall be valid for a period of not more than 12 months from the date of issuance.

#### *10.3.7 Non-Compliance*

Failure to comply with the provisions of this Article shall constitute a violation of this Ordinance, and shall subject an offending party to a series of actions, including the payment of fines, delay in development plan approval or building permit issuance, and the requirement to double the amount of required vegetation as would typically be required during the development plan review and approval process. The table below describes the penalties for non-compliance with this Article. An "X" in a particular cell indicates the associated penalty which applies.

### Penalties for Non-Compliance

Type of Violation	Payment of Fines (based upon Article 6)	Review of all subsequent development plans by Planning Board	Five year delay in approval of a building permit	Requirement to double the landscaping provisions
Property is exempt from Tree Clearing Certificate requirements, but <i>all</i> or <i>substantially all*</i> vegetation within required buffers and/or vegetation protection areas is		X	X	X
Property owner obtains a Tree Clearing Certificate, but removes some of the vegetation within	X			X
Property is not exempt from Tree Clearing Certificate requirements, but property owner obtains no Certificate, and removes some of the vegetation within a	X	X		X
Property is not exempt from Tree Clearing Certificate requirements, but property owner obtains no Certificate, and removes all or substantially all* of the vegetation within a	X	X	X	X

\*"all or substantially all" shall mean 75% or more of the existing trees with a caliper of 4 inches or greater.

## 10.4 Preservation of Protected Trees During Construction

Protective barricades shall be placed around all Protected Trees designated to be saved, prior to the start of development activities or grading. These barricades shall consist of 2" x 4" posts with 1" x 4" rails or orange safety fence. Protective barricades shall remain in place until development activities are complete. The area within the protective barricade shall remain free of all building materials, stockpiled soil or other construction debris. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees. Barricades shall be erected at a recommended minimum distance from the base of protected trees according to the following standards:

- 10.4.1 For trees 10" or less diameter at breast height (DBH): Protective barricades shall be placed a minimum distance of 10' from the base of each protected tree, or outside the dripline, whichever is greater.
- 10.4.2 For trees greater than 10" DBH: Protective barricades shall be placed at a minimum distance equal to 10' from the base of a protected tree plus an additional 1' for each additional 1" DBH greater than 10" **DBH, or outside the dripline, whichever is greater.**

Construction access to a site should occur where an existing or proposed entrance/exit is located. Except for driveway access points, sidewalks, curb and gutter, land disturbance within a tree dripline is strongly discouraged. Where grading within a tree dripline cannot be avoided, cut and fill shall be limited to 1/4 to 1/3 of the area within the dripline, tree roots must be pruned with clean cuts at the edge of the disturbed area, and no fill shall be placed within the dripline of a tree without venting to allow air and water to reach the roots. Trees and undergrowth in designated open space in an approved plan shall remain undisturbed, except for permitted pathways.

## 10.5 Landscaping Plans Required

- 10.5.1 In order to implement the requirements of this Article, landscaping plans are required as part of each site plan required under Article 4 of this Ordinance. In addition, subdivision or site plans which include/require buffers, street buffers, or other landscape areas shall be required to provide a landscape plan. Plans shall be developed by individuals or professional firms having the competence and knowledge to satisfactorily develop plans required by this Article.
- 10.5.2 Landscaping plans shall be designed to improve efficiency of irrigated areas (if applicable) through minimizing slopes, preserving topsoil, and retaining stormwater drainage on-site.
- 10.5.3 Landscaping plans shall meet the standards of this Article, and shall be consistent with the standards outlined for project boundary buffers, street buffers, interior landscaping requirements, and vehicle use area landscaping requirements.

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## 10.6 Design of Landscaping and Buffers

### 10.6.1 *Design, Installation and Establishment Standards*

Location of plants and design of landscaping, including maintenance, shall be according to sound landscape and horticultural principles. The use of native vegetation and other lower maintenance landscape materials is desired to promote environmental protection, energy efficiency, and water conservation.

- A. Landscape plans submitted for approval for the purposes of satisfying the requirements of this Article shall clearly indicate the name, location, and size of vegetation to be installed as well as trees to be preserved.
- B. Plant material should be chosen from the lists of recommended tree species contained within Appendix B, and shall adhere to the minimum specifications therein. Plant materials shall be reviewed for suitability with regard to the eventual size and spread, susceptibility to diseases and pests, and appropriateness to existing soil, climate and site conditions.

### 10.6.2 *Issuance of Certificate of Occupancy*

A certificate of occupancy shall not be issued, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this Article. A temporary certificate of occupancy may be issued for a period of 120 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 UDO Administrator.

### 10.6.3 *Cold Hardy and Drought Tolerant Plants*

Required trees and shrubs shall be cold hardy for the specific location where they are to be planted. Trees and shrubs shall be drought tolerant and able to survive on natural rainfall once established with no loss of health.

### 10.6.4 *Plant Material and Minimum Plant Size*

Appendix B provides a list which shall be used as a guide in identifying and categorizing the different acceptable types and minimum sizes for any required plant. Although the lists may be expanded, they are intended to provide guidance in selecting predominately hardy natural species. All materials shall be of high-quality nursery grade. In addition to the plant types listed in Appendix B, vegetation and/or trees may be relocated from other sites to the proposed project site.

### 10.6.5 *Minimum Planting Areas*



- A. Canopy trees shall have a planting area no less than 10 feet wide in all dimensions.
- B. Understory trees shall have a planting area no less than 8 feet wide in all dimensions.
- C. When planted as a hedge, the maximum spacing for 20-inch high shrubs shall be 40 inches on center.
- D. These requirements may be modified administratively by the UDO Administrator.

#### *10.6.6 Mulch*

Plants shall be mulched to provide ground cover and prevent water loss due to evaporation. In order to ensure compliance with this standard, a tree planting detail shall be provided on all landscaping plans.

### **10.7 Requirements for Maintaining Planted Areas**

#### *10.7.1 Responsibility*

The responsibility for maintenance of a required buffer or other landscaping shall remain with the owner of the property, his or her successors, heirs, assignees or any consenting grantee. 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.

#### *10.7.2 Maintenance*

- A. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
- B. Necessary pruning and trimming shall be in accordance with the Tree Care Industry Association (TCIA) Standards for the Professional Arborist, and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures that may cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of these zoning regulations.
- 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 required plants which die or are removed for any reason and shall meet all minimum standards

and conform to these regulations.

- D. Natural water courses within a buffer shall be maintained in a natural condition consistent with any applicable regulations.
- E. A water source shall be supplied within 100 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated in the buffer, an irrigation system shall be required.
- F. Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.
- G. Where other uses, including pedestrian, bike or other trails, are allowed within a buffer, these uses shall be maintained to provide for their safe use.

#### *10.7.3 Failure to Maintain*

In the event that any owner of a buffer area or vehicular use landscaping area fails to maintain same according to the standards of these regulations, these regulations shall be enforceable by the Town with the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following reasonable notice and a demand that deficiency of maintenance be corrected, enter the buffer area to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the buffer area.

#### *10.7.4 Hardship Relief*

Landscape requirements may be modified by the UDO Administrator upon a finding that a modification would be consistent with the purpose and intent of this Article, with any adopted land use plans, and that such modification would not adversely affect the land use compatibility or public interest.

### **10.8 Project Boundary Bufferyard and Landscaping Requirements**

#### *10.8.1 Definition and Purpose of Bufferyards*

- A. A buffer is a specified land area, located parallel to and within the outer perimeter of a lot or parcel and extending to the lot or parcel boundary line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as a berm, fence or wall, or combination thereof, where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not the same as the term "yard."

1. Both the amount of land and the type and amount of planting specified for each bufferyard required by this Article are designed to ameliorate nuisances between adjacent land uses, or between a land use and a public road.
  2. The planting units required of bufferyards have been calculated to insure that they do, in fact, function to "buffer."
- B. Bufferyards shall be required to separate different land uses from each other, in order to:
3. Eliminate or minimize potential nuisances, such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas; or
  4. Provide spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.

#### 10.8.2 Location of Bufferyards

- A. Bufferyards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.
- B. Bufferyards shall not be located on any portion of an existing public or private street or right-of-way.

#### 10.8.3 Types of Required Buffers

There are two types of required buffers that may occur on any given development site, as follows.

- A. *Street Buffers.* Generally, a street buffer is located along the street(s) that border a development. The buffer requires a modest amount of landscaping, enhancing the "public" environment.
- B. *Project Boundary Buffers.* Generally, a project boundary buffer is located around the sides and rear of a development. This buffer ensures an appropriate transition between uses. A buffer located around the perimeter of a nonresidential use is intended to protect adjoining land uses from noise, heat, dust, lights, and aesthetic impacts from more intense land uses.

#### 10.8.4 Permitted Use of Buffer Area

- A. A buffer may be used for passive recreation and picnic facilities; and it may contain pedestrian, bike, or equestrian trails, provided that:
  1. Minimal existing plant material is eliminated;

2. The total depth of the buffer is maintained; and
  3. All other requirements of these regulations are met.
- B. Other appurtenances which require high visibility and easy access, such as fire hydrants, public and emergency telephones, and mail boxes. No screening of such appurtenances is permitted.
  - C. A required buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater detention/retention facilities designed as a natural-appearing amenity. However, a minimum 10- foot contiguous width of the buffer shall be preserved as a planting area without stormwater facilities.
  - D. Ingress and egress to the proposed use, and utility lines and appurtenances, may cross the buffer provided they minimize the amount of buffer taken.
  - E. The buffer area may be included as part of the calculation of any required open space.
  - F. Identification signs may be located within a buffer as specifically permitted in the Sign Ordinance. The landscape buffer shall be designed to address visibility of permitted ground signs.
  - G. Lighting may be located within a buffer as specifically required in Article 9.5, Outdoor Lighting.
  - H. Other activities and development required by this Ordinance or expressly authorized by the UDO Administrator.

#### *10.8.5 Prohibited Use of Buffer Area*

- A. buffer area shall not be used for any building or use, accessory building or use, parking or loading area, storage area, or other principal or accessory uses except as specifically permitted in this Ordinance.

#### *10.8.6 Planting in Easements*

- A. Where required plantings are located in easements, the utility provider shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their removal.
- B. No trees shall be planted in wet retention ponds, drainage maintenance easement, or any utility maintenance easements.
- C. Shrubs may be planted within easements, provided they are only

within the outer three feet of the easement. No new trees may be planted in an easement.

- D. Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, they are a species adapted to seasonal flooding and the pond is adequately maintained.

#### 10.8.7 Determination of Buffer Requirements

To determine the type of buffer required between two adjoining lots or parcels, or between a lot or parcel and a street, the following procedure shall be followed:

- A. *Street Buffers*. Determine the appropriate street buffer based on Article 10.8.8.
- B. *Project Boundary Buffers*. Identify the zoning districts/use of the subject parcel and all adjoining properties. Determine the buffer opacity class required on each boundary (or segment thereof) of the subject parcel. Refer to the minimum project boundary buffer table in Article 10.8.9.

#### 10.8.8 Street Buffers

Street buffers shall be required and existing vegetation should be used to satisfy these planting requirements where possible (see Article 10.8.3). Berms constructed in accordance with Article 10.8.10.C, Berm with Vegetation, are encouraged as a component of any street buffer and the UDO Administrator may allow up to 50% reduction in the required buffer depth with a berm.

- A. *Measurements*.
  1. Street buffers shall be measured along a perpendicular line from the future right-of-way line determined during site and development plan review. Buffer depth averaging may be used in conformance with paragraph (5), below.
  2. Required driveways may penetrate required street buffers.
  3. Driveway widths (measured at the inside edge of the buffer) shall not be counted in the calculation of the plant material required.
  4. Vehicular access easements shall not be treated as a street, but shall be buffered as a project boundary buffer outside the easement area. The buffer may be provided on either side of

the easement.

5. While the buffer depth is normally calculated as parallel to the property line, design variations are allowed and are calculated on the average depth of the buffer per 100 feet of linear width measured along the property line. Minimum depth of buffer in any case shall not be less than 50% the required depth of the buffer chosen. Maximum depth shall not be more than 150% the required depth of the buffer chosen.

B. *Collector or Thoroughfare Street Buffers.* All development located along either a collector or thoroughfare street shall be required to provide one of the following buffers along the entire street frontage.

1. Two canopy trees per 100 linear feet of property frontage, located within a 20-foot landscape buffer; OR
2. One canopy tree and two understory trees per 100 linear feet of property frontage, located within a 20-foot landscape buffer; OR
3. Under utility lines only, three understory trees per 100 linear feet of property frontage, located within a 10-foot landscape buffer. No trees under utility lines shall have a natural height over 25 feet.
4. In all the above options, there shall also be 15 shrubs per 100 linear feet.

#### 10.8.9 Project Boundary Buffers

A. *Required Project Boundary Buffer Table.*

1. *Description.*
  - a. The buffer standards in the table below address the opacity of the buffer that is required on the property boundary between zoning districts, and in some instances within a zoning district.
  - b. An opacity of 0.2 screens 20% of an object, and an opacity of 0.6 would screen 60% of the adjoining development during summer months after five years of growth.
2. *Measurement.* Project boundary buffers shall be measured along a perpendicular line from the lot line.
3. *How to Read the Buffer Table.*

- a. The required opacity of project boundary buffers is represented in the table below by two numbers (for example, .2/.6).
- b. The second number represents the total required buffer opacity between any two properties.
- c. Where the proposed project adjoins vacant property, the first number represents the applicant's required buffer opacity.
- d. Where the adjoining property is already developed with no buffer, the proposed project is responsible for providing the total required opacity (the second number).
- e. Where the adjoining property is already developed with a partial buffer, the proposed project is responsible for providing the remaining opacity required.
- f. A zero means no project boundary buffer is required.

		Zoning District of Adjoining Property		
		R-20, R-15, R-10, EPUD	MR, CN	CLD, CI
Zoning District of Subject Property	R-20, R-15, R-10, EPUD	0/0	.2/.2	.4/.6
	MR, CN	.2/.2	0/0	.2/.4
	CLD, CI	.4/.6	.2/.4	0/0

NOTE: Wireless telecommunication towers shall require a bufferyard with an opacity of 0.8 regardless of their location (refer to Article 8.101).

Example. A .2/.4 requires a 20% opaque buffer for property adjacent to vacant land or a 40% opaque buffer when adjacent to existing development. A .4/.4 requires a 40% opaque buffer for property adjacent to either vacant or developed land. A zero means no project boundary buffer is required.

**B. Buffer Alternatives.** The table below shows the required buffer depth (average) and plantings required for a project boundary buffer to satisfy the required opacity. Existing vegetation should be used to satisfy these planting requirements where possible (see Article 10.9.2, Existing Vegetation).

MINIMUM REQUIRED PROJECT BOUNDARY BUFFER		
Buffer Depth and Plants Required Per 100		
Required Opacity	Alternative 1	Alternative 2
0.2	5 feet 1 canopy 7 shrubs	5 feet 2 understory 3 shrubs

0.4	10 feet 1 canopy 4 understory 15 shrubs	10 feet 1 canopy 5 understory 9 shrubs
0.6	15 feet 3 canopy 6 understory 25 shrubs	15 feet 4 canopy 4 understory 10 shrubs
0.8	25 feet 5 canopy 7 understory 25 shrubs	25 feet 4 canopy 10 understory 15 shrubs

**10.8.10 Walls, Berms, and Fences in Buffers**

Where walls, berms, or fences are built within any required buffer, they shall meet the following requirements.

**A. Walls.**

1. All walls, when located within a buffer, shall be planted along the exterior face of the wall with at least one upright shrub for every 6 feet of linear wall length. These shrubs may be counted towards meeting the opacity requirement for the buffer.
2. Where shrubs are planted adjacent to a wall, the minimum distance between the wall and the property line shall be 4 feet.
3. A finished side of the wall shall face off-site.
4. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.

**B. Fences.**

1. Fencing shall comply with the height requirements outlined in Article 9.7.1.B.
2. No reduction in buffer width shall be provided based on the provision of a fence.
3. If fencing is used, required shrubs shall have a minimum height of 3 feet at initial planting, and shall be placed along the exterior face of the fence. At least one upright shrub shall be required for every 6 linear feet of fence length. Shrubs are not required for a security fence.
4. A finished side of the fence shall face off-site.
5. Fences shall be maintained in a structurally safe and attractive condition and with finished faces and plantings located towards the adjoining property.



C. *Berm with Vegetation.*

1. The UDO Administrator may allow a reduction of up to 50% of the required buffer depth when a berm meeting these requirements is provided
2. An earthen berm may be used in conjunction with planted vegetation provided that the combined height of the berm and planted vegetation shall be at least 6 feet.
3. The slope of the berm shall be stabilized with vegetation and no steeper than 3:1. The height of the berm may not exceed 6 feet, with a level or rounded area on top of the berm. The berm shall be constructed of compacted earth.
4. Prior to issuance of a certificate of occupancy, berms shall be planted to ensure coverage by live plant material, including grass, within 2 years.
5. When berms are planned to be installed within required buffers, storm drainage plans submitted with the application shall be designed to anticipate a 100-year storm event.

## **10.9 Vehicular Use Area Landscaping**

### *10.9.1 Landscaping Requirements in Parking Areas and Vehicular Use Areas*

All vehicular use areas must have at least one canopy tree trunk within 60 feet of each parking space. Two small trees with heights between 10 and 20 feet at maturity may be used instead of one canopy tree only if overhead or underground utility lines will impair the canopy tree's growth to mature habit. All vehicular use areas used for parking shall be screened from the view of adjacent properties and streets by evergreen plantings that will attain a height of 3 feet within 3 years of planting. The use of shrubs and ground covers is greatly encouraged in parking area islands and along the borders of parking areas.

### *10.9.2 Existing Vegetation*

Existing healthy, well-formed canopy trees may be counted toward the requirements of this Article, provided that these trees are protected in accordance with this Article, before and during development of the site and maintained thereafter in a healthy growing condition.

### *10.9.3 Design Standards*

The design of the vehicular use area with landscaped areas, and the selection of plant materials, shall meet the following standards:

- A. All parking spaces shall be within 60 feet of the trunk of a canopy tree, or 30 feet from small trees if allowed under overhead utilities or in special

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circumstances.

- B. All planting medians and/or islands in vehicular use areas shall be at least 10 feet long by 10 feet wide from back of curb to back of curb, with a minimum of 300 square feet of space per canopy tree where these trees are proposed consistent with Section A., above. This dimension must be measured from the back of the curbs. Linear planting strips between the lengths of parking isles are strongly encouraged rather than numerous small one tree islands. If linear planting strips are used, then the distance of parking spaces from a trunk of a canopy tree may be increased to 70 feet.
- C. A minimum 10-foot wide continuous planted median shall be installed in off-street parking areas approximately every 130 linear feet in one direction for vehicular surface areas exceeding 40,000 square feet. Other design options may be approved provided that the intent of "breaking up" large areas of parking is met. Saving existing interior trees may be credited toward this requirement. This requirement does not apply to vehicular display lots, vehicular rental lots and other similar lots.
- D. The size of the planting area and size of plant material at maturity shall allow for a 2-1/2 foot bumper overhang from the face back of the curb. Barriers, such as curbs or wheel stops, must be provided between vehicular use areas and landscaped areas.
- E. All sidewalks shall be at least 5 feet from the trunks of large trees, unless otherwise approved by the TRC. For example, when the placement of the sidewalk would require the removal of an existing large tree to meet this requirement or where there is not enough space on the site to accommodate both the tree and the sidewalk, this requirement may be modified.
- F. Parking lots shall be graded so that landscape islands do not impound water, unless surface impoundment is required as a method of on-site retention of stormwater. Landscape islands should be composed of well-prepared structured soil and thoroughly cultivated and amended so as to support healthy plant growth.
- G. Preservation of existing groups, stands, or groves of trees, as well as isolated islands with single trees, is strongly encouraged.
- H. Canopy trees shall be at least 2 inches in caliper when installed.
- I. Evergreen shrubs shall be at least 18-24 inches in height and minimum three-gallon container size at the time of installation.
- J. Adequate drainage, mulching, and irrigation shall be provided for landscape medians and islands.

- K. The property owner or developer shall provide for continuous maintenance of the landscaped areas after occupancy of the building. The property owner shall ensure that performance criteria within this Ordinance and/or included on the approved site and/or subdivision plan are met. Failure to correct deficiencies in a timely manner shall result in a citation for violation of this Ordinance in accordance with Article 6.

#### 10.9.4 Screening Vehicular Use Area

Where there is a vehicular use area between the street/right-of-way and a permanent non-residential building, a semi-opaque screen or barrier shall be provided between the right-of-way and the vehicular use area. The screen or barrier may consist of plants, earthen berms, fences, walls, or any combination thereof, which meet the following requirements:

- A. The screen shall occupy 75% of the length of the vehicular use area, except for sidewalks and driveways that cut through the screen to connect the vehicular use area to streets and other properties. Shrubs shall be at least two feet in height above the ground and healthy at the time of installation.
- B. Berms may be used or installed in lieu or in addition to plantings. If the berm does not meet the performance standards of this Article, then plant materials shall be installed which meet these standards. The installation of additional plant materials is encouraged so as to enhance the visual and aesthetic qualities of the streetscape. Plantings should be placed based upon topography of the site, usually at the top of the slope.
- C. Berms must, at a minimum, be planted and maintained with a groundcover vegetation or grass that will permanently stabilize the soil.
- D. Shrubs, plantings, hedges, or walls shall provide an opaque screen or barrier for the first three feet of height within three years of planting.
- E. Vehicular use areas used for the purpose of loading/unloading, and accessways to those areas shall be screened from views of streets and adjacent development.

#### 10.9.5 Foundation Plantings

For all portions of buildings, which are adjacent to parking facilities or internal drive aisles, foundation plantings shall be required and located between the buildings face and the parking or drive isle curb. The minimum standards are required; however, it is encouraged that sites exceed the minimum whenever possible. The following minimum standard shall apply:

- A. The area of the building face adjacent to the parking area or internal drive isle shall

be calculated and multiplied by a minimum of 12%. The resultant total square footage shall be planted as landscaped areas of sufficient variety and height.

B. Exemptions from these requirements may be granted when the following circumstances exist or when any of the following conditions are proposed on the site:

1. For those portions of buildings which have drive up services along any side or rear of the building. (Such examples would include but not be limited to Pharmacies, Banks, Fast Food Restaurants, Dry Cleaners, and Photo shops.)
2. On the rear side of a building when less than 10% of the total required parking is located in the rear of the building and the rear is not adjacent to any public right-of-way.

C. If the requirements of this Article conflict with any other requirements from other Articles of this Ordinance, the more stringent shall apply.

#### *10.9.6 Exceptions for Underground Parking and Above Ground Parking Structures*

When parking is provided underground or within buildings, the above requirements shall not apply. However, if the parking is visible from a public right-of-way or adjacent property, then it shall be screened from views from streets and adjacent properties pursuant to Article 10.9.4(D) above. Unless they are designed to look like, reflect the architectural style of, and blend in with the adjacent buildings, dense landscaping should visually separate all parking structures from the view of streets and adjacent property. If this is not possible, then the walls of the structure should be softened by the use of terracing, plantings, or other techniques.

#### **10.10 Removal of Existing Trees**

A permit shall be required for the removal or destruction of a large or small mature tree or trees. The permit shall be issued when the UDO Administrator or his/her designee has determined that 1) the mature tree or trees to be removed are dead, diseased, irreparably damaged, hazardous, or creating or potentially creating damage to the property or injury to person, or 2) an approved landscape plan has been issued pursuant to Article 10.5 of this Ordinance. A permit is not required for the area of an approved plan designated as single-family or duplex residence exclusive of open space. Trees to be removed from the public rights-of-way by electric utilities and other utilities must be replaced by such entity in equal quantity with an approved species from the Suggested Plant list.

#### **10.11 Alternative Methods of Compliance**

Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may

result from streams, natural rock formations, topography, or other physical conditions; or from lot configuration, utility easements, unified development design, or unusual site conditions.

The UDO Administrator may approve an alternate plan that proposes different plant materials or methods provided that quality, effectiveness durability, and performance are equivalent to that required by this Ordinance.

The performance of alternate landscaping plans shall be evaluated by the UDO Administrator to determine if the alternate plan meets the intent and purpose of this Ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening height, spread, and canopy of the planting at maturity. Decisions of the UDO Administrator regarding alternate methods of compliance may be appealed to the Board of Adjustment.

#### **10.12 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 UDO Administrator 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.
- C. The new plants are of the same general category (i.e., shade tree, ornamental tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

#### **10.13 Inspection of Sites**

The UDO Administrator or his/her designee may periodically inspect sites subject to the provisions of this Ordinance. If, through inspection, it is determined that a person has failed to comply or is no longer in compliance with the provisions of this Ordinance, a notice to comply shall be served upon that person by registered mail with return receipt or other means by the Town. The notice shall set forth that which will be necessary to comply with the Ordinance. The Town shall have the power to conduct such 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. No person shall refuse entry or access to any staff or authorized representative, of the Town 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.

The UDO Administrator or his/her designee shall inspect the site one year after the

issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscaping is properly maintained.

#### **10.14 Emergencies**

In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the Town may waive the requirements of this Ordinance during the emergency period so that the requirements of this Ordinance will in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be a general waiver of the intent of this Ordinance.

#### **10.15 Revegetation**

The disturbance of any landscaped area or vegetation required by this Article shall constitute a violation of the site or master plan. All disturbed landscaped areas and vegetation shall be replanted to meet the standards of this Article as well as the approved site or master plan.

Where the vegetation that has been disturbed or damaged existed on the site at the time the development was approved, all replacement vegetation shall meet the standards set forth in this Article taking into account any unique site conditions and significant vegetation remaining within the landscaped area. Trees or vegetation that die within one year of construction completion shall be removed and replaced with new vegetation of equal or greater size.

Existing vegetation required to be preserved that has been damaged or destroyed during the course of development activity shall be subject to civil penalty and replaced in accordance with the requirements of this Article. Civil penalty - a base fine of \$2.00 for every square foot area of vegetation damaged or destroyed, not to exceed \$30,000. Refer to Article 6.

A revegetation plan shall be submitted that takes into consideration the development condition of the site, significant vegetation remaining within landscaped areas, and the replacement plant materials. The Town of St. James may require equal amounts of new vegetation to be installed equal to the size of the vegetation removed. Replacement consists of one or a combination of any of the following measures:

- 10.15.1 Replant According to the Requirements of this Article. A replanting plan denoting the proposed installation shall be submitted to the Town of St. James for approval. The UDO Administrator may elect to present the replanting plan to the Planning Board for final approval.
- 10.15.2 Replace damaged or destroyed significant vegetation in both perimeter and or interior landscaped areas with an equal amount of new vegetation according to the size of vegetation removed. Any tree with a caliper of at least 8 inches that is damaged or removed shall be replaced with one or

more trees that have a caliper of at least 2-1/2 inches and a cumulative caliper equal to or greater than the original tree. Trees damaged or destroyed less than 8 inches in diameter shall be replaced to satisfy the performance criteria of this Article. Understory plantings may also be required to restore the buffer performance criteria for the disturbed area. A revegetation plan denoting the proposed installation shall be submitted to the Town of St. James for approval. The UDO Administrator may elect to present the revegetation plan to the Planning Board for final approval. This requirement may be modified by the UDO Administrator based upon site conditions.

- 10.15.3 For all other cases where existing vegetation is damaged or removed, the type and amount of replacement vegetation required shall be of the type and amount that is necessary to provide the type of landscaping required under this Article or interior preservation area identified on the landscape plan.

#### **10.16 Location of Replacement Trees and Vegetation**

Replanting should be located within the vicinity of the violation. If the area is too small for sufficient growth, a more suitable location on the site may be selected as permitted by the UDO Administrator.

#### **10.17 Inspections and Certificate of Occupancy**

A permanent certificate of occupancy for the development shall not be issued unless the landscaping required under this Article is installed in accordance with these standards and in accordance with the approved site plan or subdivision plat. The UDO Administrator or his/her designee shall inspect the site one-year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscape is properly maintained.

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## ARTICLE 11 SIGNS

### 11.1 Purpose

In order to ensure that signage is designed and placed to complement the character of the Town, to minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety, to protect existing development and promote high standards of quality in new development by requiring appropriately designed, placed, and sized signage, and to provide an effective guide for communicating identification through signage while preventing signs from dominating the visual appearance of the areas in which they are located, the following standards shall apply to all signs in all zoning districts unless otherwise noted. Signs located within the jurisdiction of a legally constituted HOA, POA, or similar entity may have additional restrictions.

Specifically excluded from these regulations and height and area restrictions, are freestanding/monument directional non-commercial signs erected by local government, or by an agent of such, in any zoning district, either within public lands or on private land owned by others with their written consent and maintained by the Town of St. James or by an agent of the town.

Nonconforming signs and sign structures: See Article 5.5

### 11.2 Permits and Plans

#### 11.2.1 Applicability

It shall be unlawful to construct, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a Zoning Permit pursuant to Article 4.12.1 for such sign from the Town.

#### 11.2.2 Application Requirements

An application for a Zoning Permit to allow a sign shall be submitted in accordance with Article 4.1.3 (Application Requirements).

Applications for permits shall contain or have attached the following information:

- A. The street number and/or the tax parcel number for the zoning lot on which the sign is to be located;



- B. The name, address, and telephone number for the applicant and the owner of the property on which the sign is to be erected or affixed, and for the licensed contractor erecting or affixing the sign;
- C. If the applicant is not the owner of the property on which the sign will be located, a copy of the lease agreement between the property owner and the applicant or other legally constituted authorization.
- D. A site plan, diagram or aerial photo of the property involved, showing accurate placement of the proposed sign(s) including setbacks, all structures, access easements, adjacent streets and right-of-ways, and other relevant site information;
- E. One copy of scaled drawings of the plans and specifications of the sign to be erected or affixed. Such plans shall include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and the size of existing wall signs shall also be included.
- F. Any structures (e.g. walls, columns, etc.) adjacent to an entry or identification sign shall be shown in the application.
- G. Any information that the UDO Administrator may require to determine full compliance with this and other applicable codes. All signs shall meet the International Building Code with North Carolina Amendments.

#### 11.2.3 Action by UDO Administrator

Following completion of the technical reviews by staff, the UDO Administrator shall approve the permit provided the sign meets all requirements of this Ordinance and all other applicable electrical and construction requirements of the International Building Code with North Carolina Amendment requirements.

#### 11.2.4 Revocation and Removal

- A. Any Zoning Permit issued in accordance with this Ordinance shall expire unless the work for which the permit was issued has visibly been started within 365 days of the date of issue or if the work authorized by it is suspended, not completed or abandoned for 180 days.
- B. The UDO Administrator or designee shall have the authority to order the painting, repair, or removal of any sign that ceases functionality, or that constitutes a hazard to the health, safety or public welfare by reason of inadequate maintenance, dilapidation, or obsolescence. Notice to the owner shall be by personal service or registered mail, return receipt requested. Upon notification, the owner shall have 30 days to remediate shortcomings. Failure

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to do so within the appropriate time frame may result in the Town proceeding with legal actions pursuant to Article 6, Enforcement.

- C. Any sign erected or posted in violation of, or not in accordance with provisions contained in this Article is subject to an order of immediate removal. If the violator fails to remove the sign when ordered to do so, the UDO Administrator may take necessary action to have the sign removed. A failure on the part of the responsible person to remove the sign will also result in enforcement pursuant to Article 6.
- D. When a sign has been removed by the UDO Administrator the violator shall be given a written notice that the sign will be held at a designated location for a period of not more than 15 days so that it may be collected by the owner or the violator.

#### 11.2.5 Appeal

Final action on a zoning permit may be appealed to the BOA in accordance with Article 4.10 (Appeal of Administrative Decision).

### 11.3 General Provisions

The following provisions shall apply to all signs

#### 11.3.1 Construction and Maintenance

- A. Every sign and its supports, braces, guys, anchors, and electrical equipment shall be maintained in safe condition at all times. All signs shall be kept free from defective or missing parts, or peeling paint and shall be able to withstand 130 mph winds.
- B. The immediate premises around a sign shall be kept free from debris. However no person may damage, destroy, or remove any trees, shrubs or other vegetation located within the right-of-way of any street or road for the purpose of increasing or enhancing the visibility of any sign.
- C. Any sign permitted under this Ordinance must comply with any applicable requirements of the International Building Code with North Carolina Amendments, electric safety code, and other applicable federal, state or county codes.
- D. Any part of the structure upon which the sign is mounted that extends from the sign(s) shall be subject to these provisions. It is understood that the purpose of such may be to both complement the signage and provide a buffer between the development and adjacent streets or right-of-ways and certain land uses.

- E. No sign structure shall obstruct sight lines to vehicular traffic.

### 11.3.2 Location of Freestanding Signs

On premises, freestanding signs shall be located at least five feet behind the adjacent street or right-of-way

### 11.3.3 Sign Height

The vertical distance measured from the highest point of a sign, including any molding, trim, border, lantern, logo or frame above finished grade upon which the sign is to be constructed.

### 11.3.4 Sign Area

The space within a single continuous perimeter enclosing the extreme limits of characters, lettering, logos, illustrations, or ornamentations, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed, defines the sign area. Structural supports bearing no sign copy or logos are not included in the sign area. If a sign is attached to an entry structure only that portion of that structure onto which the sign is placed is included in the sign area.

- A. Signs may be placed back-to-back, side-by-side, or in V-type construction. Side-by-side signs must be structurally tied together and considered as one sign. V-type and back-to-back signs must be considered as two signs if the angle between the faces is 45 degrees or more.

## 11.4 Prohibited Signs

The following signs are prohibited in all Zoning Districts:

### 11.4.1 Signs Located within the Sight Triangle

Signs may not be located within a required clear sight triangle

### 11.4.2 Signs Obstructing View

Signs may not obstruct the view of pedestrians, bicyclists and or motorists using any street or right-of-way or approaching any street intersection. Signs interfering with the effectiveness of or obscuring any traffic sign, device, or signal shall be prohibited. Any sign located in such a way as to deny a visual access to an existing sign

### 11.4.3 Signs Obstructing Pedestrian Traffic

Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended

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- as a means of ingress or egress, or providing light or air.
- 11.4.4 Signs Located On a Street or Right-of-Way
- Any sign (other than a government sign) placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface and located in, over, or across any street or right-of-way
- 11.4.5 Animated, Moving or Motion Signs
- Flashing signs, signs with flashing or reflective disks, flashing lights or lights of changing degree of intensity or color, or signs with electrically scrolled messages and oscillating signs. Government and public educational facility signs and portions of a sign that display time and/or temperature shall be exempt from this prohibition provided such signs are in conformance with all other applicable requirements. Includes Pop-up and/or blow-up objects
- 11.4.6 Windblown or Inflated Signs
- Fluttering, spinning, windblown or inflated devices including pennants, propeller discs, flags or banners which do not conform to the requirements of this Ordinance Excluded from this definition are temporary Feather Flags at commercial properties during business hours of operation.
- 11.4.7 Temporary, Nonpermanent Signs
- Temporary, nonpermanent signs, including over-head streamers, are not permitted in any zoning district, unless otherwise specified in these regulations.
- 11.4.8 Portable or Moveable Signs Considered Temporary Signs
- A sign that is not permanently attached to the ground, a structure, or a building that can easily be moved from one location or another (For example, a sign on wheels).
- 11.4.9 Scenic Corridor Off-Premise Signs
- Off-premise signs designed to be visible from a road designated as a Scenic Byway by the North Carolina Department of Transportation.
- 11.4.10 Roof Signs
- Sign erected or maintained in whole or in part upon or over the roof or parapet of a building
- 11.4.11 Illegal Activity
- Signs that display or advertise an illegal activity in North Carolina
- 11.4.12 Signs restricting access to Fire Fighting assets.

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Signs may not be placed in a location that prevents or restricts access to any firefighting assets. Such devices include but are not limited to fire hydrants, suppression connections or other devices marked for fire protection.

11.4.13 Signs identifying residential properties as model or speculative homes.

### **11.5 Signs allowed in all Districts without a Permit**

The following signs may be allowed in all Zoning Districts without a permit. Signs located within the jurisdiction of a legally constituted HOA, POA, or similar entity may have additional restrictions.

#### 11.5.1 Government Signs

- A. Description  
Any temporary or permanent sign erected and maintained by a federal, state, or local government, or governmental entity that does not display a commercial message.
- B. Standards Government signs must meet the standards of signs requiring permits.

#### 11.5.2 Grave Markers.

- A. Description. Grave markers which are noncommercial in nature.
- B. Standards. Meet the standards of a permitted cemetery.

#### 11.5.3 Flags

- A. Description. A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature of standard government size.
- B. Standards. Flag pole shall be less than the height of the building or 50 feet, whichever is less. The length of the flag shall be less than 1/3 of the height of the flag pole.

#### 11.5.4 Architectural Features of Buildings

- A. Description. Integral decorative or architectural features of buildings and works of art, so long as such features or works do not contain letters, trademarks, or moving parts.
- B. Standards. Features of art do not contain letters, trademarks or moving parts.

#### 11.5.5 On-Premises Instructional Signs

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- A. Description. On-premises instructional signs giving information or direction for the convenience and necessity of the public.
  - B. Standards. Such signs shall not exceed 6 square feet in area and four feet in height.

#### 11.5.6 Identification Signs for Residential Uses

- A. Description. On-premises instructional signs giving information or direction for the convenience and necessity of the public (See the Definition in Appendix A for further description).
- B. Standards. Identification signs not to exceed 4 square feet.

#### 11.5.7 Campaign/Political Signs

- A. Description. A sign that advocates for political action.
- B. Standards. Signs shall not exceed four square feet. Such signs shall not be placed sooner than 30 days before the beginning date of one-stop early voting and must be removed before the end of the 10<sup>th</sup> day after the primary or election day. Political signs may not be illuminated.

#### 11.5.8 On Premise Fuel Price Signs

- A. Description. Price signs at automobile service stations or other establishments engaged in the retail sales of gasoline or other fuel for automobiles.
- B. Standards. One such sign is allowed for each side of a lot fronting on a street or right-of-way, provided it does not exceed 15 square feet in area or - 9'feet in height. Any such sign shall be affixed to a permitted freestanding identification sign, to a canopy support in the vicinity of the gasoline pumps or on the wall of a building. Taller signs require a permit.

#### 11.5.9 Traffic Control Signs on Private Property (Specialty Signs in a Subdivision, Commercial Development or PUD)

- A. Description. Any public notice or warning required by applicable federal, State or local law, regulation or ordinance.
- B. Standards
  - 1. Planned Unit Developments and/or Subdivisions may be permitted to install ornamental or specialty traffic control signs on all internal streets that will not be dedicated to NCDOT, including street name and directional signs.

2. The bottom of the sign blade of street name signs shall be a minimum of 8 feet from the finished grade. Stop signs and other traffic control signs shall conform to the North Carolina Department of Transportation traffic control standards.
  3. The letters and background shall be of contrasting colors.
  4. All sign letters shall be capitalized. The sign letters shall be a minimum of four inches in height.
  5. Highway Gothic C font is preferred, however alternative fonts may be considered
  6. Street name signs should be reflective or illuminated (not internally lit however) to show the same shape and similar color both day and night.
  7. Punctuation marks should not be used.
  8. Signs shall not be located closer than 6 feet to the back of curb (measured along the ground) and may not interfere with utility easements.
- C. Proposed logos should be on the same blade as the street sign and should not be attached separately.
- D. The face shall meet North Carolina Department of Transportation standards.

#### 11.5.10 Bulletin Boards

- A. Description. A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial places of public assembly.
- B. Standards. Bulletin boards are restricted to a maximum area of 32 square feet with a maximum height of six feet.

#### 11.5.11 On-Premises Directional Signs

- A. Description. A sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "One-Way", or similar directional instruction, but not including any advertising message.
- B. Standards. Directional Signs (for commercial and public and semi/public uses) provided that:
  1. All such signs shall be located off the street right-of-way.

2. All such signs greater than three feet in height as measured from the grade of the street upon which it fronts shall be located outside the required sight triangle.
3. There shall be no more than four signs on separate supports at any means of ingress and egress.
4. No two signs hung from separate supports may be located within 25 feet of each other.
5. No more than one sign may be placed on the same supports.

#### 11.5.12 Cemetery Sign

One directional/informational sign of 6 square feet or less, not to exceed 10 feet in height, used as a navigational aid may be located adjacent to each public road accessing a cemetery. The sign copy is limited to the name of the cemetery and a directional arrow only and must be located a minimum of 5 feet from all property lines. The sign must be located in such a manner that it does not encroach into the sight triangle of an intersection.

### 11.6 Temporary Signs In All Districts Not Requiring a Permit

Signs located within the jurisdiction of a legally constituted HOA, POA, or similar entity may have additional restrictions.

#### 11.6.1 Temporary Personal Property and Real Estate Signs

##### A. Description

1. Personal Property Sign: Sign advertising specific property for sale, lease, rent or development.
2. Real Estate Sign: Sign used to offer for sale, lease or rent the premises upon which such sign is placed.
3. Development, Real Estate, Marketing, Located Off Premises:  
Sign used to announce special real estate event such as an open house, tour of homes, etc.

##### B. Standards.

One sign for each side of a lot fronting on a public street, advertising real estate or personal property "For Sale", "For Rent", "For Lease" or "For Development" not greater than six square feet in area in a Residential District and 32 square feet in area in nonresidential districts may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the



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property so advertised lies on a corner lot or double frontage lot, then a second sign may be allowed along the second street.

1. In addition to the on-site real estate sign(s), a maximum of three directional signs, each not exceeding four square feet in area, shall be allowed in other locations. The message of said signs shall be limited to the name of the property, and the terms "Lot/Home For Sale", "For Rent", "For Lease", "For Development", etc. All of these signs shall be located off the street right-of-way.
2. All such temporary signs shall be removed within seven days after the property has been sold, rented, leased, etc.
3. Signs bearing the words "Open House" shall be allowed only when the property is staffed.
4. No sign allowed under this subsection shall be lighted.

#### 11.6.2 Temporary Construction Signs

- A. Description. Builder Signs (11.8.1) a sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project is allowed. Signs located within the jurisdiction of a legally constituted HOA, POA, or similar entity may have additional restrictions.
- B. Permit Box: Not a regulated sign, but a required component of the project to advise inspectors of the permits for the project.

Standards. Such signs:

1. Builder Signs May not exceed twelve square feet each. The maximum height is 6 feet. Signs in conjunction with all other signs shall have a combined maximum total area of 50 square feet.
2. May not be illuminated.
3. May only appear at the construction site.
4. Shall be removed within fifteen days after final approval or a Certificate of Occupancy has been issued.
5. Builder signs and permit boxes shall be placed on front side of the property. The front side for these purposes shall be the same side of the property that provides for the driveway entrance.

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### 11.6.3 Temporary Agricultural Product Signs

- A. Description. Seasonal sale of Agricultural Products and related goods.
- B. Standards.
  - 1. One on-premises sign may be allowed. Said sign shall be located off the street right-of-way. Such sign may have a maximum area of 32 square feet and may not be illuminated.
  - 2. A maximum of two off-premises signs shall be allowed. Additional signs may be permitted with the approval of the UDO Administrator. Said off-premises signs may have a maximum area of 4 square feet each and may not be illuminated. No such sign may be placed in a right-of-way.
  - 3. Signs may be erected no earlier than three days before the event and must be removed within 24 hours after the close of the event.

### 11.6.4 Temporary Holiday/Special Events Signs On and Off Premises

- A. Description  
Temporary special event signs, holiday decorations or banners for religious, charitable, civic, fraternal or similar nonprofit or not for profit organizations. Including but not limited to decorations for a private commercial or government entity. (See Article 14.7 for events that do not require permits.)
- B. Standards
  - 1. Signs may be erected no sooner than 30 days before the event and shall be removed no later than seven days after the event.
  - 2. Signs may not exceed 32 square feet.
  - 3. Signs may not be illuminated.

### 11.6.5 Other Temporary Banners On Premises

- A. Description. Banners, pennants and flags for special events and grand openings.
- B. Standards.
  - 1. Signs may not be erected for longer than 14 days.
  - 2. Within any calendar year, any use may be allowed temporary signs of this nature for no greater than three 14-day periods.
  - 3. Signs may not exceed 32 square feet.

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### 11.6.6 Yard Sale Signs

- A. Description. Signs relating to the sale of personal property.
- B. Standards
  - 1. One on premise and three off-premises yard sale signs per yard sale.
  - 2. All such signs shall be erected within 24 hours of such sale and shall be removed within 24 hours after the yard sale has been terminated.
  - 3. No such sign shall be greater than two square feet in area. All such signs shall be located off the street right-of-way.

### 11.6.7 On Premises and Off Premises Signs

- A. General On-premises signs and off premises signs are permitted subject to the following standards, see chart below:

Zoning District	Sign Types Permitted	Number of Signs Permitted	Sign Separation (feet)	Maximum Sign Area (per sign)	Maximum Sign Height including support structures. (feet)
EPUD, SBR-6000, R-20, R15, R-10, MR, MR-CD	Freestanding <sup>1</sup> (e.g., monument, column etc.)	4 <sup>2</sup> /per neighborhood	100	64 sq. ft. <sup>3</sup>	8'
	Wall	1/per building <sup>3</sup>		10% of wall area 3, 5	9'
CI, CLD, NC EPUD	Freestanding	1/per major entrance into the development and buildings with multiple tenants	500	96 sq.ft.	
	Human Signs <sup>6</sup> (any sign that requires a person to hold it, wear it etc)	1 per improved lot			
CI					

Notes:

<sup>1</sup> These may be either monument signs or subdivision/neighborhood entry signs attached to, painted on, or integral to a structure constructed as part of a landscaped entry amenity. In addition to the structure that carries the subdivision/neighborhood identification any structures adjacent to or flanking the main entry sign and ingress/egress roads will be considered part of the entry amenity.

<sup>2</sup>Wall signs may not extend above the parapet of the building or 50 feet, whichever is less. <sup>3</sup> Movie theaters may have changeable copy wall signs (i.e. reader boards) that exceed the maximum sign area as approved by the UDO Administrator.

<sup>4</sup> Multi-tenant buildings 3 stories or less, are allowed one sign per tenant

<sup>5</sup>The combined area of all signs of a multi-tenant building must be less than 10% of the designated primary wall(s). Corner building have the option of having 2 primary walls

<sup>6</sup> 4:00 PM, not allowed on Saturdays, Sundays and all Federal Holidays, and persons holding/wearing such signs must be outside the NCDOT right-of-way.

**B. Additional Requirements for On-Premises Wall Signs**

1. Wall signs may not project more than six inches from the building wall, canopy or supporting structure.

2. A wall sign or its supporting structures may not cover any window or part of a window.
3. Wall signs may not extend over a right-of-way or public easement.

C. Multiple Delivery Docks & Entry Doors

Multi-tenant buildings with multiple rear delivery doors/docks are each allowed the option of one small, discrete identification wall sign, not to exceed 4 square feet to assist in the correct delivery process.

## **ARTICLE 12 SUBDIVISION STANDARDS**

### **12.1 Purpose**

This Article is designed and enacted to provide for the orderly development of the Town through the regulation of the subdivision of land. The regulations in this Article are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the Town; to ensure the provision of adequate facilities for transportation, water, sewerage, and of the public facilities in the subdivision; to ensure the proper legal description, documentation, and recording of subdivided land; and to create conditions essential to the public health, safety and welfare.

### **12.2 Applicability of Article**

12.2.1 This Article shall apply to all subdivisions of land as defined by Article 4.6 provided, however, that subdivisions that meet the requirements of Article 4.6.2 shall not be subject to the provisions of this Article.

12.2.2 Each subdivision of land shall meet the minimum standards of design and contain the improvements required by this Article.

### **12.3 Suitability of Land**

12.3.1 Land that has been determined by the Town on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed, shall not be platted for that purpose unless and until the subdivider has taken the necessary measures to correct said conditions.

12.3.2 Areas that have been used for disposal of solid waste shall not be subdivided.

12.3.3 Subdivision proposals shall be consistent with the need to minimize flood damage and provide adequate drainage to reduce exposure to flood hazards.

### **12.4 Name Duplication**

The name of the subdivision shall not duplicate, be phonetically similar nor closely approximate the name of an existing subdivision within the Town or Brunswick County. All subdivision and street names should be coordinated with Brunswick County EMS/911.

## 12.5 Improvement Guarantees

Fiscal assurance of installation and maintenance of required improvements shall be required in conformance with Article 4.6.12 (Improvement Guarantees)

## 12.6 Development Agreements (Reserved)

## 12.7 Subdivision Design

### 12.7.1 Access

New subdivisions shall comply with the requirements of Article 9.2 (Access).

### 12.7.2 Blocks

- A. The length, width, and shape of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for vehicular and pedestrian circulation; control and safety of street traffic; emergency vehicle access limitations and opportunities of topography; and convenient access to public recreation areas.
- B. Blocks shall have sufficient width to allow 2 tiers of lots of minimum depth except where single tier lots are required to separate residential development from through-vehicular traffic or another type of use in non-residential subdivisions; or where abutting a water area.
- C. Blocks shall not exceed 1,000 feet in length and through connecting streets shall be required.
- D. The Planning Board may require the construction of a pedestrian crosswalk or access of at least 15 feet in width to provide convenient public safe access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious, or transportation facilities.
- E. Block numbers shall conform to the Town street numbering system, if applicable.

### 12.7.3 Lots

- A. Lots in new subdivisions shall conform to dimensional regulations of the district in which the subdivision is located and any other dimensional requirements that may be imposed by additional regulations.

- B. Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use and the surrounding area.
- C. All lots shall have public street access and frontage meeting the requirements set forth in Article 7. The following exception may be approved:
1. Lots and units located in cluster developments and Planned Unit Developments with a Property Owners Association in which permanent access is guaranteed by means of approved private streets and/or drives. The development as a whole shall have public street access and frontage in accordance with Article 7.
- D. Double frontage and/or reverse frontage lots shall be prohibited in residentially zoned districts. Flag lots shall also be prohibited.
- E. Corner lots shall be increased one and one-half (1.5) times the minimum required lot size since corner lots normally have less building area due to the front setback line being applicable to 2 or more sides.
- F. Any portion of subdivision within the 100-year FEMA flood plain designation or any area known to be subject to flooding shall be so identified on the preliminary plat and final subdivision plat. Base Flood elevations shall be shown on all subdivisions involving a tract of 5 acres or greater. All wetlands and associated buffers shall be identified for protection.
- G. Cul-de-sac Circle Width-- In the case of lots on the turning circle of a cul-de-sac, the curb width will be a minimum of 50% of the district lot width requirement but not less than 20 feet. (Added 06.05.12)

#### *12.7.5 Street Lighting*

The developer shall install streetlights in all subdivisions of 10 lots or more in accordance with the Town of St. James Community Appearance Manual.

#### *12.7.6 Easements*

- A. The Town in consultation with the utility provider shall approve utility and drainage easements.
- B. Utility and drainage easements shall be provided and shall be at least 20 feet wide. Drainage easements shall be centered on rear or side lot lines where possible where a subdivision is traversed by a water course, drainage way, drainage tile, channel, or stream, there shall be provided a



stormwater easement or drainage right-of-way conforming substantially to the lines of such water course, and such further width as will be adequate for the purpose.

- C.. The Final Plat shall include a note stating that no improvements or structures will be placed in the utility easement.
- D.. Easements shall be dedicated to the Town or utility provider, as appropriate.

#### *12.7.7 Wetlands*

Ecologically sensitive lands, such as marshes, Carolina Bays, pocosins and swamps, when in the ownership of the owner/applicant, shall be preserved whenever possible for the public interest. Some lots may contain jurisdictional wetlands or other waters. Draining, filling, grading, excavating and other land disturbing activities in jurisdictional wetlands are regulated and may be prohibited by federal and state law. No such activities shall be undertaken on any lot without prior consent in writing from the U.S. Army Corps of Engineers, and the State of North Carolina, Department of Environment and Natural Resources, Division of Water Resources, have been notified and all required permits have been obtained.

#### *12.7.8 Water and Sewer*

Provision of water and sewer to each structure (residential or nonresidential) shall be in accordance with the regulations promulgated by the appropriate jurisdictional authority.

#### *12.7.9 Utilities*

- A. All affected utility companies shall be provided with copies of the preliminary and final plats by the subdivider and be expected to work with the developer in designing the utilities plan for the subdivision.
- B. All subdivision proposals which have public utilities and facilities such as sewer, gas, electrical and water systems, shall have such systems located and constructed to minimize flood damage and to comply with the Town of St. James flood damage prevention ordinance.
- C. All utilities shall be installed underground. However, a developer shall not be required to bury power lines when the power lines existed above ground at the time of first approval of a plat or development plan by the Town, whether or not the power lines are subsequently relocated during construction of the subdivision or development or the power lines are

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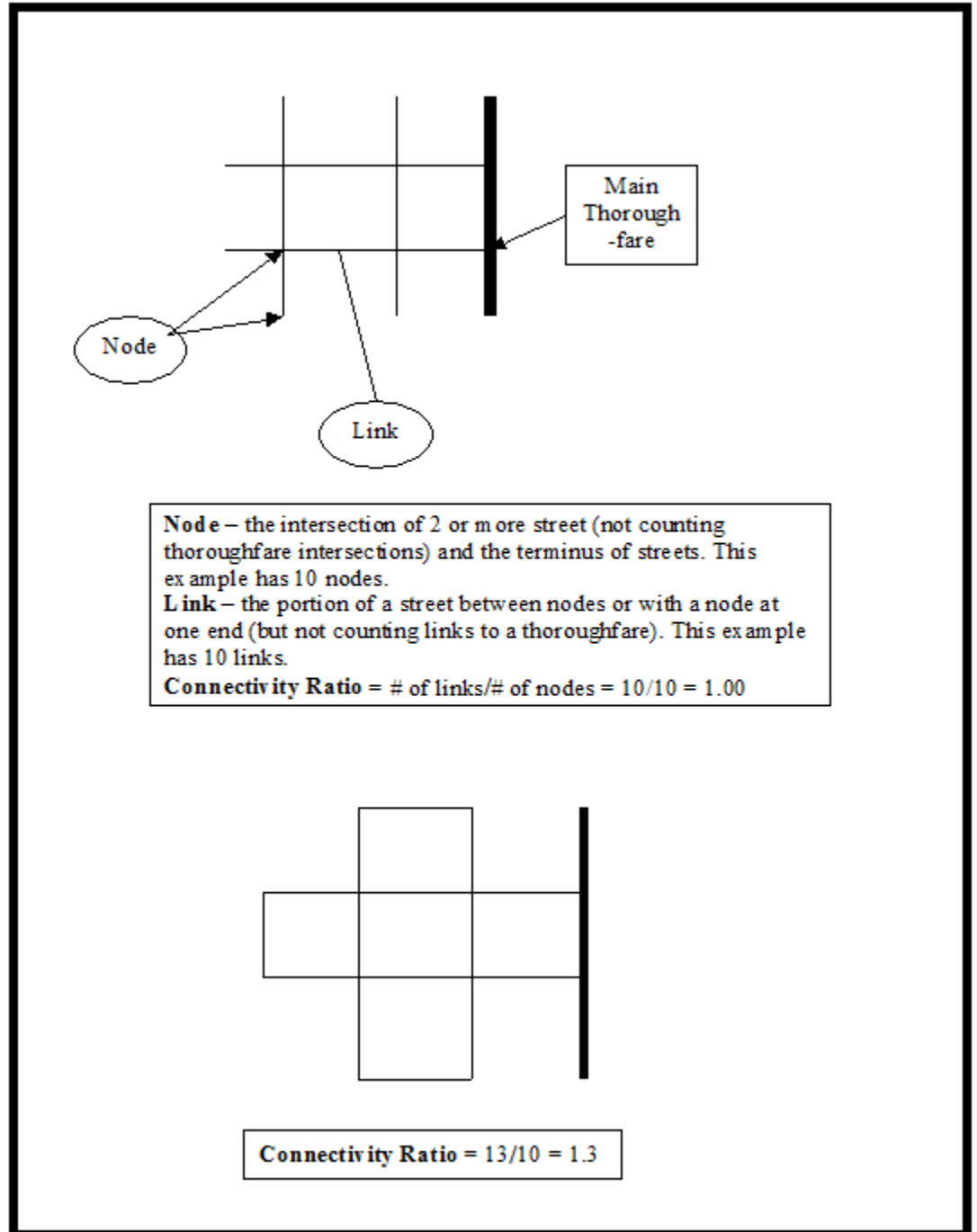
located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.

#### *12.7.10 Street Connectivity Requirements*

- A. *General.* The Town hereby determines and recognizes that an interconnected street system is necessary in order to protect the public health, safety and welfare. This will be accomplished by ensuring that streets will function in an interdependent manner by providing continuous and comprehensive traffic routes and adequate access for emergency and service vehicles. The interconnected system of roads should also enhance non-vehicular travel such as pedestrians and bicycles. Street interconnection design shall address connection of the subject subdivision to the adjacent thoroughfare within the subject subdivision. Rights-of-way for future street connections shall be dedicated to the public at the time of final plat approval.
- B. *External Access Required.*
1. External access to a development will meet the following requirements. In determining the number of access points that shall be required, the cumulative impacts of prior developments on the roads shall be considered:
    - a. There shall be at least 2 points of access for development with 120 or fewer lots, unless waived by the Planning Board. Certain land characteristic may require more than 2 access points.
    - b. For developments with more than 120 lots, at least three points of access to the roadway shall be provided. If the development is bounded by more than one thoroughfare, there shall be at least one entrance to each thoroughfare.
    - c. The required points of access shall be installed at the time of final plat approval. If the development is being developed in phases and a subject point of access is not necessary for the current phase, additional point(s) of access may be approved as construction access.
  2. A divided entrance shall count as one (1) point of access.
  3. The Planning Board may approve variations in the requirements of this Article when additional access points are precluded in the following circumstances:

- a. If the only additional access points available would require crossing floodplains, steep slopes, or other similar natural features; or,
  - b. When the existing development pattern precludes additional access points and fewer units than would otherwise be allowed would be out of character with the surrounding development.
- C. *Access to Adjacent Property.*
1. Access to existing developments shall be achieved by connecting to temporary turnarounds or the equivalent provided in the existing development.
  2. Access to future developments is required on each side (as defined by each of the cardinal directions) of a development as follows:
    - a. At least one future connection for every 1,400 linear feet on any single side of the proposed development.
    - b. Future connections are not required to adjoining sites that are permanently protected from development through conservation easements or ownership that precludes development. Nor are future connections required if the only point of access would require crossing floodplains, wetlands, or other similar natural features.
- D. *Within the Proposed Subdivision.* All proposed streets shall be continuous and connect to existing or platted streets. Street offsets are not desired and must be approved by the Planning Board. Cul-de-sacs will be allowed if they enhance the appearance of the neighborhood and the utilization of the land. The street network for any subdivision shall achieve a "connectivity ratio" of not less than 1.00 in all Zoning Districts.
1. The phrase "connectivity ratio" means the number of street "links" divided by the number of "nodes" or link ends, including cul-de-sac heads.
  2. A "link" means and refers to that portion of a street defined by a node at each end or at one end. Approved stubs to adjacent property shall be considered links.
  3. A "node" refers to the terminus of a street or the intersection of two (2) or more streets, except that intersections that use a roundabout shall not be counted as a node.

4. For purposes of Article 12.7.10, the street links and nodes within the collector or thoroughfare streets providing access to a proposed subdivision shall not be considered in computing the connectivity ratio.



- E. The street connectivity requirements set forth in this Article are established as standards. The Town recognizes, however, that due to the particular nature of a tract of land or other factors strict adherence to these standards may not be practical or desirable and, therefore, the Planning Board has discretion whether or not to require the actual connection to adjacent property.

## 12.8 Streets

### 12.8.1 Street Classification

- A. In all new subdivisions, streets shall be classified as provided in this Article.
1. The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day.
  2. The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive.
  3. Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.
- B. The classification of streets shall be as follows:
1. *Alley*. A vehicular way used for providing service access along rear or side property lines of lots that are also served by one of the other listed street types. Alleys are not intended to accommodate through traffic.
  2. *Minor*. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than 9 dwelling units or expected to or does handle up to 75 trips per day.
  3. *Local*. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least 10 but no more than 25 dwelling units or expected to or does handle between 75 and 200 trips per day.
  4. *Cul-de-sac*. A street that terminates in a vehicular turnaround.
- C. *Minimum Right-of-Way*.
1. *All Streets*.

- a. Right-of-Way widths may not be less than the following and a 4 foot wide sidewalk/multi-use path shall be required where indicated:

	ROW	Sidewalk/Multi-Use Path
Principal Arterial Freeways/Other	150/90	None
Arterial/Thoroughfare	100	One Side
Collector	70	One Side
Subcollector	50	One Side
Local Road/Street	40	One Side
Cul-de-sac	45	One Side
Alley	20	None

- b. The subdivider is only required to dedicate up to 100 feet of right-of-way. In cases where over 100 feet of right-of-way is required, the subdivider will be required only to reserve the amount in excess of 100 feet in width. In all cases in which right-of-way is sought for an access-controlled facility, the subdivider will only be required to make a reservation.
2. *Private Streets.* All new streets shall be constructed to meet all NCDOT Minimum Construction Standards for Subdivision Streets. All private roads shall be paved and provided with sidewalks on at least one side of the street.

D. *Intersections.*

1. All streets shall intersect at or as near to 90 degrees as possible within topographic limits.
2. Offset intersections are to be avoided unless an exception is granted by NCDOT, or by the Planning Board (for private streets). A minimum length of 200 feet between survey centerlines should separate intersections that cannot be aligned.

3. Intersections with arterials, collectors, and thoroughfares, shall be at least 1,000 feet from centerline to centerline. Greater separation distances may be required by the N.C. Department of Transportation, or by the Planning Board (for private streets).
- E. Signs denoting the right-of-way boundaries of dedicated or reserved unopened streets and future connections shall be erected and maintained according to Town standards.
- F. Appropriate traffic control devices and signage shall be installed based on traffic engineered studies. All signs shall meet the Manual on Uniform Traffic Control Device Standards.

## **12.9 Recreation Space**

### *12.9.1 General Provisions*

Every subdivider of land for residential purposes shall dedicate a portion of such land, as set forth herein, for the purpose of providing active and passive recreation areas to serve the residents of the immediate neighborhood within the subdivision.

### *12.9.2 Active and Passive Recreation Space Dedications*

Recreation areas shall be defined for active or passive recreation use as follows:

- A. Active Recreation consists of areas such as park land chosen without regard to natural features for the explicit purposes of enhancing design, such as village commons, or providing space for outdoor recreation activities that may include, but not be limited to, golf courses, tennis courts, ball fields, swimming pools, and tot lots with play equipment. No more than 25% of the required active recreation may be located in an indoor facility such as, but not limited to, exercise rooms, clubhouses, and gymnasiums. Parking spaces associated with these uses, whether required or not, shall not be counted towards satisfying the required active recreation space provision.
- B. Passive Recreation areas shall include amenities such as walking paths, piers, picnic areas and other passive recreational uses. Such uses shall be subject to approval and/or permits issued by the proper authorities, including any necessary CAMA approvals, and only will be allowed with minimal disturbance of the vegetation. The passive recreation areas may consist of undisturbed, unique and sensitive natural features and may include streams, flood plains, wetlands (excluding tidal marsh), conservation resources and natural heritage areas if identified. Undisturbed soils and natural vegetative cover for wildlife habitat will characterize these natural spaces.

1. The Town subject to the acceptance by the Town Council;
2. Other public jurisdictions or agencies, subject to their acceptance;
3. Property owner, condominium or cooperative associations or organizations;
4. Shared, undivided interest by all property owners in the subdivision, which interest shall run with the land and be transferred when the individual properties are sold.

#### 12.9.3 *Required Recreation Space*

- A. All new residential subdivisions shall provide recreation space in the amount of 10% of the gross acreage within the subdivision, with not more than 25% of the recreation space to be used for active recreation. The developer shall designate the area which meets the required recreation space on the subdivision plan and in the event additional recreation space is provided (in excess of the required amount), said excess recreation space shall not be used in the future for any other purpose, but shall remain in perpetuity as recreation space. The recreation space either shall be dedicated to the Town or a conservation easement shall be granted to the Town.
- B. Recreation space areas shall be of such minimum dimensions as to be functionally usable and maintainable. Residential subdivisions that are small enough so that the amount of required recreation space area does not exceed twenty (20,000) square feet shall be exempt from providing such space when the Planning Board determines that:
  1. Recreation space area cannot be combined with such areas serving adjacent property to form a functionally usable and maintainable area; or
  2. The recreational needs of the development can be adequately met by existing or planned Town-owned park or recreation space areas located close enough to such development to reasonably serve its residents. In determining the size of a subdivision for the purposed of this Article, the Planning Board shall consider the entire project developed on a single tract or contiguous multiple tracts under common ownership, regardless of whether the subdivision is constructed in phases or stages.

#### 12.9.4 *Standards for Park and Recreation Areas*

Except as otherwise approved by the appropriate governing body, all park, recreation and open space areas shall meet the following criteria:



1 *Unity.*

*The dedicated land shall form a single parcel of land, whether or not the subdivision is developed in phases or sections, except where it is determined by the Planning Board that 2 or more parcels would be in the best interests of the residents of the subdivision and the public; and in such case, the Planning Board may require that such parcels be connected.*

2 *Usability.*

*At least two-thirds of the total land dedicated must be outside of wetland areas under the jurisdiction of Federal and State regulatory agencies and be usable for active and/or passive recreation.*

3 *Shape.*

*The portion of dedicated land to be used for active recreation shall be of such a shape to be usable for active recreation facilities including but not limited to tennis courts, racquetball courts, swimming pools, exercise rooms, clubhouses, athletic fields, basketball courts, swings, slides and play apparatus. The Developer shall include said area(s) on the preliminary and final subdivision plat, and must demonstrate that the shape and size of the area is adequate for the intended purpose(s).*

4 *Access within the Subdivision for which the Land Dedication is Made and Can be Combined.*

*All dwelling units in the subdivision shall have free, easy and convenient ingress and egress to and from the park, recreation and open space areas provided within the development by means of improved streets or dedicated walkways. Rights-of-way for such access shall be shown on the preliminary plats and final plats.*

5 *Topography.*

*The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed, and in no case shall the slope of the land dedicated be greater than 10%. The developer shall include said area(s) on the preliminary and final subdivision plat, and must demonstrate that the land is adequate for the intended purpose(s).*

6 *Landscaping.*

*Park, recreation and open space areas shall be landscaped and shall be provided with sufficient natural or manmade screening or buffer areas to minimize any negative impacts upon adjacent residences.*

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7 *Encroachments.*

*The park, recreation and open space areas required by this section shall exclude roadways, parking areas and other accessory uses except recreational facilities.*

12.9.5 *Procedure for Dedication of Land*

A. *Designation of Land to be Dedicated.*

Subdividers shall designate on the preliminary subdivision plat the area or areas to be dedicated pursuant to this Article.

B. *Review of Land to be Dedicated.*

A copy of the preliminary subdivision plat showing the areas to be dedicated shall be submitted to the Planning Board for review and approval at its next scheduled meeting.

C. *Ownership.*

The owner, developer, or subdivider, subject to the approval of the Planning Board, shall select the type of ownership of land dedicated for park, recreation or open space purposes. The type of ownership may include, but is not necessarily limited to, the following

1. The Town subject to the acceptance by the Town Council;
2. Other public jurisdictions or agencies, subject to their acceptance;
3. Property owner, condominium or cooperative associations or organizations;
4. Shared, undivided interest by all property owners in the subdivision, which interest shall run with the land and be transferred when the individual properties are sold.

12.9.6 *Flexibility in Administration Authorized*

- A. The requirements set forth in this Article concerning the amount, size, location and nature of park, recreation and open space areas to be provided in connection with residential developments are established by the Town Council as standards that preemptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this Article may be achieved even though the standards are not adhered to with mathematical

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precision. Therefore, the Planning Board is authorized to permit minor deviations from these standards whenever it determines that:

1. The objectives underlying these standards can be met without strict adherence to them;
  2. Because of peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.
- B. Whenever some deviation from the standards set forth in this Article is authorized, the official record of action taken on the development application shall contain a statement of the reasons for allowing the deviation.

## **12.10 Property Owner Associations**

12.10.1 Final plans shall not be approved until the Planning Board has determined that adequate provisions have been made through legal covenants and restrictions which shall govern a property owners' association, or through other legal agreements, that the responsibility for maintenance of streets, utilities, storm water management facilities, drainage ditches or swales, or other area designated as private areas is the responsibility of the property owners' association.

12.10.2 Required conditions of property owners associations. Property owners associations or similar legal entities that shall own and maintain park, recreation and open space areas, streets, utilities, storm water management facilities, drainage ditches or swales, or other areas designated as private areas or as common areas shall be established in such a manner that:

- A. Provision for the establishment of the association or similar entity shall be made before any lot in the development is sold or any building occupied.
- B. Membership must be mandatory for each property owner within the subdivision.
- C. The association shall be responsible for the liability insurance, property taxes and the maintenance of the areas.
- D. Any sums levied by the association that remain unpaid shall become a lien on the individual property owner's property.

- E. If all or any portion of the property held by the association is being disposed of or if the association is dissolved, the passive and active recreation and open space shall be first offered for dedication to the Town.
- F. The right of use of the passive and active recreation or open space and all improvements shall be guaranteed to each resident of the subdivision.
- G. The declaration of covenants and restrictions that will govern the association shall be submitted for review by the Town Attorney and recorded prior to the recording of any final plats for the subdivision and reference to the deed book and page provided on the plat.

12.10.3 Property owners' associations shall be responsible for continuing upkeep and proper maintenance of all private infrastructure facilities and common areas within the respective subdivision.

#### **12.11 Sites for Public Use**

In subdividing property, due consideration shall be given by the subdivider to the reservation of suitable sites for schools and other public uses in accordance with N.C.G.S. Chapter 160D-804.

#### **12.12 Placement of Monuments**

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, shall apply when installing permanent monuments.

**ARTICLE 13**  
**STORMWATER CONTROL**

**13.1 Stormwater Control**

Stormwater control shall continue to be governed by provisions of the Town of St. James Ordinance # 03-006, as it may be amended from time to time, and any agreement that may have been entered between the Town and Brunswick County.

## ARTICLE 14 TEMPORARY USES AND STRUCTURES

### 14.1 Purpose

This section allows for the establishment of certain temporary uses of limited duration, provided that such uses do not negatively affect adjacent properties or Town facilities, and provided that such uses are discontinued upon the expiration of a set time period. Temporary uses do not involve the construction or alteration of any permanent building or structure. Temporary uses may occur in permanent or temporary structures.

### 14.2 Temporary Use in a Temporary Structure

Temporary structures are built specifically for the temporary use described below. Approval may include the structure as well as the intended event

### 14.3 Temporary Use in a Permanent Structure

Temporary Use in a Permanent Structure refers to a specific event to be conducted in a permanent structure that has already been approved by the town and/or POA. Upon completion of the temporary event, the structure will be returned to the original condition as required by the original approval.

### 14.4 Table of Allowed Temporary Uses and Structures included in Table 14.8

### 14.5 Temporary Use Permits

All temporary uses and structures that are required to obtain a temporary use permit by Table 14.8 shall obtain such permit pursuant to the procedures set forth in this Article. A temporary use permit shall be reviewed, approved, or revoked only in accordance with the regulations of Section 14.8 of this Article. Temporary uses must meet the requirements of the North Carolina State Building Code.

#### 14.5.1 General Requirements for All Temporary Uses and Structures

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Article.

- A. The temporary use complies with all applicable general and specific regulations of this UDO, unless otherwise expressly stated.
- B. Permanent alterations to the site are prohibited. Minor alterations are allowed, but the site must be restored to the original state at the end of the temporary use period. For temporary uses that are not continuous over the temporary use period (e.g. 1 day per month over a multi-month period) the site must be restored after each occurrence.
- C. Signage shall comply with applicable provisions of Article 14.5 and Article 11.

- D. The temporary use or structure will not violate any applicable conditions of approval that apply to a principal use on the site.
- E. If the property is undeveloped, it must contain sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing protected resources, including required buffers.
- F. If the property is developed, the temporary use must be located in an area that is not actively used by an existing approved principal use, and which would support the proposed temporary use, including parking, without encroaching or disturbing existing buffers or required setbacks from buffers or streetscapes, open space, landscaping, traffic movements, pedestrian circulation.
- G. Tents and other temporary structures, including temporary storage units, will be located so as to not interfere with the normal operations of any permanent use located on the property.
- H. Off-street parking is approved by the UDO Administrator.
- I. All inspections and permits required by applicable construction codes have been made and approved.

## 14.6 Specific Regulations for Certain Temporary Uses and Structures

### 14.6.1 Expansion or Replacement of Existing Facilities

#### A. *Purpose and Scope*

Factory-fabricated, transportable building(s) that are designed to arrive at the site ready for occupancy, except for minor unpacking and connection to utilities, and designed for removal for use elsewhere, may be placed on a property to serve as the following:

1. Expansion space for existing churches, health care facilities, and government offices, provided that plans for the permanent expansion of the existing facilities have been submitted to and approved by the Town.
2. Temporary offices for construction and security personnel during the construction of a development for which the Town has issued a building permit.
3. Temporary quarters for recreational facilities that are being provided in conjunction with a new residential development, provided that the Town has approved a site plan or subdivision plan for the development.

4. Temporary quarters for a non-residential use when the permanent building has been damaged or destroyed by fire or other physical catastrophe, provided that a building permit for the permanent facility is obtained within ninety (90) days after approval of the temporary quarters. The UDO Administrator may approve a written request for an extension of an additional ninety (90) days for good cause shown. Failure to obtain a building permit within the time frame allowed will revoke approval for the temporary quarters. With justification, additional time extensions may be applied for on a case by case basis.

5. One (1) temporary office per site to include, but not be limited to, the following uses: hiring, membership solicitation, apartment office/leasing, and other general office uses provided that the Town has approved a site plan or subdivision plan for the development. The number of modular buildings housing such uses shall be limited to one (1), unless additional buildings are approved by the UDO Administrator. Such modular buildings shall not be placed on the property prior to the issuance of a building permit.

**B. *Standards and Requirements for Approval***  
*In addition to meeting the general standards of Article 14.5.1 all temporary structures approved pursuant to this section shall meet the following standards and requirements:*

1. *Location*

Temporary structures allowed under Article 14.6.1 may be located anywhere on site, except within the following areas:

- a. Existing or planned vegetated buffers or within the buffer setbacks.
- b. Other areas designated on the site and/or subdivision plan for open space, vehicular use, or ingress/egress.

2. *Other Requirements*

- a. Under skirting shall be installed around all temporary structures.
- b. For those temporary structures requiring site plan approval, the temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.
- c. Foundation plantings shall be required for temporary structures intended for use as temporary recreation facilities.



- d. A sketch plan shall be submitted to and approved by the UDO Administrator prior to installation of the temporary structure.

3. *Duration*

Temporary structures under this section may remain on the site for no more than twelve (12) months. This period may be renewed for two (2) twelve (12)-month periods, for good cause shown, upon approval of a written request, submitted to the UDO

Administrator thirty (30) days prior to the expiration of the permit. In no event, however, shall such extensions allow the temporary structure to remain on the site for more than three (3) years.

#### 14.6.2 Real Estate Sales Office and Model Sales Home

A. General Requirements

One temporary real estate sales office or model sales home may be allowed as Incidental to a new residential or non-residential development provided that:

1. The use is located on a single-family lot or within a multi-family development that was approved by the Town as part of a residential development, or within a non-residential area of an approved planned unit development.
2. Reserved.
3. The temporary use is aesthetically compatible with the character of the community and the surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.
4. The temporary use complies with the minimum yard and setback requirements of the zoning district in which it is located.
5. Parking spaces shall be provided on the lot in a number sufficient to meet the projected demand.
6. For single-family developments, landscaping shall conform to the general landscaping requirements of Articles 7 and 10 of the UDO.
7. A site plan, containing sufficient information to show compliance with the above standards, shall be submitted to and approved by the Planning Department prior to installation of the sales office

8. The temporary use shall connect to public utilities.
9. Upon termination of the temporary real estate sales office or model sales home, the structure will be removed unless the structure will be converted into a permanent structure and meets all applicable requirements for permanent use.

B. *Duration*

1. *Temporary Real Estate Sales Offices*

Temporary real estate sales offices may be approved for a period of up to one (1) year. This period may be renewed for two (2) additional twelve (12)-month periods, but not exceeding a total of three (3) years, for good cause shown, upon approval of a written request for such an extension by the UDO Administrator, filed thirty (30) days prior to the expiration date of the existing approval. All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.

2. *Model Sales Homes*

Model sales homes may be approved for a period of up to three (3) years. This period may be renewed for additional six (6)-month periods, for good cause shown, upon approval of a written request for such an extension by the planning director.

14.6.3. Sale/Display of Goods Other Than Agricultural Products

A. *Applicability*

Merchants may display and/or sell goods in the Town on a temporary basis without establishing a permanent place of business, subject to the standards and requirements set forth in this Article.

B. *Location*

1. The outdoor display of goods consistent with the provisions of the UDO is considered as an accessory use and does not require a temporary use permit. The outdoor sale of goods does require a temporary use permit.
2. The proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within two hundred (200) feet of an occupied residential dwelling unit.
3. *Commercial Sales*  
A temporary display or sale of goods for commercial purposes may take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed out-parcel

of such a site.

4. **Non-Commercial Sales**

A temporary sale of goods for public or institutional purposes may take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed out-parcel of such a site. Upon approval of the UDO Administrator, such sales may take place on public property, including: public parks owned or maintained by the Town, public street rights-of-way, any other property owned by the Town.

C. *Similar Products, Goods, and Services*

A temporary display or sale of products, goods and/or services for commercial purposes shall be limited in scope to similar or complimentary products, goods, and/or services to those offered by the existing principal use located upon the same site. The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.

D. *Submittal Requirements*

The operator of the temporary sale of products, goods and/or services shall provide the UDO Administrator with the following:

1. Written permission from the property owner.
2. A sketch plan showing:
  - a. The location of any tent or temporary structure to be used.
  - b. The location of pedestrian, vehicular, and emergency ingress and egress over the entire property, including pedestrian access to streets, driveways, and parking areas, and obstructions of vehicular rights-of-way.
  - c. The location and number of available off-street parking spaces to serve the temporary sale of goods.
  - d. The location, size, color, and design of all temporary signs in accordance with Article 11.
  - e. Electrical power connections, if applicable.

E. *Hours of Operation*

The hours of operation of the temporary sale of products shall be from no earlier than 7:30 am to no later than 10:00 pm, or the same as the

hours of operation of the principal use, whichever is more restrictive.

F. *Duration; Sales per Year*

1. The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than ninety (90) total days per calendar year.
2. The number of temporary sales of products per site per calendar year shall not exceed fifty (50) sales events, for a combined total of ninety (90) days. For the purposes of this section, "site" shall mean the entire parcel, including out-parcels, whether it is a single tenant, multi-tenant, or shopping center use.

G. *Requirements*

1. The UDO Administrator shall issue a temporary use permit for the temporary display and/or sale of products if the proposed use satisfies the following requirements:
2. The property contains an area that is not actively used, which would support the proposed temporary sale of products without encroaching into or disturbing existing buffers, open space, landscaping, or traffic movements.
3. Tents and other temporary structures will be located so as not to interfere with the normal operations of any permanent use located on the property.
4. All tents and other temporary structures shall match the predominant color of the principle structure on the premises or be of a neutral or earth tone color.
5. The temporary use will not occupy any existing parking required for the principal use.
6. The temporary sale of products will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic.
7. All inspections and permits required by applicable construction codes have been made and approved by the UDO Administrator.

14.6.4 Sale of Agricultural Products Grown Off-Site

A. *Agricultural Products Defined*

For the purposes of this section, agricultural products are defined as

products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pine straw; bees and beekeeping products; seafood; and dairy products. For the purposes of this section, processed or prepared food products of any kind shall also be considered as saleable products.

**B. *Approval Criteria***

1. The temporary sale of agricultural products grown off-site may be allowed subject to issuance of a temporary use permit pursuant to Article 14.7.4 (for exemptions see Article 14.7.2 through 14.7.3. Temporary sales of agricultural products grown off-site shall meet all requirements for temporary sale of non-agricultural goods set forth in Article 14.6.3 above; however, the temporary sale of such agricultural products may occur from a vacant lot, in addition to a developed site where the principal use is retail sales.
2. The temporary sale of agricultural products grown off-site is exempt from the requirement for similar products, goods, or services to those offered by an existing principal use as required under the provisions for the temporary sale of non-agricultural products.
3. The temporary sale of agricultural products grown off-site may be accomplished from a vehicle, trailer, or shipping container, provided such vehicle, trailer, or container is located in accordance with the provisions of Article 14.6.3.
4. The temporary sale of agricultural products grown off-site shall be allowed on an individual parcel or site for no more than one hundred eighty (180) total days per calendar year.

**14.6.5 Sale of Fireworks**

- A. The sale of fireworks is specifically prohibited within the Town of St. James.

**14.7 Events**

**14.7.1 Purpose and Intent**

The purpose for this section is to establish permit requirements, allowable time frames, and submittal requirements for four (4) recognized types of events. These provisions are intended to address potential significant negative impacts to public or private properties from events or event-related activities, not to prevent such activities from occurring or to unduly restrict private events.

## 14.7.2. Types of Events

### A. *Community Center Events, Public and Private*

Community centers are locations or facilities where members of a community may gather for group and club activities, social activities, information meetings, educational activities, recreational activities, special events, and other purposes. They are often facilities that community members (and sometimes others), can rent for a function or event. They may sometimes be open for the whole community or for a specialized group within the greater community. Examples of Groups that use community centers include youth groups, seniors, specific religious groups, etc. Community centers may be municipally owned (public facilities) or privately owned. Parks and recreational centers/facilities are considered community centers. The typical mission of Community Centers is to provide a facility for programs that meet the served community needs, enhance the quality of life and promote community involvement through the provision of a venue for recreation, cultural activities, education, health, wellness and fitness activities, as well as family life activities. Gymnasiums, ceramic rooms, meeting rooms, kitchens, multipurpose activity rooms, weight/fitness rooms, pre-school rooms, and restrooms are often found in community centers. Outdoor amenities are often included in community centers (e.g., play equipment, athletic fields, multipurpose courts and parks). Municipally owned community centers are duly chartered for such activities and are exempt from temporary use permit requirements. The St. James Community Center is an example of a municipally owned facility. Privately owned community centers approved by the Town of St. James and conforming to the requirements of this UDO are also exempt from temporary use permit requirements for activities within the boundaries of the approved charter and facilities.

### B. *Town-Recognized Event*

A Town-recognized event is one that is in part or wholly sponsored by the Town, recognized by the Town, or proclaimed as a Town-recognized event by the Town Council.

### C. *Not-For-Profit Event*

A not-for-profit event is any event that is requested by, or held for, a recognized non-profit organization or other charitable organization.

### D. *Special Events*

Special events are any organized event, specifically including, but not limited to a temporary sales event accessory to a principal use, or a circus, carnival, cultural event, fair, celebration, communal camping, ground-breaking, grand opening, religious service, musical or other show, which reasonably may be expected to attract one hundred (100) or more persons, but which do not meet the criteria of a Town-recognized event or a not-for-profit event.

E. *Private Events*

Private events are any organized events which are not open to members of the general public, typically has a duration of less than twelve (12) hours, and which is not expected to have significant negative impacts on surrounding properties. Examples of such events include, but are not limited to wedding ceremonies, funerals, private parties or other similar gatherings. Events that take place in such venues as privately owned and managed clubs, lodges, churches, gathering areas, sports facilities, etc. that may be open to both members and non-members are exempt from temporary use permit requirements, but are subject to meeting the facility conditions set forth in Article 8.

F. *POA/HOA Events*

Events that take place entirely within the boundaries of a parcel or possess sites and/or subdivision plans approval for such activities (e.g. assembly halls, convention centers, amphitheatres, or event centers) are exempt from temporary use permit requirements but must meet the facility conditions set forth in Article 8.

#### 14.7.3 No Permit Required

- A. The following types of events do not need to obtain temporary use permits, but may be subject to the maximum allowable time frames, temporary signage requirements, and specific regulations as listed in Table 14.8.
1. Athletic events held at approved sports facilities.
  2. Temporary not-for-profit car washes held on developed sites.
  3. Garage and/or yard sales.
  4. Block parties occurring entirely upon the grounds of a private residence, grounds privately owned by institutions (e.g., streets and parks owned by an HOA, POA, etc.), or common area of a multi-family residential development.
  5. Other events with ninety-nine (99) people or fewer in attendance.
  6. Private events on privately owned property, including privately owned streets, parks, etc., administered by an HOA/POA.
  7. Events that occur or take place entirely within the boundaries of a parcel or parcels that possess site and/or subdivision plan approval for such activities (e.g., assembly halls, convention centers, amphitheatres, parks, community/recreation centers, or event centers).

#### 14.7.4 Permit Required

A. Special events or not-for-profit events, shall require a temporary use permit obtained in accordance with this section and the procedures of this Article, unless otherwise exempted in Article 14.7.2 through Article 14.7.3.

B. Any application to hold a special event or not-for-profit event shall be made in advance of the event.

C. A permit to hold a special event or not-for-profit event issued to one person or organization shall permit any person to engage in any lawful activity in connection with the holding of the permitted assembly.

D. *Term of Approval/Permit*

The maximum allowable time frame for all allowable events is addressed in this Article of the UDO. The UDO Administrator may extend the consecutive-day limit or the annual limit upon approval of a written request for such an extension, for good cause shown.

E. *Additional Planning Requirements*

In addition to meeting the general standards of Section 14.8, all not-for-profit and special events shall also meet the planning requirements set forth below. The UDO Administrator shall be responsible for determining the adequacy of submitted plans.

1. An adequate plan for security and safety shall be implemented on and around the site of the event, including sufficient staffing, provision for pedestrian safety, restroom facilities (if necessary), and traffic routing
2. An adequate plan for public health, safety, and welfare on, around, and outside the site of the event shall be implemented, including a showing that the event will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the Town and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic.

F. *Submittal Requirements*

All applications for special and not-for-profit events shall include such information and supporting materials as are required by the UDO Administrator, including, but not necessarily limited to, the following.

1. A description of the proposed event, including the event's starting date and time, the event's ending date and time, the date and time preparatory activities will commence, and the date and time of completed post-event clean-up.



2. The location of the property (properties) upon which the proposed event will take place.
3. A security plan, if requested.
4. A parking plan.

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**ARTICLE 14.8 TABLE OF TEMPORARY USES BY DISTRICT**

<b>TEMPORARY USE PERMITS TABLE OF USES BY DISTRICT</b>										
<b>TEMPORARY USE PERMIT TABLE</b>										
<b>USES</b>	<b>R-20</b>	<b>R-15</b>	<b>R-10</b>	<b>MR</b>	<b>SBR-6000</b>	<b>CN</b>	<b>CLD</b>	<b>CI</b>	<b>EPUD</b>	<b>Prescribed Conditions</b>
<b>NO PERMIT REQUIRED **</b>										14.7.2;14.7.3
Structures and Events that do not require temporary										
<b>TEMPORARY STRUCTURES</b>										14.5.1
Expansion or Replacement of Existing Facilities (including offices for construction and/or security personnel)						PC	PC	PC	PC	14.6
Temporary Medical	P	P	P	P	P	PC	PC	PC	PC	
Temporary Classrooms	P	P	P	P	P	PC	PC	PC	PC	
Model Home	PC	PC	PC	PC	PC					
Temporary Storage						P	P	P		
<b>TEMPORARY SALES*</b>										14.5.1
Sales/Display of Goods/Products										14.6.3
Garage and/or Yard Sales	P	P	P	P	P	P	P	P	P	8.102, 14.7.3
Flea and Farmers Market						PC	PC	PC	PC	8.38, 14.6.4
Sales of Agricultural Product						PC	PC	PC	PC	14.6.4
Sales of Non- Agricultural Products						PC	PC	PC	PC	14.6.3

<b>EVENTS*</b>											14.7
Not for Profit Event with >100 people	P	P	P	P	P	PC	PC	PC	PC		14.7.4
Special Event with ≥100 people					PC	PC	PC	PC			14.7.3
Athletic Event at Sports Facility						P	P	P	P		8.5; 14.7.3
Other Event with <100 people	P	P	P	P	P	P	P	P	P		14.7.3
Block Party	P	P	P	P	P					P	14.7.3
Private Event on Owner's Property	P	P	P	P	P					p	14.7.3
Not for Profit Car Wash						PC	PC	PC	PC		14.7.2
Town Recognized Event	P	P	P	P	P	P	P	P	P		14.7.2

**P = Permitted by right**  
**PC = Permitted under prescribed conditions**  
**S = Use permitted by special use permit**  
**Blank = Not allowed**

**R20 – Residential**  
**R15 – Residential**  
**R10 – Residential;**  
**SBR 6000 – Residential**  
**EPUD – Existing Planned Unit Development**  
**CN – Commercial Neighborhood**  
**CLD – Commercial Low density**  
**CI – Commercial Intensive**  
**MRCDD – Multi-Family Conditional District**  
**PUD CD – Planned Unit Development**  
**SCO – Sports Club Overlay**  
**CDO - Corridor**

**\* St. James Service Club, Private, POA and Community Center events are exempt from temporary use fees**

**\*\* Community Center and POA/HOA activities are exempt from temporary use permits**

## ARTICLE 15

### LIGHTING

#### 15.1 SITE LIGHTING

##### 15.1.1 Purpose and Intent

St James desires to enhance the beauty of the area for its citizens, both during the day and at night. Outdoor lighting is required for the safety and beautification of the exterior environment during the night-time hours for various uses.

Nonresidential and multi-family buildings and projects, including outparcels, shall be designed to provide safe, comfortable, attractive, and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. Lighting equipment shall be selected and located to be integrated with the exterior environment. The lighting and lighting fixtures shall be designed so as to enhance the visual impact of the project on the community or to blend seamlessly into the surrounding landscape. Lighting design and installation shall meet on-site lighting needs without intrusion on adjoining properties.

This sets forth criteria for the installation of exterior lighting visible from the exterior of buildings and structures, the purposes of which are as follows:

- Permit reasonable uses of outdoor lighting for night-time safety, utility, security, productivity, enjoyment, and commerce;
- Preserve and enhance public safety and security, i.e. deter crime;
- Support adequate traffic and pedestrian safety;
- Protect drivers from disabling glare thereby enhancing traffic safety;
- Provide consistent night-time illumination throughout the Town thereby enhancing the Town's night-time character;
- Shield neighboring properties from nuisance glare and light trespass;
- Curtail light pollution to preserve the nighttime environment and
- Promote energy conservation through efficient lighting design and operation.

##### 15.1.2 Application

The requirements of this shall apply to:

15.1.2.A. All nonresidential or multi-family development; and

15.1.2.B. All residential subdivision development

##### 15.1.3 Exemptions

15.1.3.1 The following activities are exempt from the requirements of this:

- Outdoor lights used for a temporary event; permitted through a Temporary Use Permit
- Outdoor lights 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 Ordinance requirements; such lighting shall be located at least 50 feet from any adjoining residential district or use.

15.1.3.2 Outdoor lighting which is exempt from this shall only be illuminated while the activity takes place and during high traffic periods immediately before and after the event.

#### 15.1.4 Lighting Plan Submission

A site lighting plan shall be required as part of the application review for all non-residential and multi-family development areas proposed for illumination that is proposed to illuminate an area or façade fronting a road; where lighting equipment is proposed to be mounted within one mounting height of the property line, or where one or more pole-mounted luminaires are proposed. At a minimum, the submission shall contain the following:

##### 15.1.4.1 Illuminance Calculations

Provide a point-by-point foot-candle array in a printable format with suitable resolution and font size to be legible on one or more 11x17 sheets of paper indicating the location and aiming of illuminating devices. The point spacing shall not be greater than 5-ft x 5-ft (greater spacing may be permitted for very large areas) with a numerical value for horizontal illuminance ( $E_{horz}$ ) at grade given for each point to the nearest 0.1 fc.<sup>1</sup>

Provide a second point-by-point array with the same calculation grid raised to 5-ft above grade with a numerical value for vertical illuminance ( $E_{vert}$ ) for each point to the nearest 0.1 fc. The direction of the calculation shall be selected to maximize approximation of illumination on pedestrian faces and/or demonstrate compliance with trespass restrictions as applicable.

For façade illumination projects, provide a vertical array showing the illumination values perpendicular to the plane of the array.

Provide a summary of all calculation points indicating compliance with all illumination criteria required by this in tabular form.

##### 15.1.4.2 Luminaire Schedule

Provide a tabular schedule of proposed luminaires keyed to the point-by-point with fixture description to define the fixtures, lamps, supports, reflectors, poles, raised foundations and other devices. Indicate the light loss factor used for each type.

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<sup>1</sup> fc refers to foot candle throughout the document

#### 15.1.4.3 Catalog Cut Sheets

Provide product specification data from the manufacturer or electric utility and/or drawings and photometric report indicating the fixture BUG rating, cut-off classification, and a description such as decorative post top, wall pack, etc.

#### 15.1.4.4 Energy Code Summary

Submit a table indicating outdoor areas by type, applied metric (linear feet or square feet), allowable wattage, and proposed electric lighting load demonstrating compliance with North Carolina Energy Conservation Code, 2012 or latest edition.

#### 15.1.4.5 Supplemental Information

Any additional information that will help to inform the review and/or convey the intent such as topography plans, landscape planting plans, artistic rendering, etc. is encouraged.

### 15.1.5 Site Lighting Design Requirements

Lighting shall be designed to sufficient levels to allow for safe use of a site while accenting key architectural elements and emphasizing landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This can be accomplished through style, material, and/or color.

The Illuminating Engineering Society, IES, a not-for-profit professional organization of lighting practioners has established recommended design standards for various lighting applications which should be followed within the context of other established Town standards and customs. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements.

#### 15.1.5.1 Light Source (Lamp)

- A. Preferred electric light sources are fluorescent, metal halide, or static white light emitting diodes (LED), with a correlated color temperature between 4000-5000K.
- B. Color corrected high-pressure sodium is also acceptable.
- C. Filament sources (incandescent, halogen, xenon) sources are discouraged due to the safety and aesthetic implications of these short-lived sources which also have poor efficacy.
- D. Non color-corrected high-pressure sodium and low-pressure sodium lamps are expressly prohibited.
- E. The same light source type must be used for the same or similar types of lighting on any one site throughout any development.

#### 15.1.5.2 Luminaires (lighting fixtures)

- A. The light source, or luminous area or aperture, of a luminaire shall be

completely shielded behind an opaque housing and/or otherwise directed so that the light source is not visible from any street rights-of-way or adjoining properties. Full cutoff classification is preferred for all pole-mounted area lighting above 15 feet. Cutoff classification is preferred for pole-mounted lighting below 15 feet. Semi-cutoff classification is not permitted.

- B. Canopy lighting fixtures should be completely recessed within the canopy. Similarly, in-grade luminaires shall be fully recessed into the finished grade. Open-structure canopies shall be designed to shield lighting equipment so the source is not visible from the roadway or adjacent property lines.

#### 15.1.5.3 Fixture Height

Lighting fixtures shall be a maximum of 40 feet in height within parking lots and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. This is inclusive of a raised base where provided. All light fixtures located within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.

The UDO Administrator may allow fixtures above this height to provide internal lighting for stadiums, arenas, and similar facilities. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their concentrated beam spreads are directed and fall within the primary playing or performance area. The hours of operation for the lighting system for any game or event shall not exceed one (1) hour after the end of the event.

#### 15.1.5.4 Mounting

Refer to 15.1.6 for mounting restrictions as they relate to illumination levels. All light poles shall be round aluminum and rated for the total EPA of the attached luminaires at 100 mph winds with a 1.3 gust factor.

Pole bases shall be installed with a concrete base. Base detailing shall be reviewed and sealed by a structural engineer registered in the state of North Carolina.

#### 15.1.5.5 Limit Lighting to Periods of Activity

The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the UDO Administrator to conserve energy, provide safety, and promote compatibility between different land uses.

#### 15.1.5.6 Architectural Facade Lighting

Architectural façade lighting is required for all non-residential or multi-family buildings fronting a right-of-way. Refer to 15.15 for quantitative lighting criteria. Refer to North Carolina Energy Conservation Code for maximum allowable wattage per LZ1 of this non-

tradeable surface illumination. Light fixtures shall be carefully selected, located, aimed, and shielded so that light is directed only onto the building facade. Fixtures shall not be directed toward adjacent streets or properties. To the extent practicable, fixtures shall be mounted on the building, shielded, and directed downward to wash or graze the facade or roof with light. Luminaires used to uplight architectural elements, such as eaves, shall be adjustable and aimed to ensure concentrated beam falls fully on subject surface.

## 15.1.6 Design Metrics

### 15.1.6.1 Light Loss Factors

All illumination levels are intended as maintained meaning that an appropriate light loss factor (LLF) must be applied to calculations to ensure that the light levels will be reasonably maintained over the life of the system. The most typical and recoverable light loss factors are lamp-lumen depreciation (LLD) and luminaire dirt depreciation (LDD) which must be considered. The LDD shall be considered to be 0.80 which assumes a moderately dirty environment, enclosed/ventilated luminaires, and maximum 36-month maintenance cycle. The LLD per source is as follows.

- A. Metal Halide: 0.70
- B. Color-corrected high-pressure Sodium: 0.90
- C. Fluorescent: 0.95
- D. Solid State (LED): 0.90, based on non-linear lumen depreciation over the L70 life of the LEDs assumed to be 50,000 hours.

The maximum LLF = 0.8 x LLD. For any design wishing to consider a different light loss factor, the technical justification and calculation must accompany the submittal.

### 15.1.6.2 Illumination Levels

All site lighting shall be designed so that the level of illumination as measured in foot-candles (fc) at any one point meets the standards in the table below.

ILLUMINANCE CRITERIA				
Type of Lighting	E <sub>horz</sub>	E <sub>vert</sub>	Max: Avg	Avg: Min
Architectural Facades <sup>1</sup>	n/a	2.0-4.0	n/a	n/a
Building Entry/Exit (avg.)	1.0-1.5	0.4-0.8	3:1	2:1
Site Gated Entries (avg.)	0.4-0.8	0.2-0.6	3:1	3:1
Canopy Areas (avg., recreational)	3.0-10	1.0-3.0	2:1	3:1
Parking Lots, asphalt (min.)	0.5	0.2	3.5:1	4:1
Parking Lots, concrete (min.)	1.0	0.5	3.5:1	4:1
Pathways within/adjacent to pkg (min.)	1.0	0.5	3.5:1	4:1
Storage Areas (avg., for security <sup>2</sup> )	0.8-1.0	0.8-1.0	2:1	2:1



Plazas and exterior retail (avg.)	0.6-1.0	0.2-0.4	2:1	2:1
Courtyards and Landscaped Gardens	0.1-0.2	0.0-0.1	4:1	5:1

## Notes:

1. Apply strategically to 10% of building face thus uniformity is not applicable. The intent is to highlight architectural features and entrances and maximize visual impact.
2. Temporary increases in illumination are permitted so long as the return to normal illumination is automatic such as by motion sensor.

## 15.1.7 Excessive Illumination

- A. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property is prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.
- B. All outdoor lighting shall be designed and located such that the maximum illumination at the property line does not exceed the lesser of 0.5 fc horizontal and 0.1 fc vertical or 10% of average illuminance for the site on neighboring residential sites.
- C. All outdoor lighting shall be designed and located such that illuminance at the property line does not exceed the lesser of 1.0 fc horizontal and 0.5 fc vertical or 50% of the average illuminance for the site on neighboring commercial sites and public rights-of-way.
- D. BUG Ratings: Free-standing luminaires (bollards, pole-mounted, etc.) shall be installed and oriented in accordance with the respective photometric data and shall have a Glare rating of not more than 2. Uplight ratings greater than 1 will be allowed only by special permission. The Backlight component shall be not more than 2 where located within one mounting height of the property line.
- E. Lighting mounted to structures located in proximity to roadways shall be selected, oriented, and shielded as required to focus the concentrated beam away from streets to avoid distraction or interference with the vision of drivers on such streets.
- F. Fixtures used to accent architectural features, landscaping or art shall be located, aimed, and/or shielded to eliminate light spilling onto roadways, adjacent properties, or into the night sky.
- G. Blinking or flashing lights shall be prohibited unless the lights are required as a safety feature (e.g., beacons on towers) or shall be permitted as part of a sign in accordance with Article 13, Signs.

## 15.1.8 Nonconforming Lighting

Lighting fixtures existing as of the date of the adoption of this section, may remain, and shall be considered pre-existing luminaires. Modifications, replacement or expansions, shall

conform to the standards of this Ordinance. This does not apply to routine maintenance of the fixtures.

## 15.2 ROADWAY LIGHTING

### 15.2.1 Policy Purpose

The purpose is to establish an official policy for the Town of St James pertaining to the installation of street lights for the purposes of traffic safety. This sets forth criteria for the installation of roadway lighting within the Town limits in addition to general site lighting requirements of 15.1.1 which shall be applied where practicable.

The specific intent for this is as follows:

- Establish standards for the installation and maintenance of roadway lighting;
- Define illumination criteria specific to roadway lighting; and
- Identify lighting equipment to be used within the Town of St. James

### 15.2.2 Application

This Article, upon adoption, shall apply to all rights-of-way (streets and roads) within the municipal limits of the Town of St James and any rights-of-way (streets and roads) annexed in the future until such time that this is altered, modified, or rescinded by the St. James Town Council. Lighting in annexed areas would be considered exempt upon the day of annexation.

### 15.2.3 Standards

#### 15.2.3.1 Lighting Equipment

Decorative pole lights are provided in residential areas. Luminaires shall be American Electric Lighting (AEL) "Revolution" (or similar) with post fitting. Poles are round, straight, aluminum to provide a 12-ft mounting height. Bases are direct buried or set with a concrete base installed with a minimal setback from the street, not to exceed the exposed pole height.

Utilitarian roadway lighting is provided in commercial areas. Luminaires shall be as determined by the furnishing utility. Poles are sized with respect to base to provide a 25-ft mounting height.

Most all of St. James roadway lighting is 4000K metal halide. Residential decorative luminaires are typically 100-150W. Roadway luminaires are typically 250-400W. All new installations shall be metal halide or solid state light emitting diodes (LED). LED lighting is to be 4000-5000K, or the latest technology in lighting available.

#### 15.2.3.2 Design Criteria and Locations

A. The placement of street lighting fixtures in residential areas shall be at 200 to

300 foot intervals and should be consistent with adjacent or adjoining residential areas unless:

1. The roadway length is less than 300 feet in which case a street light will be provided near the midpoint of the street located intelligently for best coverage of the roadway and minimal encroachment of lot; or
2. Where the roadway length is less than 150 feet and a street light is placed at the intersection and no natural features create a problem, no street light will be placed along the segment; or
3. The vertical and horizontal street alignment or natural features necessitate shorter spacing intervals.

B. The placement of street lighting shall be in accordance with the latest revision of the Illuminating Engineering Society's Recommended Practice for Roadway Lighting" (RP-8) as follows which uses Luminance (L, cd/m<sup>2</sup>) rather than Illuminance (E, fc) to evaluate outdoor lighting. For collector roads such as St. James Drive, a recommended 0.4-0.6 cd/m<sup>2</sup> is recommended depending upon activity levels with average/minimum ratios and maximum/minimum ratios of 3.5 and 6.0, respectively. For the majority of Town roads which are local roads, a recommended 0.3-0.5 cd/m<sup>2</sup> is recommended depending upon activity levels with average/minimum ratios and maximum/minimum ratios of 6.0 and 10.0, respectively.

C. Intersections and Crosswalks: A street light shall be provided at all street intersections and at least one luminaire per end of crosswalk. It is not necessary to duplicate lighting equipment for these functions where they occur in proximity. Multi-purposing of lighting equipment for roadways, intersections, and crosswalks is recommended. Furthermore, luminaires at inters should be placed to illuminate street signs when feasible.

Intersections and Crosswalk Illumination			
Subject Area	E <sub>avg</sub>	E <sub>vert</sub>	AVG:MIN
Collector Road/Local Road intersection	1.0-1.6	n/a	4:1
Local Road/Local Road intersection	0.8-1.4	n/a	6:1
Crosswalks <sup>1</sup>	n/a	2.0+	n/a
Other pedestrian conflict areas	0.4-0.5	0.1-0.2	4:1 (horz)

Notes:

1. Recommendation is given for mid-block crosswalks based on driver visibility. Illumination at crosswalks in areas of greater ambient illumination (such as at inters) should be increased.

D. Street light fixtures shall conform to the following:

1. All fixtures in residential areas shall be either 100-watt (8,500- lumen) metal halide or LED luminaires with 5000-7000 lumens delivered and Type V distribution on standard poles 12 feet in height. The fixture shall be placed

as close to the “neck” of cul-de-sacs as possible.

2. All fixtures along thoroughfares shall be no greater than 250-watt (23,800-lumen) metal halide lamp or LED luminaires with 14,000-19,000 lumens delivered in full-cutoff luminaires on standard poles 25 feet in height. Variations in mounting height with proper justification may be approved by the Zoning Administrator.
3. Through the site plan and subdivision plan approval process, the Town Council may approve street lighting which exceeds the standard Town requirements for residential streets so as to reduce the length of sag vertical curves provided the street lights are operational prior to the issuance of any Certificates of Occupancy on such street. In any case, the minimum allowable length of sag vertical curves shall be as follows: residential streets –  $20 \times A$ ; cul-de-sacs and loop roads –  $15 \times A$ , where A is the algebraic difference in gradients.

#### 15.2.3.3 Installation

The St. James Town Council hereby establishes the following:

- A. Street lighting facilities and street lights shall be provided by the developer on any roadway, portion of roadway, or widening prior to the Town of St James' acceptance of that section for financial responsibility unless otherwise approved by the TOSJ UDO Administrator.
- B. The owner, developer, or sub-divider of a site plan or subdivision shall be required to provide street lighting via underground distribution, along all proposed streets and along all adjoining existing streets and thoroughfares, in accordance with this unless specifically approved otherwise by the Town Council.
- C. Underground service for light fixtures within the corporate limits of the Town of St James is the responsibility of developer in conformance with the National Electric Safety Code (NESC) and National Electrical Code (NEC) standards at the developer's expense.
- D. The Developer, Property Owners Association and/or the St. James Fire Department shall be responsible for all installation costs and monthly operating costs above what is accepted by policy of the St James Town Council associated with the street lights.

#### 15.2.3.4 Modifications

The Town of St. James partners with the local utility, Brunswick Electric Membership Corporation (BEMC), for installation and maintenance of street lighting per BEMC's published

monthly rates. Therefore, a developer may request to use decorative or “private” street lighting within a development provided:

- A. Street light fixture types and locations must meet the minimum criteria set forth in this Article and must be approved by the Town of St James. Luminaires and poles that do not fit the character of the Town will be rejected.
- B. The Developer and/or Homeowner’s Association shall be responsible for all installation costs and monthly operating costs above what is accepted by policy of the St James Town Council associated with the street lights.
- C. Additional maintenance associated with cleaning and tree-pruning may be required to retain consistency with the rest of the Town. All costs related to additional maintenance will be the responsibility of the Property Owners Association.
- D. The Developer and/or Homeowner’s Association shall be responsible for any costs associated with deletion of the street lights and any costs associated with installing the Town’s standard street lights.
- E. The Developer shall include all responsibilities of the Homeowner’s Association pertaining to the street lighting in the development covenants. The developer shall inform all purchasers of property in the development of these same responsibilities.

Residents along a street may request the relocation of a street light provided that the proposed street light location meets Town standards and the relocation is approved by the TOSJ UDO Administrator. Residents may request through the Town of St James a modification of an existing light fixture.

### **15.3 Acceptance and Occupancy**

Authorization for street light installations shall occur at such time as:

- A. The Developer requests the installation of street lights. The Town of St James is billed for the lease once the lights are installed and operational, unless upon approval of the UDO Administrator, the developer is allowed to continue paying BEMC. The lights must be operational prior to the issuance of any Certificates of Occupancy being issued, or
- B. Certificate of Occupancy is issued in the immediate area of the proposed street light location, or
- C. Thoroughfare, marginal access street, or collector street is constructed or widened as a part of development. Thoroughfares, marginal access streets, and collector streets that are constructed or widened by the Town of St. James shall be lighted immediately after construction.

### Part III. DEFINITIONS AND ABBREVIATIONS

**Back light** – The luminaire lumens distributed behind a luminaire between 0 and 90 degrees vertical. Subdivisions are considered to be BL (low) from 0-30 degrees vertical; BM (mid) from 30-60 degrees vertical; BH (high) from 60-80 degrees vertical; BVH (very high) from 80-90 degrees vertical.

**BUG rating** – the IES rating system for luminaires that measures Backlight, Uplight, and Glare using three individual ratings, respectively.

**Candle-power** - the density of luminous flux, or light energy, per solid angle (directional cone of light) expressed as lumens per steradian, or Candela. Candlepower is normally associated with a directional type fixture such as a floodlight. Also called Luminous Intensity.

**Crosswalk** – Any portion of a roadway at an intersection or elsewhere distinctly indicated as a pedestrian crossing by lines on the surface which may be supplemented by contrasting pavement texture, style, or color.

**Cutoff** - A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5%) at an angle at or above 90 degrees above nadir, and 100 (10%) at a vertical angle at or above 80 degrees above nadir. This applies to all lateral angles around the luminaire.

**Direct Light** - Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

**Fixture** - The assembly that houses the lamp or lamps and can include all or some of the following parts: housing, mounting bracket or pole, socket, lamp holder, ballast, reflector or mirror, and/or refractor or lens.

**Flood or Spotlight** - Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction with a wide or narrow beam. (These fixtures and lamp types are not allowed within the Town of St. James.)

**Foot-candle (fc)** – The Imperial unit of measurement of illuminance (E) relative to square-feet.  
1 fc = 0.0929 lx.

**Full Cutoff** - A luminaire light distribution where zero candela intensity occurs at or above an angle of 90 degrees above nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10%) at a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire.

**Fully Shielded Lights** - Means outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane.

**Glare** - The sensation produced by luminance within the visual field that is sufficiently greater than

the luminance to which the eyes are adapted (subjective brightness) causing annoyance, discomfort (discomfort glare) or loss of visual performance and visibility (disability glare).

**IES** - The Illuminating Engineering Society is the recognized technical authority on illumination, a not-for-profit professional organization of lighting practitioners with the mission to improve the lighted environment by bringing together those with lighting knowledge and by translating that knowledge into actions that benefit the public.

**Illuminance (E)** – The amount of light (luminous flux) falling on a surface located at a point and relative to a direction as expressed in lumens per unit area, typically foot-candles or lux.

**Illuminance, initial ( $E_{ini}$ )**- Foot-candles calculated with no adjustment for dirt buildup in the fixture or lamp lumen depreciation. Initial foot-candles should be measured when a lighting system is new and after 100 hours of lamp burn-in time. Car dealerships are often designed to initial foot-candles.

**Illuminance, maintained** - Foot-candles that are calculated with an adjustment for a maintenance factor to include dirt buildup in the luminaire (fixture) and lamp output depreciation. The system is in effect over designed initially and then over time falls to a maintained foot-candle level. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

**Illuminance, average ( $E_{ave}$ )** - The average of a number of points of foot-candle calculations or foot-candle readings in a given area. They could be initial or maintained.

**Illuminance, average maintained** - The average of a number of points of foot-candle calculations or foot-candle readings in a given area which have been adjusted to account for maintenance which includes luminaire dirt depreciation (LDD) and lamp lumen depreciation (LLD).

**Illuminance, average to minimum** - The ratio of average foot-candle value to the minimum foot-candle value at a point per a calculation or reading for a given area. This ratio is generally maintained foot-candles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio the better the uniformity.

**Illuminance, maximum to minimum** - The ratio of the maximum foot-candle point calculation or reading to the minimum foot-candle point calculation or reading for a given area. This ratio is generally maintained foot-candles but could be initial. This ratio is an indicator of lighting uniformity. The lower the ratio the better the uniformity.

**Illuminance, maximum** - The maximum foot-candle point calculation or reading in a given area. The maximum is generally maintained foot-candles but could be initial.

**Illuminance, minimum** - The minimum foot-candle point calculation or reading in a given area. The minimum is generally maintained foot-candles but could be initial.

**Internal Refractive Lens** - A glass or plastic lens installed between the lamp and the sections of

the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

**Indirect Light** - Direct light that has been reflected or has scattered off of other surfaces.

**Lamp** - The component of a luminaire that produces visible light.

**Light Loss Factor (LLF)** – a factor used in a lighting calculation to approximate changes in light output of the system that occur over a given period of time that is an aggregate of multiple factors such as temperature and voltage variations, dirt accumulation (luminaire dirt depreciation, LDD), luminaire surface depreciation, or reduced lamp output as the source ages (lamp lumen depreciation, LLD).

**Light Pollution** – The added sky brightness caused by the scattering of electric light into the atmosphere, often referred to as sky glow.

**Light Source** - The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture

**Light Trespass** – The effect of light that strays from the intended purpose and causes annoyance, loss of privacy, or loss of intended functionality or is a deterrent to visual performance. A luminaire producing light beyond the boundaries of the property on which it is located and intended is considered to be light trespass.

**Lumen (lm)** – The SI unit of luminous flux total quantity of light emitted from a light source. One foot-candle is one lumen per square foot. For the purpose of this ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp as listed in a lamp catalog.

**Luminaire** - A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

**Luminance** – **The quantity of light reflected or emitted toward an observer; what an observer sees whether reflected from an object or coming directly from a source;** commonly referred to as brightness. All surfaces have some reflecting qualities and therefore have luminance, light surfaces being more reflective than dark surfaces.

**Lux (lx)** - The SI unit of measurement of illuminance relative to square-meters. 1 lx = 10.76 fc

**Mounting Height of Luminaire** - The vertical distance between the ground, or other referenced task plane, and the center of the apparent light source of the luminaire.

**Non-cutoff** - A luminaire light distribution where there is no candela limitation in the zone above maximum candela.



**Outdoor Lighting** - The nighttime illumination of an outside area or object by any man-made device located outdoors or indoors that produces light by any means.

**Outdoor Lighting, temporary** - The nighttime illumination of an outside area or object by any man-made device located outdoors that produces light by any means for a limited period of time. This period can be specified by the Town.

**Pre-Existing Luminaries** - Luminaries not conforming to this ordinance that were in place at the time this ordinance was voted into effect.

**Road classification, collector** - Roads servicing traffic between major and local streets. These are streets used mainly for traffic movement within residential, commercial, and industrial areas.

**Road classification, local** – Streets used primarily for direct access to residential, commercial, industrial, or other abutting property.

**Road classification, major** – The part of a roadway system that serves as the principal network for through-traffic flow connecting areas of principal traffic generation and important rural roadways entering and leaving a city. These roads are also referred to as “thoroughfares” or “preferentials”.

**Roadway Lighting** - Lighting provided for freeways, express-ways, limited access roadways, and roads on which pedestrians, cyclists, and parked vehicles are generally not present to help motorists remain on the road and detect obstacles within and beyond the range of vehicle headlamps. (See also “Street Lighting”)

**Sag (vertical) Curve** - A vertical curve that connects a segment of roadway with a segment of roadway that has a more positive grade. (downhill to level, downhill to uphill.)

**Semi-cutoff** - A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 50 (5.0%) at an angle at or above 90 degrees above nadir, and 200 (20%) at a vertical angle at or above 80 degrees above nadir. This applies to all lateral angles around the luminaire.

**Street Lighting** - Lighting provided for major, collector, and local roads where pedestrians and cyclists are generally present to help motorists identify obstacles, provide adequate visibility of pedestrians and cyclists, and assist in visual search tasks both on and adjacent to the street.

**Uniformity** - A description of the smoothness of the lighting pattern or the degree of intensity of light and dark areas in the roadway or area to be lighted. Uniformity is usually expressed as a ratio such as max to min or average to min. The lower the ratio the more uniform the lighting design.

**Uplight** – the luminaire lumens distributed above a luminaire between 90 and 180 degrees

vertical. Subdivisions are considered to be UL (low) from 90-100 degrees vertical; UH (high) from 100-180 degrees vertical.

**Veiling Luminance** - A luminance superimposed on the retinal image which reduces its contrast. It is this veiling effect produced by bright sources or areas in the visual field that results in decreased visual performance and visibility. An example of this is this would be with oncoming automobile headlights.

**Veiling Luminance Ratio** - Ratio of the maximum veiling luminance of the light fixture in question in the area that is being lighted to the average luminance of the area being lighted. The higher the ratio the worse the disability glare and the lower the visibility. IESNA-RP-8-00 recommended ratios are 0.3 (0.3 to 1) for expressways and major roadways and 0.4 (0.4 to 1) for collector and local roads. (The determination of this ratio is a function of a combination of the road width pole spacing, rated lamp lumens, mounting height and the classification or type of fixture [cutoff, semi-cutoff, or non-cutoff]. Problems occur most often with non-cutoff post mounted fixtures at low mounting heights [less than 20 feet] with low to medium lumen packages. To meet the ratio requirements, the spacing of poles may need to be as close as 25 or 30 feet staggered spacing with the use of 9500 lumens in a non-cutoff post-mounted acorn fixture. Wider spacing can be accomplished with cutoff type distribution fixtures.)

**Wall Pack** - A type of light fixture typically flush-mounted on a vertical wall surface.

**Wide-body Refractive Globe** - A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light-style fixtures). "Wide-body" refers to a wider than average size globe (greater than 15.75 inches in diameter). "Refractive" refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

## ARTICLE 16 ELECTRICAL

### 16.1 Purpose

The purpose of this section to ensure that all electrical installation meet or exceed the North Carolina building codes.

### 16.2 Applicability

This section shall apply to all new residential and commercial construction in the Town of St. James.

### 16.3 General Requirements.

Unless otherwise exempt or specifically required differently, all installations shall meet the electrical code as administered by Brunswick County.

### 16.4 Required design criteria for grinder pump electrical connections.

16.4.1 Control panel must be mounted on the side of the house nearest the pump tank and readily accessible.

16.4.2 Two separate circuits must be supplied from the main house electrical panel--one circuit for the pumps and pump controls and one circuit for the high-water alarm.

16.4.3 Two breakers will be needed in the house panel, a 30-amp double pole for the pump panel circuit and a 15-amp single pole (standard minimum size for house panel) for the alarm circuit.

16.4.4 Two disconnects installed on the exterior of the house between the house breaker and the grinder panel.

16.4.5 A two-pole disconnect for the 30-amp breaker and a single-pole disconnect for the 15-amp alarm breaker.

### 16.4.6 Plans submittals.

All plans submitted for construction which require the installation of a grinder pump shall include an electrical plan that complies with the requirements of this section. The electrical plan shall bear the stamp or licensing information of a qualified professional (North Carolina licensed engineer).

### 16.4.6 Inspections

- A. The system shall be inspected for compliance with the requirements of this section.
- B. The inspection shall include a certification by the inspection official that

all components have been tested and inspected; and meet the requirements in Section A above.

## **APPENDIX A DEFINITIONS**

### **A.1 Purpose**

For the purposes of this Ordinance, certain words, concept, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

### **A.2 Interpretation**

- A.2.1 As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
- A.2.2 Words used in the singular in this Ordinance include the plural and words used in the plural include the singular.
- A.2.3 Words used in the present tense include future tense.
- A.2.4 The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
- A.2.5 The words “may” and “should” are permissive.
- A.2.6 The words “shall” and “will” are always mandatory and not merely directive.
- A.2.7 The word “used for” shall include the meaning “designed for”.
- A.2.8 The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied”.
- A.2.9 The word “lot” shall include the words “plot”, “parcel”, “site”, and “premises”.
- A.2.10 The word “structure” shall include the word “building”.
- A.2.11 The word “street” includes the word “alley”, “road”, “cul-de-sac” “highway”, or “thoroughfare”, whether designated as public or private.

- A.2.12 The word “includes” shall not limit the term to specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- A.2.13 The word “Council” shall include “Town Council” of the Town of St. James, North Carolina.
- A.2.14 The words “Zoning Board”, “Zoning Commission”, “Planning Commission” or “Planning Board” shall mean the “Town of St. James Planning Board”.
- A.2.15 The word “Town” shall mean the “Town of St. James”, a municipal corporation of the State of North Carolina.
- A.2.16 The words “map”, “zoning map” and “St. James Zoning Map” shall mean the “Official Zoning Map for the Town of St. James, North Carolina”.

### **A.3 Definitions**

#### **A**

##### ***Abandon***

To cease the regular use or maintenance of a lot, building, or structure.

##### ***Abutting***

Having common property boundaries or lot lines that are not separated by a street, alley, or other vehicular right of way such as a railroad. For purposes of this Ordinance, "adjoining" shall have the same meaning as "abutting."

##### ***Accessory Dwelling Unit B (Attached)***

A self-contained dwelling unit incorporated within an existing structure for only one (1) family.

##### ***Accessory Dwelling Unit - (Detached)***

A dwelling unit located within an accessory structure, which is located more than 3 feet from the principal structure and is restricted in area, purpose and occupancy in accordance with this Ordinance.

##### ***Accessory Uses and Structures***

A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located.

##### ***Adjacent***

Having common property boundaries or lot lines or being directly across a street, alley or body of water none of which exceeds 100 feet in width.

***Administrative decision***

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this UDO. These are sometimes referred to as ministerial decisions or administrative determinations. Appeals of administrative decisions made by the staff under this UDO shall be made to the Board of Adjustment unless a different board or remedy is explicitly provided herein.

***Airport***

A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft are regularly stored, maintained, or repaired while not in flight with an area that the aircraft may use to take off and land, and including the sale of goods or materials to users of such aircraft.

***Alley***

A private or public right-of-way or easement which is less than 30 feet in width and runs between two or more lots or located on a single lot, affording primary or secondary vehicular access to the properties which abut it.

***Amendment***

Any change by the Town Council to the text of these regulations or the official zoning maps.

***Animal Hospital/Veterinary Clinic***

A place or facility that provides dental, medical or surgical care for dogs, cats and other domesticated animals.

***Antenna***

Any apparatus designed for the transmitting and/or receiving of electromagnetic waves to include but is not limited to telephonic, radio or television communications.

***Athletic Field***

An area designed for active recreation, whether publicly or privately owned, including but not limited to baseball/softball diamonds, soccer fields, football fields, golf courses and ranges, tennis courts, racetracks, and swimming pools.

***Applicant***

Any person seeking approval under these regulations for any form of development or use of land.

***Automotive Repair*** (also see Service Station, Gasoline)

A building or area designed and used for the storage, care, and repair of motor vehicles including both minor and major mechanical overhauling, paint and body work.

***Awning***

A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building. An awning is not a canopy.

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**B*****Bank and Credit Union***

See Financial Institution.

***Banner***

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation applied to plastic or fabric of any kind, excluding flags and emblems of government, political, professional, religious, educational, or corporate organizations.

***Bar***

Any establishment wherein alcoholic beverages are sold at retail for consumption on the premises and from where minors are excluded by law. This definition does not include premises where alcoholic beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of alcoholic beverages comprises less than 25% of gross receipts.

***Bed and Breakfast (B & B)***

An owner-occupied single-family detached dwelling duly licensed as a bed and breakfast by the appropriate state agency that offers lodging for paying guests and may provide food services to these guests. Bed and breakfasts do not include other similar uses such as hotels or motels, health care facilities, boardinghouses, group homes, halfway houses, hostels, or rescue missions.

***Boardinghouse and Rooming House***

Any form of dwelling unit where meals and rooms are offered on a permanent or long-term basis for remuneration.

***Bona Fide Farm***

A property that is located in the Town's extraterritorial jurisdiction that is used for bona fide farm purposes in accordance with G.S. 160D-903(a) and is exempt from zoning regulation to the same extent bona fide farming activities are exempt from county zoning pursuant to G.S. 160D-903

***Buffer*** (also see Screening)

A strip of land with natural or planted vegetation located between a use or structure and a side or rear property line intended to separate and partially obstruct the view of two abutting land uses or properties from one another. A buffer area may include any required screening for the site.

***Buildable Area***

The area of a zoning lot remaining after the minimum setback requirements of this Ordinance have been satisfied.

***Building***

A temporary or permanent structure having a roof supported by columns or walls and which can be used for the shelter, housing, or enclosure of persons, animals, or goods. Manufactured homes and modular homes are buildings.

***Building Height***

See Height.

**Building Site** (also see Development)

An area of land or property where development is undertaken.

**Building Wall**

The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of these regulations, the area of a wall will be calculated for only the first 3 stories, or 40 feet maximum height of a building, whichever is less.

**C****Caliper**

The diameter of the main trunk or stem of plant material, measured at the specified height above the ground.

**CAMA- Coastal Area Management Act**

This act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources (NCDENR) Division of Coastal Management (DCM).

**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 on a building wall. A canopy is not a completely enclosed structure.

**Car Wash**

A facility where motor vehicles are washed, cleaned, and/or waxed by hand or with manually operated equipment or automatic machinery.



**Cemetery**

A place for the burial of the dead. A cemetery can be a combination of one or more of the following, in a place used or to be used and dedicated or designated for such purposes:

- A. A burial park, for earth interment
- B. A mausoleum, for burial above the ground
- C. A columbarium, a structure substantially above the ground, for interment of the cremated remains of a deceased person.

**Clear-cut**

To cut all the trees in a stand of timber.

**Clinic, Medical, Dental, or Optical**

A use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.

**Cluster Development**

A Residential Cluster Development, (also called Conservation Development), is the grouping of residential properties on a development site in order to use the extra land as open space, recreation or agriculture. The concepts are also used for commercial developments.

**Colleges and Universities**

A use, whether privately owned or publicly owned, providing education beyond the high school level.

**Commercial Use**

An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

**Common Open Space** (also see Open Space)

A lot or parcel of open space within a development site designed and intended for the use and enjoyment of residents of the development or for the general public, not including streets or off-street parking area.

**Communication Tower**

A structure either freestanding or attached to a building, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and primary and accessory equipment related to broadcast services, cellular or digital telephone services, pagers, beepers, data, and common carriers (as regulated by the Federal Communications Commission), including FM, AM, two-way radio, fixed point microwave, commercial, satellite, cellular and PCS communication systems. The term telecommunication tower does not include electrical or telephone transmission lines or supporting structures, antennae of amateur radio (HAM) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes, and antennae less than sixty feet in height with transmitting power of two hundred fifty watts or less.

***Community Garden***

A private or public facility for cultivation of fruits, vegetables, or ornamental plants by more than one person or family. May, in some cases be co-located with parks and treated as a separate use.

***Comprehensive Plan***

The adopted official statement of a legislative body of a local government that sets forth goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction.

***Conceptual Plan***

A drawing designed to show proposed elements of a development in a conceptual manner. Also known as a Sketch Plan.

***Condominium***

The ownership of single units in a structure with common areas and facilities.

***Condominium Unit***

An enclosed space consisting of one or more rooms occupying all or part of a floor in a building or one or more floors or stories regardless of whether it is designed for residence, office, the operation of any industry or business, or any other type of independent use and shall include such accessory spaces and areas as may be described in the declaration, such as garage space, storage space, balcony, terrace or patio.

***Congregate Care Facility***

A licensed multi-unit facility which provides private living quarters with centralized dining services, shared living spaces and access to social and recreational activities to meet the needs of elderly citizens. Facility may offer personal care, rehabilitative and support services. Congregate care does not include nursing care or similar institutions devoted primarily to the care of the chronically ill or incurable.

***Convenience Store***

Any retail establishment offering for sale automotive products, prepackaged food products, household items and/or goods commonly associated with the same and having a gross floor area of no more than 3,000 thousand square feet.

**D*****Day Care Center***

A place other than an occupied dwelling, that provides for the care of children or adults. Those receiving care are not all related to each other by blood or marriage and are not legal wards or foster children of the attendant adults, and for which care a payment, fee, or grant is made. The following facilities are not considered day care facilities: public schools; non-public schools whether or not accredited by the N.C. State Department of Public Instruction, which regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps

having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods.

***Day Care Home***

Use of a dwelling for the purpose of providing for the care of children or adults by an adult occupant of the dwelling. For purposes of a day care home, those receiving care are not all related to the occupant or to each other by blood or marriage and are not the legal wards or foster children of the attendant adults. Additionally, those receiving care are not dependents of the occupant, and do not reside on the site.

***Day Care Operator/Primary Caregiver***

The person or entity that is granted permission by the State of North Carolina to operate a day care facility and to be held legally responsible for the day care business.

***Decision Authority***

Delegated or given the power to determine, adjudicate, or otherwise settle issues or disputes. The term decision includes any final and binding order, requirement, or determination

***Dedication***

The transfer, without payment, of ownership or other interest in real property from a person or private entity to a public agency or a non-profit corporation.

***Density, Gross Residential.***

The number of residential dwelling units per acre of land determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

***Determination***

A written, final, and binding order, requirement, or determination regarding an administrative decision. Written notice of a determination shall be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

***Developer***

Any person seeking approval under these regulations for any form of development.

***Development***

Except as limited in this subsection, the carrying out of any building activity, the making of any change in the use or appearance of any structure or land, or the subdividing of land into 2 or more parcels.

- A. Except as provided in subsection (c) hereof, for the purposes of these regulations, the following activities or uses shall be considered "development:"
  - 1. The reconstruction, alteration of the size, or substantial change in the external appearance of a structure on land or water;

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2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or on land, but only so long as the increase in the number of such establishments materially increases the number of persons occupying or employed on the premises;
  3. Alteration of the shore or bank of a pond, lake, river, or other waterway;
  4. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land;
  5. Clearing of land, including clearing or removal of vegetation and including any significant disturbance of vegetation or soil manipulation; or
  6. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
- B. When appropriate to the context, "development" refers to the act of developing or to the result of development. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities are not development. Reference to particular operations is not intended to limit the generality of this definition.
- C. For the purpose of these regulations the following operations or uses shall not be considered "development:"
1. Work involving the maintenance, renewal, improvement, or alteration of any structure, if the work affects only the color or decoration of the exterior of the structure or interior alterations that do not change the use for which the structure was constructed;
  2. Work involving the maintenance or replacement of existing landscaped areas and existing rights-of-way;
  3. A change in use of land or structure from a use within a specified category of use to another use in the same category;
  4. A change in the ownership or form of ownership of any parcel or structure;
  5. The creation or termination of rights of access, riparian rights, easements, covenants concerning development of land, or other rights in land unless otherwise specifically required by law; or
  6. The clearing of survey cuts or other paths of less than 4 feet in width.

***Development approval***

An administrative or quasi-judicial approval made pursuant to this UDO that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and sign permits. The term also includes all other regulatory approvals required by regulations adopted pursuant to this UDO, including plat approvals, permits issued, and building permits issued.

***Diameter at Breast Height (dbh)***

The diameter of a tree measured four and one-half feet above the ground.

***Dog Parks (Also known as Dog Runs)***

A Dog park is a fenced facility set aside for dogs to exercise and play off-leash in a controlled environment under the supervision of the responsible person(s). Parks vary in accoutrements, although a typical dog park offers separate, double-gated entry and exit points; adequate drainage; benches for humans; shade for hot days. Dog parks may also feature wheel-chair access, a pond for swimming; a separate enclosure for small dogs. May be standalone or co-located with active parks and treated as a separate use.

***Drive-through Restaurant***

See Restaurant, Drive-Through Service.

***Drive-through Service Windows***

A customer service facility located either within the principal structure of an office or retail establishment or accessory structure thereto, which is intended to enable the customer to transact business with a salesperson located within the principal structure without exiting the motor vehicle. It is presumed that the motor vehicle exits the premises immediately upon the transaction of business.

***Dwelling, Attached***

Any duplex or multifamily dwelling developed side by side where land is sold with each dwelling unit. This includes townhouses.

***Dwelling, Detached***

A dwelling unit that is developed with open yards on at least three sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles.

***Dwelling, Duplex***

Two (2) dwelling units, including modular homes, placed one on top of another or attached side-by-side and sharing one or more common walls.

***Dwelling, Multifamily***

More than 2 dwelling units, including modular homes, placed one on top of another or side by side and sharing common walls or common floors and ceilings.

***Dwelling, Single Family Attached.***

No more than 2 single family dwellings located on individuals lots which share a common wall along the interior side lot line of the lots, providing for fee simple ownership of each dwelling and lot.

***Dwelling, Single Family Zero Lot Line***

A single family dwelling located on one lot, constructed with one of the exterior walls adjacent to a side lot line and with yards on the other 3 sides of the dwelling.

***Dwelling Unit***

A room or combination of rooms designed for year round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family.

## **E**

### ***Easement***

A grant of one or more property rights for a specific purpose by the property owner to, or for the use by, the public or another person.

### ***Electronic Game Promotions***

Any enterprise (as a principal use or an accessory use) utilizing electronic machines, including computers, as game promotions. In a game promotion, a person may conduct a game of chance in connection with the sale of consumer products or services and/or for which the elements of chance and prize are present. This term includes, but is not limited to, sweepstakes or internet cafes. This does not include any lottery approved by the State of North Carolina.

### ***Elementary and Secondary Schools***

A privately owned or publicly owned preschool, elementary school, middle school, junior high school, high school, or vocational school.

### ***Emergency Shelter***

A shelter or facility that provides temporary housing to people and/or families during times of or as a result of severe life-threatening weather conditions (including, but not limited to hurricanes, natural disasters, extreme temperatures) or other emergency conditions.

### ***Engineer, Professional***

A person licensed to practice engineering in the State of North Carolina.

## **E**

### ***Familial Relationship***

For purposes of determining conflicts of interest, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

### ***Family Care Home***

A dwelling that provides room and board for not more than 6 persons who because of age, illness, handicap, or specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort that is regulated by the State of North Carolina. (for purposes of Family Care Homes, a "handicapped person" as defined in N.C.G.S. Chapter 168-21(2) means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, 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 N.C.G.S. Chapter 122C-3(11) b.) If the home is not licensed under N.C.G.S. Chapter 131D, Article 1 or is exempt from State licensing, the home shall be considered a group home and shall be subject to all applicable requirements of this Ordinance.

***Farmer's Market***

The seasonal selling or offering for sale at retail of vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables.

***Financial Institution***

A use or structure where financial, pecuniary, fiscal or monetary services are made available to the public, including but not limited to depository institutions (i.e., banks, credit unions, savings and loans, etc.) non-depository credit institutions (i.e., credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodity contracts and security and commodity exchanges.

***Flag, Public***

A piece of durable fabric or other flexible material solely containing distinctive colors, patterns, standards, words, or emblems of any nation, organization of nations, state, or city including but not limited to political jurisdictions such as the United States, or any fraternal, religious or civic organizations. Flags displaying a logo, message, statement, or expression relating to commercial interests are not considered public flags and must conform to the sign regulations of Article 11.

***Flagpole***

A permanent, freestanding structure or a structure attached to a building and used for the sole purpose of displaying a public flag. Freestanding flagpoles or flags displayed on mast arms typically have a halyard system of rope used to hoist the flag. A "flag staff" is not considered a flagpole.

***Floor Area***

The sum of the gross horizontal areas of each floor of the principal building, and any accessory building or structures measured from outside of the exterior walls or from the centerline of common walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

***Floor Area Ratio (FAR)***

The total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

***Fraternal Club or Lodge (Private Nonprofit, Civic or Fraternal)***

A building or meeting facility, which is restricted to members and guests of members of a nonprofit association or corporation, including accessory uses, such as recreational facilities, banquet facilities, and overnight lodging for members, but not including the sale of goods or services to the general public on the premises on a regular basis, or commercial outdoor recreational or entertainment activities involving the use of animals or firearms.

***Funeral Home***

An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals.

***Future Connection***

The extension of a street to an external property line to facilitate future roadway connection.

## G

### ***Golf Course***

A tract of land designed and laid out for the game of golf having at least nine holes, each with a tee, fairway, green, and hazards. This definition includes golf practice facilities such as driving ranges and chipping and putting practice areas. This definition does not include miniature golf.

### ***Government Offices***

A building, use, or facility owned by a government agency and serving as an agency office, police station, fire station, library, community center, or similar facility, and a building, use or facility serving as a volunteer fire station, but not including a vehicle storage yard, jail, prison, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, recreation center, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

### ***Group Care Home***

A dwelling operated under State regulations that provide room and board for fewer than 6 individuals who as a result of age, illness, handicap or some specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort. Additional requirements may be imposed by the International Building Code with North Carolina Amendments.

### ***Ground Covers***

Low growing plants such as grasses, ivy, creeping bushes, and similar decorative plantings. Where required by this Ordinance, ground covers shall have the capability of soil stabilization and erosion control.

## H

### ***Height, Building***

The vertical distance of a building as measured from the mean elevation of the lot at the staked corners of the building foundation (before any filling, contouring or prepping of the lot prior to construction) to the highest point of the structure. Equipment rooms, belfries, cupolas, widow walks, observation decks, etc., are all considered a part of the building and shall be included in the calculation of building height unless otherwise specified in the UDO. For single family residential districts, height is measured from the garage foundation elevation. However in the event that the garage foundation elevation is above the foundation elevation of the residence, the “mean elevation” method described above must be used.

### ***Helistop***

A limited use helicopter terminal facility that is clearly subordinate to a related business, institution, or other operation.

### ***Hospital (Amended 10.1.13)***



An establishment primarily engaged in providing diagnostic services, extensive medical treatment including surgical services, and other services, as well as continuous nursing services. The establishment has an organized medical staff on duty 24 hours a day, inpatient beds and equipment and facilities to provide complete health care. It may also provide emergency room care and include less intensive medical uses such as convalescent and ambulatory care facilities. Hospitals may provide facilities for psychiatric and chemical dependency inpatient treatment either in addition to the medical services or as specialized hospitals.

***Hotel or Motel***

A building containing more than 4 individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, and which has common facilities for reservations, cleaning services, combined utilities, and on-site management and reception.

***Houses of Worship***

A church, synagogue, temple, mosque, or other place of religious worship.

***Housing, Duplex***

Two attached housing units in a single structure on a single lot. The two units can be located on separate floors or side-by-side.

***Housing, Semi-Attached House***

Two attached single-family housing units located on two lots that share a common wall along the lot line, providing for fee-simple ownership.

***Housing, Single-Family Detached***

A housing unit located on a single lot with private yards on all four sides.

***Housing, Townhouse***

Three or more attached single-family housing units located on separately owned lots where the units are lined up in a row and share side walls; individual units can be mixed vertically.

***Housing, Traditional Houses***

A housing unit located on a single lot with private yards on all four sides; however, the house shall be set much closer to the street than a single-family detached house.

**I**

***Impervious Surface***

Any surface or ground cover which, in whole or in part, restricts or prevents the natural absorption of water into the ground. Such surfaces include, but are not limited to asphalt, concrete, stone, brick, terrazzo, roofing, ceramic tile or any other natural or manmade material that prevents the absorption of surface water into the soil.

**J**

***Junkyard***

A parcel of land on which waste material or inoperative vehicles or other machinery are collected, stored, salvaged or sold.

**K*****Kennel***

A commercial use or structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

**L*****Landowner***

Any owner of a legal or equitable interest in real property, including the heirs, successors, assigns and personal representatives of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for the purposes of submitting a proposed site-specific vesting plan or a multi-phased development under this section, in the manner allowed by this ordinance.

***Land Use Permits***

All permits issued by the Town pursuant to Article 4 of the Ordinance.

***Lot***

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such access ways, parking areas, yards, and open spaces required in these regulations.

***Lot Area***

The total area within the lot lines of a lot.

***Lot, Corner.***

A lot located at the intersection of 2 or more streets, or abutting a curved street or streets in such a way that the front building line meets either side lot line at an interior angle of less than 135 degrees.

***Lot Coverage***

That portion of the lot area, expressed as a percent that is covered by impervious surface cover.

***Lot, Double Frontage.***

A lot having frontage and access on two (2) or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

***Lot, Flag***

A lot not fronting or abutting a public street and where access to the public street is by a narrow, private right-of-way.

***Lot, Interior***

A lot other than a corner lot with frontage only on one (1) street.

***Lot Line***

A line dividing one (1) lot from another lot or from a street or alley.

***Lot of Record.***

A lot described by plat or by metes and bounds which has been recorded in the office of the Register of Deeds.

**M**

***Manufactured Home***

A structure or dwelling designed for living or sleeping purposes, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. Sometimes called a mobile home.

- A. *Class A Manufactured Home (Multi-Section/Double-Wide).* A manufactured home constructed after October 27, 1987, that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Renewal (HUD) that were in effect at the time of its manufacture and is a multi-section unit.
- B. *Class B Manufactured Home (Single-Wide).* A manufactured home constructed after October 27, 1987, that meets or exceeds the construction standards established by HUD that were in effect at the time of its manufacture and is a single-wide unit.

***Manufactured Home Park***

Premises where manufactured homes are parked for living and sleeping purposes, or any premises used for or set apart for the purpose of supplying parking space for manufactured homes for living and sleeping purposes. Often known as Mobile Home Parks or House Trailer Parks, or Courts. A manufactured home park is not a manufactured home subdivision.

***Marina***

Any publicly or privately owned dock, basin, or wet boat storage facility constructed to accommodate more than two boats and providing any of the following services: permanent or transient docking spaces, dry storage, fueling facilities, haul-out facilities, and repair services.

***Mixed-use Development***

A mixed-use development consists of one (1) or more mixed-use buildings or a combination of single and mixed-use buildings in a pedestrian oriented environment.

***Mobile Home***

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See Manufactured Home.

***Modular Building***

A factory-fabricated, transportable building or dwelling in compliance with the International Building Code with North Carolina Amendments, which is designed to be used by itself or to be incorporated with other units into a structure that will be a finished building on a permanent foundation in a permanent location. A modular unit shall not be considered a manufactured home for the purpose of this Ordinance.

***Motor Vehicle Use Area***

Any area, including but not necessarily limited to a street or parking lot, the main purpose of which is for the use of motorized vehicles.

***Multi-phased development***

A development containing 25 acres or more that is submitted for development permit approval to occur in more than one phase and subject to a master development plan with committed elements showing the type and intensity of use of each phase.

**N*****Neighborhood***

A geographically localized community within a larger city, town, suburb or rural area.

***Nonconforming Structure.***

Any structure lawfully existing on the effective date of these regulations or on the effective date of any amendment thereto, which does not comply with these regulations or any amendment thereto, whichever might be applicable.

***Nonconforming Use.***

Any use lawfully being made of any land, building, or structure on the effective date of these regulations or on the effective date of any amendment thereto rendering such use nonconforming, which does not comply with all of the provisions of these regulations or any amendment thereto, whichever might be applicable.

***Nonconforming Lot of Record***

Any lot, existing on the effective date of these regulations which does not meet the minimum area or width requirements established in these regulations or any amendment thereto. A Planned Development (PD)/Planned Unit Development (PUD), when approved, establishes a new zoning with its own zoning standards as, for example, would be the case for a cluster development.

***Nursery***

A commercial enterprise conducted on land where flowers, shrubs, and similar horticultural products are raised and sold to the general public. Nurseries may include the use of greenhouses for growing purposes.

***Nursing and Convalescent Home***

A licensed facility providing care for 3 or more sick, aged, or disabled persons not related by blood or marriage to the operator. Nursing homes are classified as “dependent” and/or “independent” living facilities depending upon the degree of support services on site.

## Q

### **Office**

A use or structure where business or professional services are conducted or rendered.

### **Open Space**

An area of land or water that is open and unobstructed including areas maintained in a natural or undisturbed character. "Open space" shall not include areas covered with buildings, structures, streets or off-street parking areas, but shall include landscaping associated with such parking areas. In order to be counted for purposes of “required open space”, said open space must be usable, i.e., unobstructed access and developable for active or passive recreation.

### **Outdoor Sales**

The retail sale of any article, substance, or commodity located outside a retail establishment, where such goods are available for immediate purchase. Commercial nurseries and permanent garden centers attached to the main retail building are not included in the definition of outdoor sales, and are deemed to be part of the retail establishment. Outdoor sales does not include outdoor seasonal sales.

### **Overlay District**

A special district that creates requirements in addition to the basic zoning requirements in a district, such as a highway corridor overlay district that imposes special landscaping requirements along a major road.

### **Owner**

Any full or part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal title to the whole or to part of a structure or land.

## P

### **Parapet**

A low, protective wall at the edge of a roof, terrace, or balcony, that rises above the roof.

### **Parcel**

Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

### **Parks, Passive**

Any land owned by the public and open for use by the general public for active (including playgrounds) or passive recreational purposes or as a refuge for wildlife.

***Parks, Active (With Recreational Facilities)***

In addition to the uses set forth for Parks that are generally passive, the additional uses may include indoor recreation facilities, playgrounds, ball fields, tennis courts, maintenance facilities, concessions, caretaker's quarters, etc.

***Patio***

A level, surfaced area directly adjacent to a principal building. A patio shall not be any closer than (5) feet from any property line.

***Pennant***

Any lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to flutter or swing in the wind.

***Person***

An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal entity.

***Planned Building Group***

More than one (1) primary structure on a single tract of land, under individual, corporate, firm, partnership, or association ownership, planned and developed as a group, in a single development operation or a definitely programmed series of development operations, and according to an approved preliminary site plan.

***Planned Unit Development (PUD)***

An area of land under unified ownership (e.g., Property Owners' Association) that provides a diverse mixture of residential and/or nonresidential uses and structures that function as cohesive and unified projects in accordance with a master plan.

***Plat***

A Plat is a map of divisions of lands produced by a licensed engineer or surveyor. Plat most commonly refers to maps produced to subdivide an area of land into saleable lots or parcels. The platting process creates individual lots or parcels out of existing lots or tracts. A Preliminary Plat may be a more detailed mapping of an approved Site Plan.

***Plat, Preliminary***

At a minimum the preliminary plat consists of a map, drawn to a scale specified in the subdivision control ordinance. The map includes the information required by the subdivision control ordinance, such as the location of roads, streets, utility lines, parks, storm drainage, sewer and water lines, and information about adjacent parcels. A substantial amount of time and expense is involved with these maps. Often, the preliminary plat consists of a series of separate maps with the detailed information required by standards set in the local subdivision control ordinance. These maps may include a site plan, grading plan, utilities plan, drainage plan, planting plan and a map indicating street profiles and grades. Often it is helpful to require that the maps describe the existing conditions of the site and show the proposed conditions that will exist after the subdivision is completed. This allows the community to assess the impacts that the proposed development will have.

***Plat, Final***

The final plat is a version of the plat ready for recording by the Registrar of Deeds. It may contain minor modification to the Preliminary Plat. The approval process typically evaluates completion of infrastructure, roads, etc., and performance guarantees/bonds.

***Premises***

A parcel or lot of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable land use regulations. (Outparcels of shopping centers shall be considered on the premises of the shopping center for the purpose of these regulations.)

***Principal Building or Structure***

A building or structure containing the principal use of the lot.

***Principal Use***

The primary purpose or function that a lot, building or structure serves or is proposed to serve.

***Progressive Care Facility***

A licensed multi-care facility including one or more buildings under unified management which provides for traditional residency and care of the elderly in a full range of living and care arrangements which includes at least two of the following: independent living and care, congregate care, or nursing care institutions.

***Public Hearing*****Types of public hearings**

There are two types of public hearings, legislative and quasi-judicial, and it is important to understand the distinction between them.

- **Legislative public hearings.** The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy. Legislative public hearings are required by state law when a city or county addresses such matters as comprehensive land use plans or the annual or biennial budget. Legislative public hearings are generally less formal than quasi-judicial public hearings. They do not involve the legal rights of specific, private parties in a contested setting, but rather affect a wider range of citizens or perhaps the entire jurisdiction. The wisdom of legislative decisions reached as a result of such hearings is not second-guessed by the courts; if challenged, they are reviewed only to determine if they are constitutional or violate state law.
- **Quasi-judicial evidentiary hearings,** unlike legislative ones, involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the "record" developed at the hearing. Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings. Most quasi-judicial hearings held by local government bodies involve land use matters, including site specific rezones, appeals, variances, and special uses. In conducting such hearings, the statutory procedures provided in G.S. 160D-406 shall be explicitly complied with.

**Property**

All real property subject to zoning regulations and restrictions and zone boundaries by the Town.

**Q****Quarry**

An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

**Quasi-judicial decision**

A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, and appeals of administrative determinations.

**R****Recreation**

An activity undertaken by a person or persons for pleasure or relaxation rather than as work; for example: bicycle riding, swimming, golf, tennis, or bowling.

**Recreation Facility**

A building, use, or facility where recreation programs are offered, including office space for the agency that owns or operates the facility, or a similar facility.

**Religious Institution**

See Houses of Worship.

**Restaurant (with Drive-Through Service)**

An establishment which serves prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

**Restaurant (without Drive-Through Service)**

An establishment, which serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tearooms and outdoor cafes.

**Retail Use**

An activity the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer.

**Rezoning**

An action taken by the Town to change the zoning status of a specific area located within the zoning jurisdiction of the Town.



**Roof Line**

The highest point of a flat roof and mansard roof and the lowest point of a pitched roof, excluding any cupolas, chimneys or other minor projections.

**S****Schools**

See Elementary and Secondary Schools and Vocational Schools.

**Screening**

A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. Screening may be located on the property line or elsewhere on the site.

**Service Station, Gasoline** (also see Automotive Repair)

Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted.

**Sexually Oriented Business**

Any business, the primary purpose of which is to deal with sexually oriented products including but not limited to an adult bookstore, adult motion picture theatre, adult mini motion picture theatre, or adult live entertainment business as defined in this section, or massage business as defined in G.S. 14-202.10(8).

**A. Adult Bookstore**

1. A retail establishment that has:
  - a. As one of its principal business purposes the sale or rental of; or
  - b. A substantial or significant portion of its stock in trade for sale or rental: "Publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in N.C.G.S. 14-202.10(10), or "specified sexual activities", as defined in N.C.G.S. 14-202.10(11); and/or "Sexually oriented devices", as defined in N.C.G.S. 14-202.10(9).
2. As used in this definition, "publications" include, by way of illustration, books, magazines, other periodicals, movies, videotapes, and other products offered in photographic, electronic, magnetic, digital or other imaging medium.
3. Any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of:

- a. The business advertises the sale or rental of adult publications and/or sexually oriented devices;
- b. Access by persons under 18 years of age to the business establishment or portions of the business establishment is restricted;
- c. Signs or notices are posted outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive;
- d. The building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

Such indicia shall be considered along with all other factors and available information.

4. Notwithstanding the foregoing, a general circulation video store that does not offer for sale any sexually oriented devices shall not constitute an "adult bookstore" even though it offers for sale and/or rental videotapes which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in N.C.G.S. 14-202.10(10), or "specified sexual activities", as defined in N.C.G.S. 14-202.10(11) so long as:
  - a. Such described videotapes are stocked and displayed in a room separate from the area of the business establishment where general circulation videotapes are stocked and displayed;
  - b. Access by persons under 18 years of age to the room where such described videotapes are stocked and displayed is restricted;
  - c. The square footage of the separate room where such described videotapes are stocked and displayed is no more than 10 percent of the square footage of the area where general circulation videotapes are stocked and displayed; and
  - d. The general circulation videotape portion of the business establishment offers a quantity and selection of new release general circulation videotapes that is typical of a general circulation video store and offers a quantity and selection of other general circulation videotapes that are organized and displayed in a manner that is typical of a general circulation video store.

- B. *Adult Live Entertainment Business.* Any establishment or business that has as one of its principal business purposes the presentation of "adult live entertainment" for observation by patrons. "Adult live entertainment" means any performance of or involving the actual presence of real people that exhibits "specified sexual activities",

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as defined in N.C.G.S. 14-202.10(10), or "specified anatomical areas", as defined in N.C.G.S. 14-02.10(11).

C. *Adult Mini Motion Picture Theatre.*

1. A commercial establishment with one or more "adult mini motion picture booths" where:
  - a. One of the principal business purposes is the presentation and viewing of still or motion pictures in the viewing booths that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in N.C.G.S. 14-202.10(10), or "specified sexual activities", as defined in N.C.G.S. 14-202.10(11); or
  - b. A substantial or significant portion of the stock of still or motion pictures available for viewing or that are actually viewed in the viewing booths are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in N.C.G.S. 14-202.10(10), or "specified sexual activities", as defined in N.C.G.S. 14-202.10(11).
  
2. Any of the following shall be indicia that the business establishment has as one of its principal business purposes the presentation and viewing in viewing booths motion pictures which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities", as defined in N.C.G.S. 14-202.10(10), or "specified anatomical areas", as defined in N.C.G.S. 14-202.10(11):
  - a. Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under 18 years of age;
  - b. Posted signs or notices outside and/or inside the business establishment indicating that the material offered for presentation and viewing in the viewing booths might be offensive. Such indicia shall be considered along with all other factors and available information.
  
3. "Adult mini motion picture booth" means any booth or partitioned area of less than 150 square feet in an adult mini motion picture theatre that is designed to hold patrons for the presentation and viewing of still or motion pictures (slides, film, videotape, laser disc, CD-ROM or other imaging media) that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in N.C.G.S. 14-202.10(10), or "specified sexual activities", as defined in N.C.G.S. 14-202.10(11).

- D. *Adult Motion Picture Theatre.* A commercial establishment that regularly presents motion pictures which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified anatomical areas", as defined in N.C.G.S. 14-202.10(10), or "specified sexual activities", as defined in N.C.G.S. 14-202.10(11), whether enclosed or not, of 150 square feet or greater, for observation by patrons therein.

**Setback**

The minimum distance between a property line and a building or structure.

**Shopping Center**

A group of 2 or more retail establishments or restaurants constructed and planned and developed with a unified design of buildings with associated outparcels and coordinated parking and service areas.

**Shrub, Large**

An ornamental plant that is at least two feet tall above the highest root at the time of planting, which can be expected to grow to a five- to six-foot height when mature.

**Sign**

Any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any

nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or a scoreboard located on athletic fields.

- A. *Banner.* A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, education, or corporate organizations.
- B. *Business Sign.* A sign that directs attention to a business, profession, or industry located on the premises where the sign is displayed; to type of products sold, manufactured or assembled; and/or to services or entertainment offered on the premises.
- C. *Changeable Copy.* Copy that is or can be changed manually in the field or through mechanical means (e.g., readerboards with changeable letters).
- D. *Commercial Sign.* Any object, device, or structure, or part thereof, situated outdoors which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any

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means, including but not limited to words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

- E. *Copy*. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.
- F. *Directional Sign*. A sign or guide to direct pedestrians or vehicular traffic on the premises on which it is displayed. Examples include “in”, “out”, “entrance”, and “exit”.
- G. *Flag*. A piece of durable fabric or other flexible material solely containing distinctive colors, patterns, standards, words, or emblems of any nation, organization of nations, state, or city, including but not limited to political jurisdictions such as the United States.
- H. *Freestanding*. The general term for any sign that is supported from the ground and not attached to a building.
- I. *Identification Sign*. A sign that displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.
- J. *Illuminated Sign*. A sign either internally or externally lighted.
- K. *Incidental Sign*. A single face or double face non-illuminated professional sign attached wholly to a building, window, or door containing information relative to emergencies, store hours, credit cards honored, and similar accessory information.
- L. *Kiosk Sign*. A Town or State provided informational sign providing directional, community facilities or community event information.
- M. *Logo*. A business trademark or symbol.
- N. *Monument/Ground Mounted Sign*. A freestanding sign which extends from the ground or which has a support that places the bottom of the sign less than 2 feet from the ground.
- O. *Noncommercial Copy*. A sign message through pictures, illustrations, symbols, and/or words, or any combination thereof, which does not contain any reference to a business or product but displays a substantive message, statement or expression that is protected by the First Amendment to the Constitution of the United States.
- P. *Nonconforming Sign*. Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of these

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regulations, and which fails to conform to all applicable standards and restrictions of these regulations.

- Q. *Off-Premises Sign.* A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered at a location other than the premises on which the sign is erected.
- R. *On-Premises Sign.* A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered on the premises on which the sign is erected.
- S. *Outdoor Advertising Structure.* A sign or billboard designed to carry outdoor advertising including all free standing, off-premise signs.
- T. *Parapet.* That portion of a building wall or false front that extends above the roofline.
- U. *Portable Sign.* A sign that is not permanently attached to the ground or a structure or a building that can easily be moved from one location to another and used for a temporary purpose.
- V. *Sign Structure or Support.* Any structure that supports or is capable of supporting a sign, including decorative cover.
- W. *Temporary Sign.* A sign which is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this Ordinance.
- X. *Wall Sign.* Any sign directly attached to an exterior wall of a building or dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Signs directly painted on walls, canopy signs, and awning signs shall be considered wall signs. Wall signs shall not extend above the eave line of the building.

### **Site Plan**

A development plan, drawn to scale, accurately indicating how the intended use of the land complies with the applicable development regulations of this ordinance. A site plan is usually required for commercial, industrial, multi-family and Planned Unit Development projects. Site plans may also be used to initiate single family residential subdivision projects, expansion or modifications of existing developments, etc.

### **Site-specific vesting plan**

A site-specific vesting plan consists of a plan submitted to the Town in which the applicant requests vesting pursuant to this UDO and in accordance with the required procedure for approval, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property..

***Special Use Permit.***

A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

***Street, Public***

A public right-of-way or fee simple tract of land not less than 20 feet in width, set aside for public travel, which has been accepted by or offered for maintenance by the Town of St. James or the State of North Carolina, has been established as a public street prior to the effective date of these regulations, or has been dedicated or offered for dedication to the Town of St. James or the State of North Carolina for public travel by the recording of a subdivision plat. Public streets shall also include Private Streets defined as An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private residences or land uses, to parking and service areas and which is not maintained by the public.

***Street, Private***

~~An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private residences or land uses, to parking and service areas and which is not maintained by the public.~~

***Structure***

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building that can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction.

***Subdivision (copied from NC statute)***

Divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created 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; but the following shall not be included within this definition nor be subject to the regulations authorized by this Part:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations.
- (2) The division of land into parcels greater than 10 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 or for public transportation system corridors.
- (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 dedication is involved and where

the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

- (5) 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 General Statutes.
- (6) A city may provide for expedited review of specified classes of subdivisions.

***Subdivision, Major***

All other divisions of land subdivisions that do not qualify as a minor subdivision.

***Subdivision, Minor***

A minor subdivision is any subdivision activity that creates no more than ten (10) lots (including the original lot) or involves the platting of no more than ten (10) residential units and conforms to the minor subdivision regulations and requirements of this ordinance

***Subdivision, Minor Expedited***

The division of one existing parcel of land under single ownership that is not exempt per G.S. 160D-802(a); (1) where no part of the tract or parcel to be divided has been divided in the 10 years prior to the proposed division; (2) the entire area of the tract or parcel to be divided is greater than 5 acres; (3) after division, no more than three lots result from the division and all resultant lots comply with all lot dimension size requirements of the applicable zoning district and the use of the lots is in conformity with the applicable zoning district; and (4) a permanent means of ingress and egress is recorded for each.

**I**

***Temporary***

An event, structure, or use that exists for a limited period of time

***Thoroughfare Plan***

The most recent map approved by Brunswick County and/or the Town of St. James which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation. The words thoroughfare plan and arterial street plan may be used interchangeably.

***Town Council***

The governing body of the Town of St. James.

***Tree, Canopy***

A tree, either single- or multi-stemmed (in clump form), which has a height of at least ten feet and is of a species which, at maturity, can be expected to reach a height in excess of 40 feet under normal growing conditions in the local climate.

***Tree, Mature***

A tree, either single- or multi-stemmed (in clump form), which has a height of at least eight feet. If the tree is single-stemmed, it shall have a caliper of at least two and one-half inches at the time of planting measured six inches up from the highest root of the tree.



***Tree, Monumental***

Any tree in fair or better condition which equals or exceeds the following diameter sizes:

- A. 12" DBH - Large hardwoods such as live oaks.
- B. 18" DBH - Large softwoods such as pines.
- C. 4" DBH - Small ornamental trees such as dogwoods or a lesser-sized tree if it is a rare or unusual species, of exceptional or unique quality, or of historical significance.

***Tree, Protected***

A protected tree is defined as:

- A. Any single trunk tree 38 inches or greater in circumference; or
- B. Any multi-trunk tree which has at least one trunk 38 inches or greater in circumference OR where the measurements of the multi-trunks added together equal at least 113 inches. The circumference of the tree is measured four feet above the ground.

***Tree, Understory***

A tree, either single- or multi-stemmed (in clump form), which has a height of at least five feet and is of a species which, at maturity, can be expected to reach a height of 10 to 40 feet under normal growing conditions in the local climate.

***Tree Stands, Monumental***

A contiguous grouping of trees which has been determined to be of high value in the opinion of the UDO Administrator based upon meeting one or more of the following criteria:

- A. A relatively mature, even-aged stand.
- B. A stand with purity of species composition or of a rare or unusual nature.
- C. A stand of historical significance.
- D. A stand with exceptional aesthetic quality.

**U*****UDO Administrator***

A person, or his or her designee, appointed by the Town Administrator and/or Town Council to administer the regulations contained in this Ordinance.

**V*****Variance***

Relief granted by the Town Council from the requirements of this Ordinance.

***Vested Right***

The right to undertake and complete the development and use of Property under the terms and conditions of an approved Site-specific vesting plan.

***Vocational School***

A use, whether privately owned or publicly owned, that trains persons in specific trades or occupations.

**W*****Warehouse***

A building that provides indoor storage of goods, materials, or merchandise for shipment to or processing on another property.

***Wetland***

Those areas regulated under Section 404 of the Clean Water Act as identified under guidelines employed by the United States Army Corps of Engineers in evaluating permit applications under 33 USC 1344 and applicable federal regulations or those areas regulated under the North Carolina Coastal Area Management Act. These may include ecologically sensitive lands, such as marshes, Carolina Bays, pocosins and swamps.

***Wholesale Uses***

An activity the principal use or purpose of which is the sale of goods, products, or merchandise stored on the premises to persons who are intermediaries between the producer and the consumer.

**X**

Reserved

**Y*****Yard***

Any area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

***Yard, Front***

The yard extending across the full width of the lot and lying between the front lot line and the front line of the principle structure as required in this ordinance.

***Yard, Rear***

The yard extending across the full width of the lot and lying between the rear lot line and the rear line of the principle structure as required in this ordinance.

***Yard, Side***

The yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side line, as required in this ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

**Z**

Reserved

Reserved

**APPENDIX B**  
**PLANT/VEGETATION LIST**

**1. Trees**

**a. Canopy Trees**

Canopy trees shall be of a species having an average minimum height of 15 feet and a minimum mature crown spread of 20 feet. At the time of planting, the tree shall have a minimum caliper of two inches measured at four feet above ground.

<b>Botanical Name</b>	<b>Common Name</b>	<b>Rec. Varieties</b>	<b>Height/Spread(feet)</b>
<i>Acer rubrum</i>	Red Maple	'October Glory' 'Red Sunset' 'Brandywine' 'Sun Valley'	40-50/25-35
<i>Betula nigra</i>	River Birch	'Heritage' 'Duraheat'	40-70/40-60
<i>Celtis laevigata</i>	Sugarberry		60-80/50-70
<i>Fraxinus pennsylvanica</i>	Green Ash	'Patmore'	50-60/25-30
<i>Ginkgo biloba</i>	Maidenhair Tree	'Autumn Gold' 'Princeton Sentry'	50-70/30-40
<i>Lagerstroemia fauriei</i>	Japanese Crape	'Fantasy'	30-40/25-35
	Myrtle	'Townhouse'	
<i>Magnolia grandiflora</i>	Southern Magnolia	'Little Gem'	25-60/15-30
		'Bracken's Brown Beauty' 'Alta' 'Kay Paris' 'Edith Bogue' 'Claudia' 'Wannamaker', 'D.D. Blanchard'	
<i>Metasequoia glyptostroboides</i>	Dawn Redwood		60-100/20-25
<i>Nyssa sylvatica</i>	Black Gum		30-50/20-30
<i>Quercus hemisphaerica</i>	Laurel Oak	'Darlington'	40-60/30-40
<i>Quercus virginiana</i>	Live Oak		60-80/60-80
<i>Quercus lyrata</i>	Overcup Oak		40-60/30-50
<i>Quercus nigra</i>	Water Oak		50-80/30-60
<i>Quercus nuttallii</i>	Nuttall Oak		40-60/30-50
<i>Quercus phellos</i>	Willow Oak		80-100/40-50
<i>Taxodium ascendens</i>	Pondcypress		60-80/15-20
<i>Taxodium distichum</i>	Baldcypress		50-70/20-30
<i>Thuja plicata</i>	Western Red	'Green Giant'	50-70/15-25
	Cedar	'Stepplechase'	
<i>Ulmus parvifoli</i>	Lacebark	'Athena' 'Bosque' 'Allee'	40-50-/30-40

b. **Understory Trees**

Understory trees shall be of a species having an average minimum height of eight feet and a minimum mature crown spread of 12 feet. At the time of planting, the tree shall have a minimum caliper of two inches measured at four feet above ground.

Botanical Name	Common Name	Rec. Varieties	Height/Spread(feet)
<i>Acer barbatum</i>	Southern Sugar Maple		20-25/15/20
<i>Acer buergerianum</i>	Trident Maple		20-25/10-15
<i>Acer palmatum</i>	Japanese Maple		10-25/10-20
<i>Aesculus pavia</i>	Red Buckeye		10-20/10-15
<i>Amelanchier arborea</i>	Serviceberry	'Autumn Brilliance'	20-25/10-15
<i>Asimina tri/oba</i>	Pawpaw		15-20/10-15
<i>Butia capitata</i>	Pindo or Jelly Palm		10-15/10-15
<i>Carpinus caro/iniana</i>	Ironwood		20-30/15-25
<i>Cercis canadensis</i>	Redbud	'Forest Pansy'	20-30/20-25
		'Oklahoma'	
		'Texas White'	
<i>Chamaecyparis thyoides</i>	Atlantic White Cedar		40-60/10-20
<i>Chionanthus retusus</i>	Chinese Fringetree		10-20/15-20
<i>Chionanthus virginicus</i>	Fringe Tree		10-20/15-20s
<i>Cornus florida</i>	Flowering Dogwood	'Cloud 9', 'Cherokee Chief', 'Cherokee Princess'	15-25/10-20
<i>Comus kousa</i>	Kousa Dogwood		20-30/20-30
<i>Crataegus phaenopyrum</i>	Washington Hawthorne		25-30/20-25
<i>Cryptomeria japonica</i>	Japanese Cedar	'Yoshino' 'Radicans' 'Black Dragon' 'Elegans Nana' 'Globosa Nana'	10-60/ 10-30
<i>Eriobotrya japonica</i>	Loquat		15-20/15-20
<i>Halesia tetraptera</i>	Carolina Silverbell		20-30/15-25
<i>Ilex decidua</i>	Possumhaw	'Warren's Red' 'Council Fire'	15-20/10-15
<i>Ilex latifolia</i>	Lusterleaf Holly		20-25/15-20
<i>Ilex opaca</i>	Amerian Holly		20-30/15-20
<i>Ilex verticillata</i>	Winterberry	'Winter Red' 'Red Sprite'	5-15/5-15
<i>Ilex vomitoria</i>	Yaupon Holly	'Hoskin's Shadow' 'Kathy Ann' 'Katherine'	15-20/*10-15
<i>Ilex x attenuate</i>	Topel Holly	'Savannah' 'Foster's #2' 'East Palatka	20-30/10-15
<i>Ilex x</i>	Nellie Stevens Holly	'Nellie R. Stevens'	15-25/10-15

Understory Trees *continued*

<b>Botanical Name</b>	<b>Common Name</b>	<b>Rec. Varieties</b>	<b>Height/Spread(feet)</b>
<i>Ilex hybrids</i>	Red Holly	'Oakleaf' 'Cardinal' 'Robin' 'Liberty' 'Patriot'	<b>10-15/8-15</b>
<i>Juniperus virginiana</i>	Eastern Red Cedar		30-50/10-20
<i>Koelreuteria Bipinnata</i>	Bougainvillea Goldenraintree		20-30/15-25
<i>Koelreuteria paniculata</i>	Goldenraintree		30-40/25-35
<i>Lagerstroemia hybrids</i>	Crape Myrtle	Many available	5-30/5-25
<i>Magnolia stellate</i>	Star Magnolia		15-20/10-15
<i>Magnolia x soulangiana</i>	Saucer Magnolia		20-30/15-25
<i>Magnolia virginiana</i>	Sweet Bay Magnolia		20-30/10-20
<i>Prunus campanulata</i>		'Okame' 'Dreamcatcher'	20-30/15-20
<i>Prunus caroliniana</i>	Carolina Cherry Laurel		20-30/15-20
<i>Prunus mume</i>	Japanese Flowering Apricot	'Kobal' 'Peggy Clarke'	15-25-/15-20
<i>Prunus Semulata</i>	Japanese Flowering Cherry	'Kwanzan'	20-30/20-30
<i>Prunus subhirtella</i>	Higan Cherry	'Autumnalis'	20-30/15-25
<i>Prunus subhirtella pendula</i>	Weeping Cherry		15-20/10-15
<i>Prunus x yedoensis</i>	Yoshino Cherry		15-25/15-25
<i>Sabal palmetto</i>	Palmetto Palm		10-30/10-15

**c . Shrubs**

Shrubs shall have a minimum mature height of 24 inches.

<b>Botanical Name</b>	<b>Common Name</b>	<b>Rec. Varieties</b>	<b>Height/Spread(feet)</b>
<i>Abelia x 'Rose Creek'</i>	Rose Creek Abelia		2-3/2/3
<i>Abelia x grandiflora</i>	Glossy Abelia	'Little Richard' 'Sherwoodi' 'Sunrise' 'Kaleidoscope'	2-4/2-4
<i>Aucuba japonica</i>	Dwarf Aucuba		3-4/2-3
<i>Bambusa multiplex</i>	Hedge Bamboo	clump-forming	15-20/16-10
<i>Bertieris thunbergii</i>	Japanese Barberry	'Crimson Pygmy'	2-3/3-4
<i>Bignonia capreolata</i>	Cross Vine	'Tangerine Beauty'	30' spread
<i>Buddleia davidi</i>	Butterfly Bush		3-8/3-6
<i>Cal/icarpa americana</i>	American Beautyberry		5-10/5-10
<i>Cal/icarpa dichotoma</i>	Purple Beautyberry		4-5/5-8
<i>Calycanthus floridus</i>	Carolina Allspice		5-10/5-10
<i>Camellia japonica</i>	Common Camellia	Many varieties	10-15/5-10
<i>Camellia sasanqua</i>	Sasanqua Camellia	Many varieties	10-15/5-10
<i>Chaenomeles speciosa</i>	Flowering Quince		4-10/4-10
<i>Chamaecyparis obtusa</i>	Hinoki Faisecypress	'Crippsii' 'Filicoides' 'Nana Gracilis'	5-30/5-20
<i>Chamaecyparis pisifera</i>	Japanese Falsecypress 'Filifera' 'Filifera Aurea'	'Mops' 'Boulevard'	5-15/5-10
<i>Clematis armandii</i>	Evergreen Clematis vine		20' spread
<i>Clethra alnifolia</i>	Summersweet	'Hummingbird' 'Sixteen Candles' 'White Doves'	2-3/4-6
<i>Cycas taitungensis</i>	Emperor Sago Palm		4-6/8-10
<i>Cycas revoluta</i>	King Sago Palm		4-8/5-6
<i>Danae racemosa</i>	Poet's Laurel		2-4/3/5
<i>Decumaria barbara</i>	Climbing Hydrangea	Deciduous vine	20- spread
<i>Eleagnus pungens</i>	Eleagnus		10-15/10-15
<i>Eleagnus x ebbingii</i>			
<i>Euonymus alatus</i>	Winged Euonymus		5-15/5-15
<i>xFatshedera lizei</i>	Fatshedera		8/4
<i>Fatsia japonica</i>	Fatsia		6-10/6-10
<i>Feijoa sel/owiana</i>	Pineapple Guava		10-5/5-10
<i>Ficus pumila</i>	Climbing Fig	clinging vine	30' spread
<i>Forsythia x</i>	Forsythia	'Lynwood Gold'	4-12/4-12
<i>Intermedia Gardenia jasminoides</i>	Cape Jasmine	'Frostproof' 'August Beauty'; 'Chuck Hayes'	5-10/5-10

Shrubs *continued*

<b>Botanical Name</b>	<b>Common Name</b>	<b>Rec. Varieties</b>	<b>Height/Spread(feet)</b>
<i>Gelsemium rankenii</i>	Swamp Jessamine vine		20' spread
<i>Gelsemium sempervirens</i>	Carolina Jessamine vine		20' spread
<i>Hedera helix</i>	English Ivy		50' spread
<i>Hibiscus syriacus</i>	Rose of Sharon	'Aphrodite', 'Diana', 'Helene', 'Minerva'	8-12/6-10
<i>Hydrangea arborescens</i>	Smooth Hydrangea	'Annabelle'	3-5/3-5
<i>Hydrangea macrophylla</i>	Bigleaf Hydrangea	Numerous varieties	3-10/3-10
<i>Hydrangea paniculata</i>	Panicle Hydrangea	'Tardiva', 'Unique'	10-20/10-20
<i>Hydrangea quercifolia</i>	Oakleaf Hydrangea	'Alice', 'Snow Queen'	5-10/5-15
<i>Ilex comuta</i>	Chinese Holly	'Carissa', 'Rotunda' 'Dwarf Burford' 'Needlepoint' 'Fineline', 'Burford'	4-5/5-12
<i>Ilex glabra</i>	Inkberry Holly	'Shamrock', 'Winter Red', 'Red Sprite'	5-15/5-15
<i>Ilex verticillata</i>	Yaupon Holly	'Hoskin's Shadow', 'Kathy Ann', Katherine'	15-20/10-15
<i>Ilex vomitoria 'nana'</i>	Drawf Yaupon Holly	'Bordeaux', 'Schillings'	3-4/4-5
<i>Ilex hybrids</i>	Holly	'Emily Brunner', 'San Jose', 'Mary Nell'	15-25/10-15
<i>Illicium floridanum</i>	Florida Anise Tree	'Aztec Fire', 'Halley's Comet', 'Shady Lady'	10-15/10-15
<i>Illicium parviflorum</i>	Anise Tree		10-15/10-15
<i>Itea virginica</i>	Virginia Sweetspire	'Little Henry', 'Merlot'	3-4/3-5
<i>Jasminum nudiflorum</i>	Winter jasmine		3-4/3-4
<i>Juniperus chinensis</i>	Chinese Jupiter	'Old Gold', 'Pfitzeriana', 'Compacta', 'Spartan', 'Robusta Green'	3-20/3-10
<i>Juniperus chinensis 'Kaizuka'</i>	Hollywood Juniper		15-25/8-15



Shrubs *continued*

Botanical Name	Common Name	Rec. Varieties	Height/Spread(feet)
<i>Juniperus davurica</i>	Dahurian Juniper	'Expansa' (Parsoni)	2-3/6-8
<i>Ligustrum japonicum</i>	Japanese Privet		10-15/10-15
<i>Lonicera sempervirens</i>	Coral Honeysuckle	Native vine	20' spread
<i>Lonicera x heckrottii</i>	Goldflame vine Honeysuckle		20' spread
<i>Loropetalum chinensis</i>	Chinese Fringe Flower	'Burgundy', 'Ruby', 'Zhuzhou Fuschia'	8-15/6-12
<i>Michelia figo</i>	Banana Shrub		5-10/5-10
<i>Miletia reticulate</i>	Evergreen Wisteria	Vine	10' spread
<i>Myrica cerifera</i>	Southern Wax Myrtle		6-20/6-20
<i>Nandina domestica</i>	Heavenly Bamboo	'Firepower', 'Moon Bay', 'Gulfstream', 'Harbor Dwarf'	2-3/2/3
<i>Osmanthus fragrans</i>	Fragrant Tea Olive		10-15/10-15
<i>Osmanthus x fortunai</i>	False Holly		10-15/10-15
<i>Podocarpus macrophyllus</i> var. <i>maki</i>	Chinese Podocarpus		10-15/4-6
<i>Pittosporum tobira</i>	Pittosporum	'Wheeler's Dwarf', 'Cream de Mint'	3-10/3-10
<i>Pyracantha coccinea</i>	Firethorn		8-15/8-15
<i>Pyracantha koidzumii</i> <i>Rhaphiolepis umbellata</i>	Indian Hawthorne	'Eleanor Taber', 'Olivia', 'Bay Breeze', 'Gulf Green', 'Majestic Beauty'	2-10/4-10
<i>Rhapidophyllum hystrix</i>	Needle Palm		5-8/5-8
<i>Rhododendron hybrids</i>	Azalea		2-3/3-4
<i>Rosa banksia</i> 'Lutea'	Lady Banks Rose	Vine	20' spread
<i>Rosmarinum officinalis</i>	Rosemary		2-4/2-4
<i>Sabal minor</i>	Dwarf Palmetto		4-5/4-5
<i>Schizophragma hydrangeoides</i>	Japanese Hydranga	Deciduous vine	30' spread
<i>Serenoa repens</i>	Saw Palmetto		3-4/4-5
<i>Smilax laurifolia</i> <i>Smilax smallii</i>	Greenbrier	Vine	20' spread
<i>Spiraea x bumalda</i> <i>Spiraea japonica</i>	Japanese Spirea	'Anthony Waterer', 'Goldflame', 'Shirobana', 'Gold Mound'	2-4/2-4

Shrubs *continued*

Botanical Name	Common Name	Rec. Varieties	Height/Spread(feet)
<i>Spiraea nipponica</i> 'Snowmound'	Snowmound Spirea		3-5/4-5
<i>Spiraea prunifolia</i>	Bridalwreath Spirea		5-10/5-10
<i>Spiraea thunbergi</i>	Thunberg Spirea		3-5/3-5
<i>Spiraea x vanhouttei</i>	Vanhouttle Spirea		5-10/10-12
<i>Ternstroemia gymnanthera</i>	Cleyera		8-12/5-6
<i>Thuja occidentalis</i> 'Emerald'	Emerald Arborvitae		10-15/3-4
<i>Trachelospermum</i> <i>jasmnoides</i>	Confederate Jasmine	Vine	15' spread
<i>Viburnum awabuki</i> 'Chindo'	Chindo Viburnum		10-15/6-8
<i>Viburnum macrocephalum</i>	Chinese Snowball Bush		12-15/10-15
<i>Viburnum nudum</i>	Possomhaw Viburnum		5-10/5-10
<i>Viburnum obovatum</i>	Walter's Viburnum		4-10/3-8
<i>Viburnum plicatum</i> var, <i>tomentosum</i>	Doublefile 'Shasta', 'Mariesii' Viburnum		8-10/8-10
<i>Viburnum prunifolium</i>	Blackhaw Viburnum		10-20/10-15
<i>Viburnum rhytidophyllum</i>	Leatherleaf Viburnum		10-15/10-15
<i>Viburnum suspensum</i>	Sandankwa Viburnum		5-10/5-10
<i>Viburnum tirus</i>	Lautustinus	'Spring Bouquet'	5-10/5-10
<i>Viburnum x utile</i> 'Conoy'	Conroy Viburnum		3-5/5-8
<i>Weigela florida</i>	Weigela		5-10/10-12
<i>Yucca filamentosa</i>	Adam's Needle Yucca	'Color Guard', 'Garland Gold', 'Bright Edge'	2-4/2-4