# City of Jacksonville

## Unified Development Ordinance

**Public Hearing Draft**
**March 2014**

# The City of Jacksonville Unified Development Ordinance History

This ordinance is the product of Citizen, trade and professional input that began shortly after the City of Jacksonville began consideration of a Unified Development Ordinance. The process has its roots in the consideration of a Growth Management Plan and significant updates to zoning, subdivision and other ordinances and the endorsement of the Clean & Green Jacksonville initiative. Many provisions in this Ordinance were adopted by the City Council ahead of the consideration of this complete body because of the changing nature of the City's development, and the desire of the Council to be responsive to development changes.

This specific gathered body of work began in 2007 with efforts that sought to benefit from information from Citizens, the development community, real estate community and others who regulate building and development. Together many hours were spent in debate about what a new Unified Development Ordinance should contain. That also meant making a decision about what Jacksonville should look like in the future.

Over time, the City Council considered each element of this document after it was proposed by professionals, reviewed by the Citizen group and then by the Jacksonville Planning Advisory Board.

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# Article 1: General Provisions

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# ARTICLE 1: General Provisions

## 1.1 Official Title

This ordinance shall be officially known as the "Unified Development Ordinance of the City of Jacksonville, North Carolina" and may be referred to as the "Unified Development Ordinance" or "this ordinance" or the "UDO."

## 1.2 Effective Date

This ordinance shall become effective on July 1, 2014.

## 1.3 Authority

### A. General Authority

This ordinance consolidates the City's zoning and subdivision regulatory authority as authorized by the North Carolina General Statutes and is adopted in accordance with:

1. The authority granted to the City of Jacksonville by the General Assembly of the State of North Carolina;
2. The City charter;
3. The North Carolina General Statutes Chapter 160A, Article 19 (Planning and Regulation of Development);
4. All other relevant laws of the State of North Carolina; and
5. Any special legislation enacted for the City.

### B. References to North Carolina General Statutes

Whenever any provision of this ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## 1.4 General Purpose and Intent

The purpose of this ordinance is to protect the public health, safety, and general welfare of the citizens and landowners of Jacksonville, and to implement the policies and objectives of City-adopted plans addressing the City's growth and development. The intent of this ordinance is more specifically to:

A. Foster convenient, compatible, and efficient relationships among land uses;

B. Lessen congestion in the streets;

C. Ensure the provision of adequate open space between uses for light, air, and fire safety;

D. Prevent the overcrowding of land and avoid undue concentrations of population;

E. Preserve the character and quality of residential neighborhoods while providing increased housing choices;

F. Facilitate the adequate provision of transportation, utilities, parks, recreation, and other public facilities;

G. Maintain and enhance the character of various districts within the City through an emphasis on design quality;

H. Maintain and protect high quality aesthetic standards for development;

I. Conserve the value of buildings and land;

J. Conserve the natural resources and environmental quality of the City and its environs; and

K. Protect development and residents from flooding and other natural hazards.

## 1.5 Applicability and Jurisdiction

### A. General Applicability

The provisions of this ordinance shall apply to the development of all land within the planning jurisdiction of the City of Jacksonville, comprised of all land within the City's corporate limits and its extra-territorial jurisdiction (ETJ), unless the development is expressly exempted by a specific section or subsection of this ordinance.

### B. Application to Governmental Units

Except as stated herein, the provisions of this ordinance shall apply to:

1. Development by the City or its agencies or departments;
2. Development of buildings by state or county agencies or departments, public colleges or universities, or other political subdivisions of the state, in accordance with the standards in Section 160A-392 of the North Carolina General Statutes; and
3. To the full extent permitted by law, development owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services.

### C. No Development until Compliance with this Ordinance

No land shall be developed without full compliance with the provisions of this ordinance and all other applicable City, County, State, and Federal regulations.

## 1.6 Conformance with Adopted Plans

This ordinance is intended to ensure that all future development and redevelopment within the City's planning jurisdiction is consistent with the goals, objectives, policies, strategies, and actions of City-adopted plans addressing the City's growth and development. To the extent this ordinance is or becomes inconsistent with the adopted plans, it should be amended to become or remain consistent with the adopted plans. Additionally, all amendments to this ordinance's text or official zoning map should maintain and enhance consistency between this ordinance and the adopted plans.

## 1.7 Relationship with other Laws, Covenants or Deed Restrictions

### A. Conflicts with Other City Codes or Laws

If a provision of this ordinance is inconsistent with another provision of this ordinance, or with a provision found in other adopted codes or ordinances of the City, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

### B. Conflicts with Private Agreements

The City shall not be responsible for monitoring or enforcing private covenants and restrictions.

### C. Conflicts with State or Federal Law

If a provision of this ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

### D. Existing Agreements or Vested Rights

Nothing in this ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights previously adopted or issued pursuant to all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

## 1.8 Official Zoning Map

### A. Generally

The official zoning map designates the location and boundaries of the various base zoning districts, overlay zoning districts, municipal corporate boundaries, and extra-territorial jurisdiction boundaries established in this ordinance. The official zoning map shall be kept on file in the Development Services Department and is available for public inspection during normal business hours. The original official version of the map shall be certified by the Development Services Director. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district classification of land in the City's jurisdiction, and shall only be amended in accordance with this ordinance.

### B. Incorporated by Reference

The official zoning map including all the notations thereon, are incorporated herein by reference and made part of this ordinance.

### C. Zoning Classification of Lands Added to Jurisdiction

#### 1. City Council Determination

The City Council shall determine the zoning classification of lands added to the City's jurisdiction through extra-territorial jurisdiction boundary changes or annexation at the time such lands are added, based on the following factors:

(a) The land's designation on City-adopted plans addressing the City's growth and development;

(b) The land's current land use;

(c) The existence of a previously-approved site or subdivision plan;

(d) The character of adjacent lands;

(e) Current county zoning designations;

(f) Landowner requests; or

(g) Other factors considered relevant at the time of the boundary change or annexation.

#### 2. Landowner Request

Any owner of land within an area proposed to be added to the City's jurisdiction through extra-territorial jurisdiction boundary changes or annexation may submit a petition requesting a specific zoning designation to the Development Services Department. If such petition is received before the land is added to the City's jurisdiction, then the public hearing for the application of a base zoning district (see Section 2.3.B, *Rezoning or Text Amendment*) may be held concurrently with any public hearing required for the boundary change or annexation.

## D. Interpretation of Official Zoning Map Boundaries

The Development Services Director shall be responsible for interpretations of the official zoning map in accordance with the standards in Section 2.3.L, *Interpretation*, and the following standards:

1. Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.
2. Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving ten feet or less, the zoning boundary shall be interpreted as moving with the property line.
3. Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be construed as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
4. Boundaries shown as approximately following established municipal corporate limits or other political boundaries shall be interpreted as following the corporate limits or boundary.
5. Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.
6. If the specific location of a depicted boundary cannot be determined from notations on the official zoning map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.
7. Where the actual locations of existing physical or natural features vary from those shown on the official zoning map, or in other circumstances not covered by this subsection, the Development Services Director shall have the authority to interpret the district boundaries (see Section 2.3.L, *Interpretation*). Appeals of the decision by the Development Services Director shall be reviewed by the Board of Adjustment in accordance with Section 2.3.M, *Appeal*.

## E. Changes to Official Zoning Map

Changes made in zoning district boundaries or other matters portrayed on the official zoning map shall be made in accordance with the provisions of this ordinance (see Section 2.3.B, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*). Changes shall be entered on the official zoning map by the Development Services Director promptly after the amendment has been approved by the City Council. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Development Services Director may enter on the official zoning map notations reflecting the ordinance wording. The Development Services Director Service shall maintain copies of superseded versions of the official zoning map for historical reference.

## F. Transition to New Zoning Districts

On the effective date of this ordinance, land that is zoned with a zoning district classification from the previous zoning ordinance shall be reclassified or translated to one of the zoning district classifications in this ordinance as set forth in Article 3: *Zoning Districts.* Table 1.8.F, *Zoning District Transition Table*, summarizes the translation or reclassification of the zoning districts used in the previous zoning ordinance to the zoning districts used in this ordinance. (For example, Table 1.8.F shows that all lands classified as RA-20 in the previous zoning ordinance (under the column titled "Former Zoning Districts") are classified RSF-20 in this ordinance (under the column titled "New Zoning District").)

**Table 1.8.F: Zoning District Transition Table**

| Former Zoning District [1] | New Zoning District [2] |
|---|---|
| **Residential Zoning Districts** | |
| | RSF-40 Residential Single-Family 40 |
| RA-20 Residential/Agricultural 20 | RSF-20 Residential Single-Family 20 |
| RS-15 Residential Single-Family 15 | RSF-10 Residential Single-Family 10 |
| RS-12 Residential Single-Family 12 | |
| RS-10 Residential Single-Family 10 | |
| R-7 Residential 7 | RSF-7 Residential Single-Family 7 |
| RS-7 Residential Single-Family 7 | |
| RS-6 Residential Single-Family 6 | RSF-5 Residential Single-Family 5 |
| RS-5 Residential Single-Family 5 | |
| R-O Residential Office | |
| RM-6 Residential Multi-Family 6 | RMF-LD Residential Multi-Family Low Density |
| RM-5 Residential Multi-Family 5 | |
| TCA Townhouses, Condominiums, Apartments | RMF-HD Residential Multi-Family High Density |
| RD-5 Residential Downtown 5 | DTR – Downtown Residential |
| RD-3 Residential Downtown 3 | |
| **Nonresidential Zoning Districts** | |
| O&I Office and Institutional | OI Office and Institutional |
| NB Neighborhood Business | NC Neighborhood Commercial |
| CBD Central Business District | DTB - Downtown Business |
| O/MU Office/Mixed Use | |
| B Business Zone | CC Corridor Commercial |
| B-1 Business Zone | |
| B-2 Business Zone | |
| I Industrial Zone | IND Industrial |
| MR Military Reservation Zone | MR Military Reservation |
| **Planned Development Districts** | |
| PD-R Planned Development Residential | PD-R Planned Development Residential |
| PD-C Planned Development Commercial | PD-C Planned Development Commercial |
| PD-T Planned Development Traditional Neighborhood | PD-T Planned Development Traditional Neighborhood |
| **Overlay Zoning Districts** | |
| Adult Business Overlay Zone | ABO Adult Business Overlay |
| Billboard Overlay Zone | BBO Billboard Overlay |
| | NCO Neighborhood Conservation Overlay |
| FPO Flight Path Overlay | FPO Flight Path Overlay |

[1] Lands formerly designated one of the "Former Zoning District" including Conditional Use classifications shown in the left column are translated or reclassified to the corresponding "New Zoning District" classification shown in the right column. These reclassifications occurred on the effective date of this ordinance shall comply with the standards in this UDO.

# 1.9 Transitional Provisions

## A. Effective Date

This ordinance shall become effective on the effective date of this ordinance and shall repeal and replace the Jacksonville Zoning Ordinance, as originally adopted on August 22, 1972, and subsequently amended, and the Jacksonville Subdivision Regulations, as originally adopted on April 3, 1962, and subsequently amended.

## B. Violations Continue

Any violation of the previous zoning ordinance or subdivision regulations shall continue to be a violation under this ordinance and any other applicable ordinances, laws, or statutes. Violations of this ordinance shall be subject to the penalties set forth in Article 8: *Enforcement*, and any other applicable ordinances, laws, or statutes, unless the use, development, construction, or other activity complies with the express terms of this ordinance.

## C. Complete Applications

1. Any development application submitted and accepted as complete before the effective date of this ordinance, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not comply with this ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 7: *Nonconformities*.

2. Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in place at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this ordinance.

3. An applicant with a pending application accepted before the effective date of this ordinance may opt to have the proposed development reviewed and decided under the standards of this ordinance by withdrawing the pending application and submitting a new application in accordance with the standards in this ordinance.

## D. Approved Applications

Any development approvals granted before the effective date of this ordinance shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (i.e., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this ordinance. To the extent a prior-approved application proposes development that does not comply with this ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 7: *Nonconformities*.

## E. Approved Special or Conditional Use Permits

Lands subject to a Special or Conditional Use Permit that is approved before the effective date of this ordinance shall continue to be subject to the terms and conditions of the Special or Conditional Use Permit.

## F. Nonconformities

If any use, structure, lot, or sign legally existed on the effective date of this ordinance, but does not fully comply with the standards of this ordinance, then that use, structure, lot, or sign shall be

considered nonconforming under this ordinance and shall be controlled by the provisions of Article 7: *Nonconformities*.

# 1.10 Vested Rights

## A. Statutory Vesting

### 1. Site-Specific Development Plan

In accordance with Section 160A-385.1 of the North Carolina General Statutes and not withstanding any other provision of this ordinance, a landowner may apply for a Vested Rights Determination, in accordance with Section 2.3.N, *Vested Rights*, to establish a vested right to develop land in accordance with the terms and conditions of an approved site-specific development plan.

### 2. Building Permit

In accordance with Section 160A-385(b) of the North Carolina General Statutes, the issuance of a Building Permit establishes a vested right to development authorized by the Building Permit so long as the permit remains valid and unexpired.

## B. Common Law Vesting

A common law vested right applies to a development that is under construction before an ordinance change that adversely affects the development. A common law vested right is established only when each of the following four tests is met:

1. The owner has made substantial expenditures towards the development project; and
2. The expenditures were made in good faith; and
3. The expenditures were made in reliance on valid governmental approval; and
4. The owner would be harmed without the vested right.

When a phased development is involved, the common law vesting only applies to that phase of the project in which development has started at the time of the ordinance change, unless the expenditures cannot be allocated by phases. The remaining phases not under construction may have to apply for statutory vesting.

# 1.11 Severability

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

# Article 2: Administration

# Article 2: Administration Table of Contents


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# ARTICLE 2: Administration

## 2.1 Administrative and Decision-Making Bodies

### A. Administrative and Decision-Making Bodies Generally

The following bodies and City staff have powers and responsibilities in administering and reviewing applications for development approval under this ordinance:

1. City Council;
2. Planning Advisory Board;
3. Board of Adjustment; and
4. City Staff.

### B. Summary Table of Permit Review Procedures

Table 2.1.B, *Development Review Structure*, summarizes the review and decision-making bodies that have specific permit review roles under this ordinance, and their responsibilities.

**Table 2.1.B: Development Review Structure**

| Procedure | Review and Decision-Making Bodies | | | | |
|---|---|---|---|---|---|
| | City Council [1] | Planning Advisory Board | Board of Adjustment [1] | Technical Review Committee | Development Services Director |
| **Amendments** | | | | | |
| CAMA Land Use Plan Amendment [2] | Public Hearing & Decision | Recommendation | | Comment | Recommendation |
| Rezoning or Text Amendment | Public Hearing & Decision | Recommendation | | Comment | Recommendation |
| Conditional Rezoning | Public Hearing & Decision | Recommendation | | Comment | Recommendation |
| Planned Development | Public Hearing & Decision | Recommendation | | Comment | Recommendation |
| **Site Plans and Subdivisions** | | | | | |
| Type II Site Plan [4] | Decision | | | Recommendation | |
| Type I Site Plan [4] | Appeal | | | Decision | |
| Subdivision Exemption | Appeal | | | | Decision |
| Sketch Plat | Appeal | Recommendation on Appeals | | Decision | |
| Preliminary Plat | Appeal | Recommendation on Appeals | | Decision | |
| Preliminary Plat with Approved PD District | Appeal | | | Decision | |
| Final Plat | Appeal | | | Decision | |
| **Permits** | | | | | |
| Type III Special Use Permit & Site Plans | Public Hearing &Decision | Recommendation | | Comment | Recommendation |
| Zoning Permit | | | Public Hearing & Appeal | | Decision |
| Building Permit [3] | | | | | Decision |

## Table 2.1.B: Development Review Structure

| Procedure | Review and Decision-Making Bodies | | | | |
|---|---|---|---|---|---|
| | City Council [1] | Planning Advisory Board | Board of Adjustment [1] | Technical Review Committee | Developme nt Services Director |
| Floodplain Development Permit/Certification | Decided by the Public Services Director | | | | |
| **Variances, Adjustments, and Other Procedures** | | | | | |
| Variance | | | Public Hearing & Decision | | |
| Administrative Adjustment | | | | | Decision |
| | | | | | |
| Interpretation | | | Public Hearing & Appeal | | Decision |
| Appeal | | | Public Hearing & Decision | | |
| Vested Right Determination | Public Hearing & Decision | Recommendation | | Recommendation | |
| Development Agreement | Public Hearing & Decision | | | | Recommendation |
| | | | | | |

NOTES:
[1] Decisions of the City Council and Board of Adjustment are appealable to Onslow County Superior Court.
[2] Plan Amendments involve amendments to the CAMA Land Use Plan. Amendments to the CAMA Land Use Plan require review and approval by the state before implementation.
[3] In accordance with Section 160A-434 of the North Carolina General Statutes and the State Building Code, decisions on applications for Building Permits, as well as other matters pertaining to the State Building Code, are appealable to the North Carolina Commissioner of Insurance.
[4] Site plans associated with a Conditional Rezoning or Special Use Permit shall be decided by the decision-making body deciding the Conditional Rezoning or Special Use Permit application.

## C. City Council

To exercise the authority granted the City Council by state law, the City Council shall have the following powers and duties under this ordinance:

### 1. Application Review

To initiate, review, and decide applications for the following:

(a) Amendments to the Land Use Plan;

(b) Amendments to the text of this ordinance

(c) Amendments to the official zoning map;

(d) Conditional Rezonings;

(e) Planned Developments;

(f) Type III Special Use Permit & Site Plans;

(g) Type II Site Plans;

(h) Vested Rights Determinations;

(i) Sketch Plat

(j) Preliminary Plat (not associated with a Planned Development District)

(k) Development Agreements; and

(l) Appeals on decisions of the Technical Review Committee on Preliminary Plats associated with a Planned Development District Schedule of Fees and Civil Penalties

### 2. Schedule of Fees and Civil Penalties

To approve, by resolution, a schedule of fees governing applications for permits and other development approvals reviewed under this ordinance, and civil penalties for violations of this ordinance; and

### 3. Other Actions

To take any other action not delegated to the Planning Advisory Board, Board of Adjustment, Development Services Director, Technical Review Committee, or other decision-making body as the City Council may deem desirable and necessary to implement the provisions of this ordinance.

## D. Planning Advisory Board

To exercise the authority granted the Planning Advisory Board by state law and Chapter 2 (Administration), Article V (Boards and Commissions), of the City of Jacksonville Code of Ordinances, the Planning Advisory Board shall have the following powers and duties under this Ordinance:

### 1. Decision Authority

The Planning Advisory Board is a recommending body only

### 2. Recommendation Authority

Review and make recommendations to the City Council on the following:

(a) Amendments to the Land Use Plan;

(b) Amendments to the text of this ordinance;

(c) Amendments to the official zoning map;

(d) Conditional Rezonings;

(e) Planned Developments;

(f) Type III Special Use Permit & Site Plans;

(g) Vested Rights Determinations;

(h) Sketch Plat Appeals; and

(i) Preliminary Plat Appeals

### 3. Other Powers and Duties

The Planning Advisory Board is authorized to carry out any other powers and duties delegated to it by the City Council, consistent with state law.

### 4. Membership, Appointment, and Terms of Office (Refer to City Code)

### 5. Removal and Replacement; Attendance (Refer to City Code)

### 6. Chairperson and Vice-Chairperson (Refer to City Code)

### 7. Staff

The Development Services Director shall serve as the professional staff liaison to the Planning Advisory Board and provide it with administrative support. The Development Services Director shall also serve as secretary for the Planning Advisory Board and shall notify board members of all meetings, keep the minutes of the meetings, and send copies of minutes of board meetings to each board member.

### 8. Meetings

#### (a) Schedule

The Planning Advisory Board shall establish a schedule of regular meetings and shall not deviate from this schedule without first providing notice to the City Clerk in accordance with the Jacksonville City Code.

#### (b) Official Record

(1) The Planning Advisory Board shall keep a record of its meetings, including all findings of fact, determinations, and decisions.

(2) Such record shall be a public record.

#### (c) Publication of Notice

Notice of all Planning Advisory Board meetings shall be provided in accordance with state law.

#### (d) Open to the Public

All Planning Advisory Board meetings shall be open to the public.

#### (e) Procedure

In conducting meetings, the Planning Advisory Board shall follow the City Council's rules of procedure, in accordance with Section 2.1.D.11, *Rules of Procedure*, and consistent with the procedural requirements of this ordinance and state law.

### 9. Quorum and Necessary Vote

#### (a) Quorum

In accordance with the Jacksonville City Code.

#### (b) Voting

(1) The affirmative vote of the majority of board members present and constituting a quorum shall be required for all decisions of the Planning Advisory Board.

(2) Once a member is physically present at a Planning Advisory Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been allowed to withdraw from the meeting in accordance with Section 2.1.D.10, *Withdrawal from Meeting*.

(3) A roll call vote shall be taken upon request of any member.

### 10. Withdrawal from Meeting

A member of the Planning Advisory Board may be allowed to withdraw from the remainder of a board meeting, by majority vote of the remaining members present and constituting a quorum, for any good and sufficient reason unrelated to a desire to avoid voting on matters to be considered at the meeting.

### 11. Rules of Procedure

The Planning Advisory Board shall follow the most current adopted version of the City Council's rules of procedure. To the extent not provided for in the City Council's rules of procedure, and not conflicting with state law or the spirit of the City Council's rules of procedure, the board may refer to *Roberts Rules of Order, Revised,* to answer unresolved procedural questions.

## E. Board of Adjustment

The Board of Adjustment is hereby established in accordance with Chapter 160A, Article 19, of the North Carolina General Statutes and this Unified Development Ordinance.

### 1. Powers and Duties

#### (a) Application Review

The Board of Adjustment shall review and decide applications for:

(1) Variances;

(2) Appeals on the following decisions:

i. Zoning Permit

ii. Interpretations by the Development Services Director;

iii. All other decisions, determinations, and orders of the Technical Review Committee, Development Services Director, or other City

official in administering or enforcing this ordinance in accordance with Table 2.1.B *Development Review Structure*.

(b) **Other Powers and Duties**

The Board of Adjustment is also authorized by this ordinance to carry out any other powers and duties delegated to it by the City Council, consistent with state law.

## 2. Membership, Appointment, and Terms of Office

(a) The Board of Adjustment shall consist of a total of five regular members and two alternate members.

(b) Four regular members and one alternate member shall reside within the corporate limits of the City of Jacksonville, be registered voters within the City or Onslow County (unless active duty military personnel), and be appointed by the City Council.

(c) One regular member and one alternate member shall reside within the extra-territorial jurisdiction (ETJ), be registered voters within Onslow County (unless active duty military personnel), and be appointed by the Onslow County Board of Commissioners. If the County Board of Commissioners cannot find qualified residents of the ETJ to fill these positions, it may appoint other residents of the county (including residents of the City) to fill them. If the County Board of Commissioners fails to appoint the ETJ members within 90 days after receiving a resolution from the City Council requesting that they be appointed, the City Council may appoint the ETJ members. ETJ members shall have equal rights, privileges, and duties as City members and may vote on all issues presented before the board.

(d) A City alternate member may sit only in lieu of a regular City member, as assigned by the Chairperson, and the ETJ alternate member may sit only in lieu of the regular ETJ member. Alternate members shall have the same powers and duties as the member they replace.

(e) Members shall be appointed for three-year staggered terms, expiring June 30. Members shall continue to serve until their successors are appointed.

(f) Members may be reappointed to successive terms without limitation.

(g) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only.

(h) If a City member moves outside the City, or if an ETJ member moves outside the ETJ, such action shall constitute a resignation from the board, effective the date the City Council appoints a replacement.

## 3. Replacement for Cause; Attendance Requirements Replacement for Good Cause

The City Council may replace any board member at any time for good cause, including, but not limited to, poor attendance, lack of participation, unfitness, malfeasance, and conflict of interest.

### (a) Replacment for Poor Attendance

(1) The City Council may replace any member of any board or council-appointed advisory committee for good cause, including, but not limited to, poor attendance, lack of participation, unfitness, malfeasance and conflict of interest; except, in the case of a mayor-appointed liaison member, the mayor may replace said member for the aforementioned reasons.

(2) Any member of any board or council-appointed committee who fails to attend any three (3) out of the five (5) previous regular meetings, or who fails to attend any three (3) consecutive regular meetings, shall be automatically terminated and may only be reappointed by action of the City council.

## 4. Chairperson and Vice-Chairperson

(1) Advisory committees shall elect from among its voting membership, a chairperson and if desired, a vice-chairperson. The chairperson shall preside at all meetings but shall have the right to vote only in the event of a tie. In the absence of the chairperson, the vice-chairperson, if applicable shall preside over the meeting and in the absence of both, a quorum being present, a chairperson pro-tem shall be chosen by the members present. A member acting for the chairperson shall not lose his or her right to vote.

(2) Elections shall be conducted annually at the first scheduled meeting following June 30. Nominations by the voting members shall be accepted from the floor and the successful candidate shall be elected by majority vote. Voting may be by voice or if by written ballot; each member so voting must sign his/her ballot and ballots must be available for public inspection immediately following the meeting and recorded in the approved minutes of the meeting, at which time the ballots may be destroyed, in accordance with G.S. § 143-318.13(b).

(3) The term of office for the position of chairperson and vice-chairperson; if applicable shall be for one (1) year, with the right to succeed himself or herself for one (1) additional term.

## 5. Staff

The Development Services Director shall serve as the professional staff liaison to the Board of Adjustment and provide it with administrative support. The Development Services Director shall also serve as secretary for the Board of Adjustment and shall notify board members of all meetings, keep the minutes of the meetings, and send copies of minutes of board meetings to each board member.

## 6. Meetings

### (a) Schedule

The Board of Adjustment shall establish a schedule of regular meetings and shall not deviate from this schedule without first providing notice to the City Clerk In accordance with the Jacksonville City Code.

### (b) Official Record

(1) The Board of Adjustment shall keep a record of its meetings and hearings, including all findings of fact, determinations, and decisions.

(2) Such record shall be a public record.

### (c) Publication of Notice

Notice of all Board of Adjustment meetings shall be provided in accordance with state law.

### (d) Open to the Public

All Board of Adjustment meetings shall be open to the public.

### (e) Procedure

In conducting meetings and hearings, the Board of Adjustment shall follow the City Council's rules of procedure, in accordance with Section 2.1.E.10, *Rules of Procedure*, and consistent with the procedural requirements of this ordinance and state law.

## 7. Quorum and Necessary Vote

### (a) Quorum

Four-fifths (4/5) of the total number of regular members of the Board of Adjustment shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

### (b) Voting

(1) In accordance with North Carolina General Statutes 160A-388.

(2) Once a member is physically present at a Board of Adjustment meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member is disqualified from voting on the matter in accordance with Section 2.1.E.7, *Disqualification from Participation and Voting on Quasi-Judicial Matters*, or the member has been allowed to withdraw from the meeting in accordance with Section 2.1.E.89, *Withdrawal from Meeting*.

(3) A roll call vote shall be taken upon request of any member.

## 8. Disqualification from Participation and Voting on Quasi-Judicial Matters

(a) A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional right to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having:

(1) A fixed opinion before hearing the matter that is not susceptible to change;

(2) Undisclosed ex parte communications;

(3) A close familial, business, or other associational relationship with an affected person; or

(4) A financial interest in the outcome of the matter.

(b) If an objection is raised to a member's participation in a matter and that member does not recuse himself or herself, the remaining members of the board shall, by majority vote, determine whether the member is or is not disqualified from participating in and voting on the matter.

### 9. Withdrawal from Meeting

A member of the Board of Adjustment may be allowed to withdraw from the remainder of a board meeting, by majority vote of the remaining members present and constituting a quorum, for any good and sufficient reason unrelated to a desire to avoid voting on matters to be considered at the meeting.

### 10. Rules of Procedure

The Board of Adjustment shall follow the most current adopted version of the City Council's rules of procedure. To the extent not provided for in the City Council's rules of procedure, and not conflicting with state law or the spirit of the City Council's rules of procedure, the board may refer to *Roberts Rules of Order, Revised*, to answer unresolved procedural questions.

## F. City Staff

### 1. Technical Review Committee

The Technical Review Committee is hereby established.

#### (a) Powers and Duties

The Technical Review Committee shall have the following powers and duties:

##### (1) Decision Authority

Review and decide applications for the following:

i. Type I Site Plans; and

ii. Preliminary Plats within an Approved Planned Development District;

iii. Final Plats.

##### (2) Recommendation to Development Services Director

Review and make recommendations on applications for the following:

i. CAMA Land Use Plan Amendment;

ii. Rezoning or Text Amendment;

iii. Conditional Rezoning;

iv. Sketch Plat;

v. Preliminary Plat;

vi. Planned Developments;

vii. Type II Site Plans;

viii. Type III Special Use Permit & Site Plan; and

ix. Vested Rights Determinations.

##### (3) Additional Duties

i. Provide expertise and technical assistance to the Development Services Director and in establishing application content

requirements and a submission schedule for review of applications and appeals; and

ii. Provide expertise and technical assistance to the City's other decision-making bodies, upon request.

### (b) Membership and Appointment

(1) The Technical Review Committee shall consist of the Development Services Director and other representatives of various City departments, as appointed by the City Manager based upon the advice of the City Attorney and the Development Services Director.

(2) Representatives from other City departments and non-City regulatory agencies and service providers generally involved with development review may serve as non-voting members of the Technical Review Committee.

### (c) Chairperson

The Development Services Director shall serve as Chairperson of the Technical Review Committee, and shall schedule committee meetings, coordinate the committee's activities, preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts.

### (d) Meetings

#### (1) Schedule; Attendance by Applicant

The Technical Review Committee shall establish a regular meeting schedule and meet frequently enough to take action as expeditiously as practicable on matters before it. The Development Services Director may invite applicants to attend Technical Review Committee meetings.

#### (2) Official Record

i. The Technical Review Committee shall keep a record of its meetings.

ii. Such record shall be a public record.

## 2. Development Services Director

The Development Services Director is designated by the City Manager as the official responsible for administering and enforcing the provisions of this ordinance. The Development Services Director may delegate any decision or review authority to any professional-level staff in the Planning and Development Services Department, and may delegate any administrative duties to any staff in the Planning and Development Services Department. The Development Services Director shall have the following powers and duties:

### (a) Decision Authority

Review and decide applications for the following:

(1) Subdivision Exemptions;

(2) Zoning Permits;

(3) Building Permits;

(4) Administrative Adjustments; and

(5) Interpretations.

### (b) Recommendation Authority

Review and make recommendations on applications for the following:

(1) Amendments to the Land Use Plan;

(2) Amendments to the text of this ordinance;

(3) Amendments to the official zoning map;

(4) Conditional Rezonings;

(5) Type III Special Use Permit and Site Plan; and

(6) Development Agreements.

### (c) Additional Duties

(1) Establish application content requirements and a submission schedule for review of applications and appeals;

(2) Compile and maintain an administrative manual;

(3) Review applications and submit staff reports to review bodies and decision-making bodies;

(4) Maintain the official zoning map and related materials;

(5) Enforce this ordinance in accordance with Article 8: *Enforcement*;

(6) Provide expertise and technical assistance to the City's other decision-making bodies, upon request; and

(7) Maintain a record of all permits and approvals on file and make copies available upon request.

## 3. Floodplain Administrator

Official designated by the City Manager, hereinafter referred to as the "Floodplain Administrator", is appointed to administer and implement the floodplain provisions.

# 2.2 Common Review Procedures

The provisions of this section shall apply to all development application requests under this ordinance, unless otherwise stated in this section or in Section 2.3, *Standards and Requirements for Development Applications.*

## A. Authority to File Applications

1. Applications for development approvals for a specific parcel of land shall be submitted by:
   - (a) The owner(s) of the land on which the development is proposed; or
   - (b) The contract purchaser of the land; or
   - (c) Any other person having a recognized property interest in the land (e.g., lessee);or
   - (d) A person legally authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidenced by a letter or document signed by such owner, contract purchaser, or other person; or
   - (e) The City of Jacksonville.
2. If there are multiple owners or contract purchasers authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.
3. In cases where an application related to an amendment to the official zoning map has expired, the Planning and Development Services Director is authorized to initiate an Amendment to the official zoning map application to return the land to its previous classification on the official zoning map or other appropriate classification as determined by the Development Services Director.

## B. Application Contents

The Development Services Director is authorized to and shall establish the requirements for application contents and forms. The Development Services Director may amend and update these requirements as determined necessary.

## C. Fees

The City Council shall establish application fees and may amend and update those fees as determined necessary.

## D. Submission Schedule

The Development Services Director is authorized to and shall establish the submission and review schedule (including time frames for review) for development applications. The Development Services Director may amend and update these requirements as determined necessary.

## E. Pre-Application Conference

### 1. Purpose

The purpose of a pre-application conference is to familiarize the applicant and the City staff with the provisions of this ordinance relevant to the proposed development, inform the applicant about the preparation of the application, and discuss the application and review process.

### 2. Pre-Application Conference & Concept Plan

Except for development applications initiated by City staff, the Planning Advisory Board, or the City Council, a pre-application conference between the applicant (owner/developer), their agent and the Technical Review Committee is encouraged before submission of the following types of applications. In addition, the applicant shall submit an appropriate number of copies of the preliminary concept plan for review:

(a) CAMA Land Use Plan Amendments;

(b) Amendments to the official zoning map;

(c) Amendments to the official zoning text;

(d) Planned Developments;

(e) Type III Special Use Site Plans;

(f) Type II Site Plans;

(g) Special Use Permits;

(h) Variances; and

(i) Other

### 3. Effect

The pre-application conference is intended as a means of facilitating the development application process. Discussions held in accordance with this section are not binding on the City. Processing times for review of development applications do not begin until a formal, complete application is submitted and determined to be complete.

## F. Neighborhood Meeting

### 1. General

The purpose of the neighborhood meeting is to educate owners and occupants of nearby lands about the proposed development and application, receive comments, address concerns about the development proposal, and resolve conflicts and outstanding issues, where possible.

### 2. Favored Practice

Neighborhood meetings are encouraged as opportunities for informal communication between applicants and the owners and occupants of nearby lands, and other residents who may be affected by development proposals.

### 3. Applicability

(1) The Development Services Director may require an applicant to conduct a neighborhood meeting before a public hearing on an application if the Development Services Director determines the application is likely to have significant land use, appearance, traffic, or other public facility impacts on neighboring lands; or

(2) The Mayor or the City Council or the Chairperson of the Planning Advisory Board may direct an applicant to conduct a neighborhood meeting either before or during a public hearing on an application being reviewed by the body they chair, on determining that the application could potentially have

significant land use, appearance, traffic, or other public facility impacts on neighboring lands; or

(3) A neighborhood meeting is optional before submission of any other application for development approval.

## 4. Procedure

If a neighborhood meeting is held by the applicant, it shall comply with the following procedures:

### (a) Time and Place

The neighborhood meeting shall be held at a place that is accessible to neighbors that reside in close proximity to the land subject to the application. It shall be scheduled after 5:00 P.M. on a weekday, unless otherwise authorized by the Development Services Director.

### (b) Notification

#### (1) Mailed Notice

The applicant shall mail notification of the neighborhood meeting a minimum of ten days in advance of the meeting to:

i. All persons to whom mailed notice of a public hearing on the application is required by Section 2.2.L, *Public Notification*;

ii. Any organizations or persons who have registered to receive notification of development applications in accordance with Section 2.2.L.6, *Registration to Receive Notice by Mail*;

iii. The Development Services;

iv. The City Clerk; and

v. Any additional persons as determined by the Development Services Director.

#### (2) Notice Content

The notice shall state the time and place of the meeting and general nature of the development proposal.

### (c) Conduct of Meeting

At the neighborhood meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, answer any questions, respond to concerns neighbors have about the application, and propose ways to resolve conflicts. Meeting attendees shall be informed that a written summary will be provided to the Development Services Director in accordance with Section 2.2.F.4.e.

### (d) Staff Attendance

City staff may attend the neighborhood meeting for the purpose of advising attendees about applicable provisions of this ordinance, but shall not serve as facilitators or become involved in substantive discussions about the project.

### (e) Written Summary of Neighborhood Meeting

Within five business days after the neighborhood meeting, the applicant shall provide the Development Services Director a written summary of the meeting that

includes a list of meeting attendees, a summary of attendee comments, discussed issues related to the development proposal, and any other information the applicant deems appropriate. The meeting summary shall be included with the application materials and be made available to the public for inspection.

#### (f) Response to Summary

Any persons attending the neighborhood meeting may submit to the Development Services Director a written response to the applicant's meeting summary. The response may state their understanding of attendee comments and discussed issues related to the development proposal, and any other information they deem appropriate. All written responses to the applicant's summary of the neighborhood meeting shall be included with the application materials and be made available for public inspection.

## G. Application Submission

Applications shall be submitted to the Development Services Department in the form established by the Development Services Director (see Section 2.2.B, *Application Contents*), along with a fee established in accordance with Section 2.2.C, *Fees*.

## H. Determination of Application Completeness

### 1. Completeness Review

Upon receipt of an application, the Development Services Director shall determine if the application is complete. A complete application is one that:

(a) Contains all information and materials established by the Development Services Director as required for submittal of the particular type of application;

(b) Is in the form established by the Development Services Director as required for submittal of the particular type of application;

(c) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of this Ordinance;

(d) Includes a completed transportation impact analysis, if required (see Section 5.6); and

(e) Is accompanied by the fee established for the particular type of application.

### 2. Application Incomplete

(a) If the application is determined to be incomplete, the Development Services Director shall notify the applicant of the deficiencies within ten business days of submittal, and the application shall not be processed. The applicant may correct the deficiencies and resubmit the application for completeness determination.

(b) If the applicant fails to submit an application determined to be complete within 45 calendar days after being first notified of deficiencies, the application shall be considered withdrawn.

(c) In the event an application is declared incomplete three times, the applicant may request, and the City shall undertake, processing and review of the

application even though it is not determined to be a complete application.

### 3. Application Complete

If the application is determined to be complete, the Development Services Director shall refer the application to the appropriate staff and review bodies for review in accordance with the procedures and standards of this ordinance. The time frame and cycle for review of the application shall be based on the date the application is determined to be complete.

## I. Decision by Technical Review Committee or Development Services Director

If an application is subject to review and decision by the Technical Review Committee or Development Services Director (see Table 2.1.B, *Development Review Structure*), it shall be reviewed and decided in accordance with the following procedures:

### 1. Review

The Technical Review Committee or Development Services Director, as appropriate, shall review the application, relevant support material, and any comments from other staff and review agencies, and approve the application, approve the application with conditions, or deny the application, based on the appropriate review standards for the particular permit or approval.

### 2. Staff Report

A staff report shall be prepared in accordance with Section 2.2.J, *Preparation of Staff Report*, except that it shall be addressed and provided to the applicant.

## J. Preparation of Staff Report

### 1. Staff Report Required

If the application is subject to staff review and a subsequent public hearing or consideration by a review body (see Table 2.1.B, *Development Review Structure*), the Technical Review Committee or Development Services Director, as appropriate, shall review the application, relevant support material, and any comments from other staff and review agencies, and prepare a written staff report.

### 2. Staff Report Content

The staff report shall be addressed to the review body or decision-making body, as appropriate, and shall state whether the application complies with all appropriate standards of this ordinance. The staff report shall also include a recommendation, and may identify ways in which areas of noncompliance might be eliminated and adverse effects of the development proposal might be mitigated.

### 3. Staff Report Transmittal

The staff report shall be made available to the applicant and made available to the review body or decision-making body and to the public a reasonable period of time before the first scheduled review body meeting or public hearing on the application.

# K. Scheduling Public Hearing(s)

## 1. Application to be Scheduled for Meeting

When an application is subject to a public hearing (see Table 2.2.K, *Required Public Hearings*), the Development Services Director shall ensure that the public hearing on the application is scheduled for either:

(a) A regularly scheduled meeting of the decision-making body; or

(b) A meeting specially called for that purpose by the decision-making body.

## 2. Timing

The public hearing on the application shall be scheduled so there is sufficient time for a staff report to be prepared and satisfaction of the public notification requirements in this ordinance and the North Carolina General Statutes.

## 3. Public Hearings

Table 2.2.K, *Required Public Hearings*, depicts the decision–making body responsible for conducting public hearings on development applications, and where public hearings are required, the type of public hearing (legislative or quasi-judicial).

**Table 2.2.K: Required Public Hearings**

| Application Type | Bodies Conducting Hearing | |
|---|---|---|
| | City Council | Board of Adjustment |
| CAMA Plan Amendment | Legislative Public Hearing | |
| Rezoning or Text Amendment | Legislative Public Hearing | |
| Conditional Rezoning | Legislative Public Hearing | |
| Planned Development | Legislative Public Hearing | |
| Type III Special Use Permit & Site Plan | Quasi-Judicial Public Hearing | |
| Zoning Permit Appeal | | Quasi-Judicial Public Hearing |
| Variance | | Quasi-Judicial Public Hearing |
| Interpretation Appeal | | Quasi-Judicial Public Hearing |
| Other Appeal | | Quasi-Judicial Public Hearing |
| Vested Right Determination | Quasi-Judicial Public Hearing | |
| Development Agreement | Quasi-Judicial Public Hearing | |

# L. Public Notification

All notice required under this ordinance shall comply with North Carolina General Statutes and the following:

## 1. Content

All notice required under this ordinance shall comply with the following:

(a) Identify the date, time, and place of the public hearing;

(b) Describe the land involved by street address or by its relationship to a fronting street and the nearest cross street (if applicable), and its size

(except posted notice);

(c) Describe the nature and scope of the proposed development or action;

(d) Indicate that anyone interested in the application may appear at the public hearing and speak and submit evidence and written comments on the matter;

(e) Indicate where additional information on the matter may be obtained;

(f) Indicate where written comments or evidence on the application may be submitted before the public hearing; and

(g) Other requirements as established by North Carolina General Statutes.

### 2. Published Notice

(a) When the provisions of this ordinance require that notice of a public hearing be published, the Development Services Director shall publish a notice in accordance with North Carolina General Statutes.

(b) The Development Services Director shall prepare an affidavit affirming that notice meeting the content requirements of this subsection was published. The affidavit shall be conclusive that notice has been published in accordance with the terms of this subsection.

### 3. Mailed Notice

(a) When the provisions of this ordinance require that mailed notice of a public hearing be provided, the Development Services Director shall prepare a notice of the public hearing and deliver the notice to the following persons:

(1) The applicant;

(2) All owners of land required to receive notice by the North Carolina General Statutes; and

(3) Organizations and persons that have registered to receive notice in accordance with Section 2.2.L.6, *Public Hearing Notification Requirements*.

### 4. Posted Notice

(a) When the provisions of this ordinance require that notice of a public hearing be posted, the Development Services Director shall post the notice on the subject property(ies) at least ten days before the date fixed for the hearing. In computing such period, the day of posting shall not be counted, but the day of the hearing shall be counted. The posted notice shall remain in place until after a final decision is rendered on the application.

(b) Notices shall be posted on signs in a form established by the Development Services Director.

(c) The posted notice shall be located adjacent to each public street right-of-way bordering the subject property(ies). If no part of the subject property(ies) is visible from the public right-of-way, the notice shall be posted in the public right-of-way of the nearest street in such a manner as to ensure consistency with the intent of this subsection.

(d) In addition to posted notice on the subject property(ies), notice of the public hearing shall also be posted in a conspicuous location within City Hall at least ten days before the date fixed for the hearing.

(e) The Development Services Director shall prepare an affidavit affirming that notice meeting the requirements of this subsection was posted. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection.

(f) The applicant shall ensure that the posted notice is maintained on the land until completion of the public hearing on the application.

## 5. Constructive Notice

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

(1) Minor errors in a legal description; or

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

(b) Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property(ies) shall be strictly adhered to.

(c) If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the Development Services Director to make a formal finding as to whether there was substantial compliance with the notice requirements of this ordinance, and such findings shall be made available to the decision-making body before final action on the request.

## 6. Public Hearing Notice Requirements

The public hearing notice requirements are established by State statutes as may be amended from time to time. The summary table (Table 2.2.L.7, *Public Hearing Notices)*, is provided for the convenience of the public. Notification requirements will be in accordance with North Carolina General Statutes.

**Table 2.2.L.7: Public Hearing Notices [1]**

| Application Type | Notice Requirement | | |
|---|---|---|---|
| | Published | Mailed | Posted |
| Plan Amendment (to Future Land Use Map) | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Plan Amendment (to text) | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | | |
| Rezoning | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Text Amendment | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | | |
| Conditional Rezoning | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Planned Development | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Special Use Permit | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Variance | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing | At least 10 days before hearing |
| Appeal before Board of Adjustment | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | Between 10 and 25 days before hearing [2] | At least 10 days before hearing [2] |
| Vested Right Determination | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | | |
| Development Agreement | Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing | | |

[1] Application types not listed do not require public notification.
[2] Mailed and posted notices are required only if the appeal is on application of a provision of this ordinance to a specific parcel of land.

# M. Public Hearing Procedures

All public hearings on development applications shown in Table 2.2.K, *Required Public Hearings*, shall comply with the procedures set forth in this subsection.

## 1. Types of Public Hearings

Where state law requires quasi-judicial proceedings for a particular development review procedure, a quasi-judicial public hearing shall be held. For all other development review procedures, a standard public hearing shall be held. Table 2.2.K, *Required Public Hearings*, identifies which type of public hearing is required for which development review procedure. Quasi-judicial hearings shall require the additional procedures and special considerations as noted in this subsection and required by state law.

## 2. Burden of Proof

The burden of demonstrating that an application complies with applicable review and approval standards is on the applicant. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

## 3. Conduct of the Hearing

### (a) Rights of All Persons

Any person may appear at the hearing and submit documents, materials, and other written or oral testimony, either individually or as a representative of an organization. Persons speaking at the hearing shall identify themselves, state their home or business address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization they represent.

### (b) Presentation of Testimony and Submission of Documents and Materials

#### (1) Time Restrictions

The body conducting the hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials.

#### (2) Quasi-Judicial Hearings

The body conducting a quasi-judicial public hearing is not bound by the rules of evidence, or limited to consideration of evidence that is inadmissible in a court of law. The body may consider all testimony and evidence it deems competent and material to the application under consideration, and may exclude testimony or evidence it determines to be irrelevant, immaterial, incompetent, unreliable, or unduly repetitious.

### (c) Continuance of Hearing

The body conducting the hearing may, on its own motion or at the request of any person, continue the hearing to a fixed date, time, and place.

## 4. Order of Proceedings

### (a) Standard Public Hearings

The order of proceedings at a standard hearing shall be as follows:

#### (1) Presentation of Staff Report

The Development Services Director shall provide a brief introductory narrative or graphic description of the application and present the staff report and any review body findings and recommendations.

(2) **Applicant Presentation**

The applicant shall present any information the applicant deems appropriate.

(3) **Public Comment**

Any person other than the applicant or the applicant's representatives may be permitted to speak for up to three minutes in support of or in opposition to the application. At the discretion of the person chairing the body conducting the hearing, such person may be granted additional time to speak when it is justified.

(4) **Applicant Response to Comments**

The applicant may respond to any comments, documents, materials, testimony, or evidence presented by the Development Services Director or the public.

(5) **Development Services Director Response to Comments**

The Development Services Director may respond to any comments, documents, materials, testimony, or evidence presented by the applicant or public.

(6) **Close of Hearing**

The person chairing the body conducting the hearing shall close the hearing.

### (b) Quasi-Judicial Public Hearing

The order of proceedings at a quasi-judicial hearing shall be the same as those for standard public hearings except for the following modifications:

(1) **Swearing In**

At the opening of the hearing, the chair of the body holding the hearing shall swear in or affirm all persons who will testify at the hearing.

(2) **Ex parte Disclosure**

After the swearing in, members of the body holding the hearing shall disclose all *ex parte* communications.

(3) **Cross Examination and Rebuttal**

Following presentation of the staff report and presentations by the applicant and other witnesses, cross examination by members of the body conducting the hearing shall be allowed. Cross-examination or rebuttal by the City, the applicant, and affected parties is also allowed, subject to the authority of the chair of the body holding the hearing.

(4) **Close of Hearing**

After the public hearing is closed, no additional testimony, evidence, or public comments will be heard or considered.

5. **Record of Public Hearing**

(a) The body conducting the hearing shall record the proceedings by any appropriate means, and the record shall consist of:

(1) The application under consideration;

(2) The staff report;

(3) All other written City staff materials prepared on the application;

(4) All other written materials related to the application provided by the public;

(5) Review body recommendations, where relevant, and the record from the review body proceedings on the application;

(6) This ordinance and any relevant adopted plans;

(7) All documents entered into the record at the hearing; and

(8) The recorded testimony.

(b) For quasi-judicial hearings, the record shall also contain:

(1) All written communications about the application received by members of the body conducting the hearing and City staff; and

(2) The testimony and other statements and opinions offered at the public hearing.

(c) If a sound recording is made, any person shall be entitled to listen to the recording at a reasonable time, or make copies at that person's own expense, at the offices of the City Clerk (for hearings conducted by the City Council) or at the Development Services Department (for hearings conducted by the Planning Advisory Board or Board of Adjustment).

## N. Action by Decision-Making Body

1. After the close of the public hearing, the decision-making body shall consider the application, relevant support materials, the staff report, all review body recommendations (if relevant), and the public testimony and other information given at the public hearing, and make a decision on the application based on the relevant review standards. The decision-making body shall take action as promptly as possible in consideration of the interests of the applicant and citizens of the City.

2. Unless stated otherwise in this ordinance, the form of the decision shall include at least the following elements:

(a) A statement of a decision of approval, approval with conditions, or denial (whichever is appropriate); and

(b) A clear statement of the factors considered in the decision, and a statement of the bases for the decision; and

(c) Any conditions of approval.

# O. Conditions of Approval

## 1. General

Where the express terms of this ordinance authorize a decision-making body to approve a development application with conditions, such body may impose reasonable and appropriate conditions or restrictions on the approval. The conditions may, as appropriate, ensure compliance with particular standards of this ordinance, prevent or minimize adverse effects from the proposed development on surrounding lands, or ensure conformance to the goals, objectives, policies, strategies, and actions included in City-adopted plans addressing the City's growth and development.

## 2. Limitations

The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit approval.

# P. Notification to Applicant

Within a reasonable period of time after a decision on an application, the Development Services Director shall notify the applicant of the decision in writing and make a copy of the decision available to the public in the offices of the Planning and Development Services Department, during normal business hours.

# Q. Appeals

1. Any appeal from a final decision by the Board of Adjustment or City Council shall be to the Superior Court of Onslow County, and shall be filed with the Clerk of Court no later than 30 days after the date the decision of the City Council is filed with the City Clerk.
2. Appeals from final decisions by other decision-making bodies shall be as specified for the particular application type in Section 2.3, *Standards and Requirements for Development Applications*.

# R. Deferral of Application

## 1. Request by Applicant

### (a) Request before Public Hearing Notice

An applicant may request that a decision-making body's consideration of an application at public hearing be deferred by submitting a written request for deferral to the Development Services Director before the public hearing notice is published or mailed (see Section 2.2.L, *Public Notification*). The Development Services Director may grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted.

### (b) Request for Deferral after Public Hearing Notice

If a request for deferral of consideration of an application by a decision-making body is submitted after the public hearing notice is published or mailed (see Section 2.2.L, *Public Notification*), the request for deferral shall be submitted to the Development Services Director, and shall be placed on the public hearing agenda and acted upon by the decision-making body. The decision-making body may grant such requests for good cause, or if finding no good cause for deferral, may proceed to hold the hearing. The date of the public hearing at which the deferred

application will be heard shall be set at the time the deferral is granted. If a deferral is granted, the application may be subject to additional application fees to defray the costs of processing the application.

### 2. Deferral by the Planning Advisory Board

In cases where the Planning Advisory Board indicates the need for deferral of further consideration of a pending application, the Planning Advisory Board shall specify the reasons why a deferral is needed, and shall specify a date certain when the application shall be considered. In no event shall a deferral period exceed 90 days.

## S. Changes to Application after Notice of Public Hearing

After notice of public hearing has occurred, changes to an application (including changes to an application at the public hearing) other than those made solely to satisfy staff or review body recommendations or conditions shall be governed by the provisions of this section.

### 1. Substantive Changes

No substantive changes may be made in major elements of the development proposal relating to either: 1) going from a conditional rezoning request to just a rezoning and/or 2) increasing uses, densities, intensities, or access without referral of the application, as amended, back to the Development Services Director for staff review in accordance with Section 2.2.J, *Preparation of Staff Report*, and to any review bodies for review, as is required for the original review of the application.

### 2. Clerical Errors

Minor additions, deletions, or corrections responding to clerical errors in an application may be made without referral of the application back to the Development Services Director and review bodies.

### 3. Conditions of Approval

Proposed changes in conditions of approval may be considered without referral of the application back to the Development Services Director or review bodies provided the decision-making body determines that the changes do not constitute a substantive change in the development proposal.

## T. Requests for Withdrawal of Application

### 1. Submission of Request

Any request for withdrawal of an application subject to a public hearing shall be submitted in writing to the Development Services Director, or shall be made through a verbal request at a public hearing.

### 2. Request before Public Hearing Notice

The Development Services Director shall approve a request for withdrawal of an application if it has been submitted before the public hearing notice is published or mailed (See Section 2.2.L, *Public Notification*.).

### 3. Request after Public Hearing Notice

(a) If the request for withdrawal of an application is submitted after the public hearing notice is published or mailed (See Section 2.2.L, *Public Notification*), the request for withdrawal shall be placed on the public hearing agenda and acted upon by the decision-making body.

(b) Whenever an application subject to a requirement for a public hearing before the City Council is withdrawn after the public hearing notice is published or mailed, but before a decision by the City Council, no similar application may be submitted for the same lands for a period of 90 days following the withdrawal.

## U. Waiver of Time Limit

### 1. General

Whenever any application for a development permit or approval requiring a public hearing is denied, an application for the same type of permit and for all or part of the same land shall not be considered for a period of one year after the date of denial unless a waiver of time limit is subsequently approved by the decision-making body in accordance with the requirements of this section. Only one waiver of time limit may be submitted by the applicant during the one-year period.

### 2. Waiver of Time Limit

#### (a) Initiation

A request for waiver of time limit may be initiated only by the owner of land or the owner's authorized agent, by submitting a request for waiver of time limit to the Development Services Director, along with a fee to defray the cost of processing the request.

#### (b) Action

At the meeting for which the waiver of time limit is scheduled, the decision-making body shall consider the request, other relevant support materials, statements made by the applicant or the applicant's representative, and the public, and approve or deny the request based on the standards in Section 2.2.U.2.c, *Waiver of Time Limit Standards*.

#### (c) Waiver of Time Limit Standards

A waiver of time limit shall be approved only upon a finding by two-thirds ($^2/_3$) majority or more of the membership of the decision-making body that substantial evidence is presented that demonstrates:

##### (1) Substantial Change in Circumstances

There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or

##### (2) New or Additional Information

New or additional information is available that was not available at the time of review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application; or

##### (3) New Application Materially Different

A new application is proposed to be submitted that is materially different from the prior application; or

(4) **Material Mistake of Fact**

The final decision on the application was based on a material mistake of fact.

## V. Examination and Copying of Application; Other Documents

At any time upon reasonable request and during normal business hours, any person may examine an application, a staff report, and materials submitted in support of or in opposition to an application in the Development Services Department. Copies of such materials shall be made available at a reasonable cost.

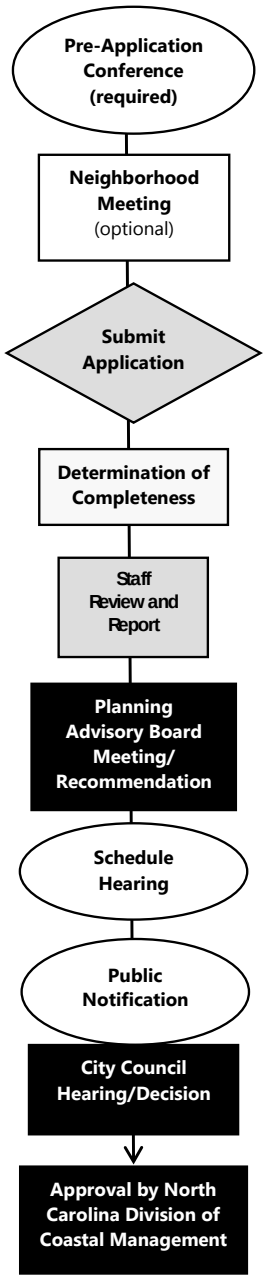
## W. Simultaneous Processing of Applications

Whenever two or more applications for a development permit or approval are required under this ordinance, the applications for those permits or approvals may, at the option of the Development Services Director, be processed simultaneously, so long as all applicable state and local requirements are satisfied. Approvals shall follow a logical sequence.

# 2.3 Standards and Requirements for Development Applications

This section includes the individual review procedures, standards, and related information for each of the applications for development permits and approvals, as summarized in Table 2.1.B, *Development Review Structure*.

## A. Coastal Area Management Act (CAMA) Land Use Plan Amendment




CAMA Land Use Plan Amendment

### 1. Purpose

The City is encouraged to evaluate the CAMA Land Use Plan's goals, objectives, and policies every three to five years, and annually monitor the plan's effectiveness in achieving its goals. The City recognizes that amendments to the plan may be needed to respond to these evaluations and monitoring, as well as to changes in growth patterns, market conditions, and the City's goals and objectives. The purpose of this section is to provide a uniform means for amendment of the CAMA Land Use Plan.

### 2. Authority

The City Council may adopt an ordinance amending the CAMA future land use map or text of the CAMA Land Use Plan upon compliance with the provisions of this section.

### 3. Submission Schedule

Amendments to the CAMA Land Use Plan shall be considered no more than two times a yearl, except that amendments may be considered at other times as determined necessary by the City Council for public health, safety, or economic development purposes.

### 4. Initiation

An application for a CAMA Land Use Plan Amendment may be initiated by the City Council, the Planning Advisory Board, the Development Services Director, or a person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

### 5. Procedure

#### (a) Basic Procedures

Except as modified by Section 2.3.A.5(b)-(d) below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications for a CAMA Land Use Plan Amendment are as established in Section 2.2, *Common Review Procedures*.

#### (b) Review and Recommendation by Planning Advisory Board

(1) Following staff review, the Development Services Director may require a Planning Advisory Board workshop before the request can be placed on a regular Planning Advisory Board agenda. Following this determination and/or workshop, the Planning Advisory Board shall meet to consider the application, relevant support materials, the staff report, and any comments given by the public. The Planning Advisory Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in Section 2.3.A.6, *Plan Amendment Standards:*

i. **CAMA Land Use Plan Amendment**

**a.** Approval of the application as submitted;

**b.** Approval of the application with a reduction in the area proposed to be reclassified;

**c.** Approval of a reclassification to a more restricted classification; or

**d.** Denial of the application.

ii. **CAMA Text Amendment**

**a.** Adoption of the amendment as proposed;

**b.** Adoption of a revised amendment; or

**c.** Denial of the amendment.

(2) The Development Services Director shall submit the staff report and Planning Advisory Board's recommendation to the City Council.

### (c) Public Hearing, Review, and Action by City Council

Following staff review and Planning Advisory Board review, the City Manager may require a City Council workshop before the request can be placed on a regular City Council agenda. Following this determination and/or workshop, the City Council shall conduct a public hearing on the application in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the City Council shall consider the application, relevant support materials, the staff report, the Planning Advisory Board's recommendation, and any comments given by the public. The City Council, by a majority vote of a quorum present, shall take one of the following actions, based on the standards in Section 2.3.A.6, *Plan Amendment Standards*:

(1) **CAMA Land Use Plan Amendment**

i. Approval of the application as submitted;

ii. Approval of the application with a reduction in the area proposed to be reclassified;

iii. Approval of a reclassification to a more restricted classification;

iv. Denial of the application; or

v. Remand of the application back to the Planning Advisory Board for further consideration.

(2) **CAMA Text Amendment**

i. Adoption of the amendment as proposed;

ii. Adoption of a revised amendment;

iii. Denial of the amendment; or

iv. Remand of the application back to the Planning Advisory Board for further consideration.

### (d) Approval by North Carolina Division of Coastal Management

Following approval of the CAMA future land use map or amendment to the text of the CAMA Land Use Plan by the City Council, the City shall forward the amendment to the North Carolina Division of Coastal Management (NCDCM) for

review and approval. The CAMA Land Use Plan amendment shall become official only after approval by the NCDCM.

(e) **Expiration**

Approval of an amendment to the CAMA future land use map or text of the CAMA Land Use Plan shall not expire, but the amended CAMA Land Use Plan or text is subject to further amendment in accordance with the amendment procedures set forth in this subsection.

### 6. CAMA Plan Amendment Standards

Amending the CAMA Land Use Plan is a matter committed to the legislative discretion of the City Council. In determining whether to adopt or deny the proposed amendment, the City Council shall consider and weigh the relevance of the following factors:

(a) Whether the proposed amendment is in conflict with the state rules promulgated under the North Carolina Coastal Area Management Act pertaining to land use plans;

(b) Whether the proposed amendment is in conflict with any other provision of the CAMA Land Use Plan or with other City-adopted plans;

(c) Whether and the extent to which there are changed conditions that require an amendment;

(d) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(e) Whether and the extent to which the proposed amendment is consistent with the goals and objectives of the CAMA Land Use Plan, or would improve compatibility among developments and ensure efficient development within the City;

(f) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern;

(g) Whether and the extent to which the proposed amendment would encourage premature development;

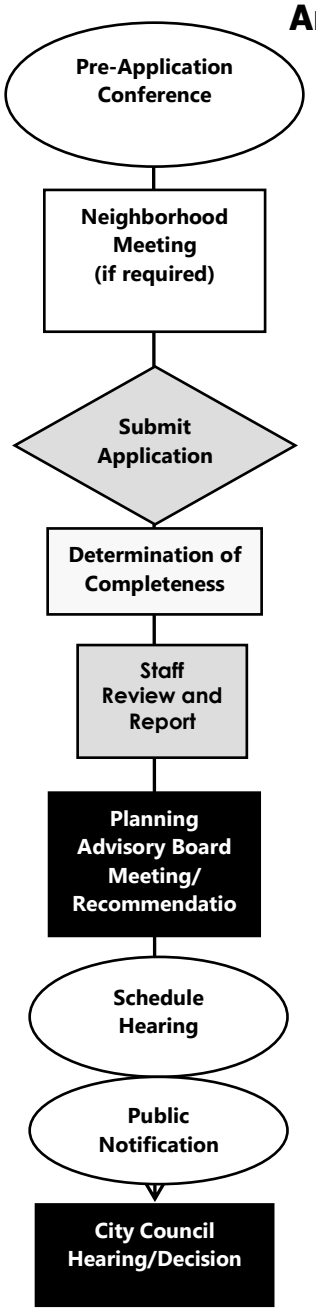
(h) Whether and the extent to which the proposed amendment would result in strip or ribbon commercial development;

(i) Whether and the extent to which the proposed amendment would result in the creation of an isolated CAMA Land Use Plan classification unrelated to adjacent and surrounding plan classifications;

(j) Whether and the extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and

(k) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

# B. Rezoning, Conditional Rezonings, Planned Development, or Text Amendment




Zoning Map and Text Amendment

## 1. Purpose

The purpose of this section is to provide a uniform means of amending the official zoning map to reflect approvals of rezoning, conditional rezoning, planned unit developments, or text amendments to this ordinance.

## 2. Authority

The City Council may adopt an ordinance amending the official zoning map (rezoning) or the text of this ordinance upon compliance with the provisions of this section.

## 3. Initiation

### (a) Amendment to Official Zoning Map (Rezoning)

An application to amend the official zoning map (rezoning) may be initiated by the City Council, the Planning Advisory Board, the Development Services Director, or a person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

### (b) Amendment to the Text of this Ordinance

An application to amend the text of this ordinance may be initiated by the City Council, the Planning Advisory Board, the Development Services Director, an owner of land in the City's planning jurisdiction, or a person with a financial or other interest in land located within the City's planning jurisdiction.

## 4. Conditional Rezonings Distinguished

(a) Applications for an amendment to the official zoning map (rezoning) that are accompanied by applicant-sponsored conditions or limitations shall be considered as applications for Conditional Rezoning, and shall be reviewed in accordance with Section 2.3.B, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*.

(b) An application for an amendment to the official zoning map (rezoning) may be converted into an application for a Conditional Rezoning provided the list of uses, density, or other standards in the original rezoning become more restrictive through the conditional rezoning/applications. In no case shall a conditional rezoning application be converted into a rezoning application.

## 5. Planned Unit Developments

Applications for an amendment to the official zoning map for the creation of a planned unit development shall be sponsored by the applicant/property owner, his/her agent, or the City of Jacksonville.

## 6. Procedure

### (a) Basic Procedures

Except as modified by Sections 2.3.B.6(b)-(e) below, procedures and requirements for the submission, completeness determination, review, recommendation, hearing, and decision on applications for a Rezoning, Conditional Rezoning,

Planned Developments or Text Amendment are as established in Section 2.2, *Common Review Procedures*.

### (b) Review and Recommendation by Planning Advisory Board

(1) Following staff review, the Planning Advisory Board shall meet to consider the application, relevant support materials, the staff report, and any comments given by the public. The Planning Advisory Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in Section 2.3.B.6.C.1*, Map Amendment (Rezoning) Standards*, or Section 2.3.B.6.C.2, *Text Amendment Standards*, as appropriate:

i. Approval of the application or amendment as submitted;

ii. Approval of the application with a reduction in the area proposed to be rezoned (for amendments to the official zoning map);

iii. Approval of a rezoning to a more restricted base zoning district;

iv. Adoption of a revised amendment; or

v. Denial of the application.

(2) In making its recommendation, the Planning Advisory Board shall include a written statement of consistency and reasonableness summarizing the amendment's consistency with all City-adopted plans that are applicable.

(3) The Development Services Director shall submit the staff report and Planning Advisory Board's recommendation to the City Council.

### (c) Public Hearing, Review, and Action by City Council

Following staff review and Planning Advisory Board review, the City Council shall hold a public hearing on the application in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the City Council shall consider the application, relevant support materials, the staff report, the Planning Advisory Board's recommendation, and any comments given by the public.

#### (1) Map Amendment (Rezoning) Application

On an application for an amendment to the official zoning map, the City Council, by a majority vote of a quorum present or any supermajority vote required in accordance with Section 2.3.B.7, *Protest Petitions*, shall take one of the following actions based on the standards in Section 2.3.B.8, *Map Amendment (Rezoning) Standards*:

i. Approval of the application as submitted;

ii. Approval of the application with a reduction in the area proposed to be rezoned;

iii. Approval of a rezoning to a more restricted base zoning district;

iv. Denial of the application; or

v. Remand of the application back to the Planning Advisory Board for further consideration.

#### (2) Text Amendment Application

On an application for an amendment to the text of this ordinance, the City Council, by a majority vote of a quorum present, shall take one of the following actions based on the standards in Section 2.3.B.9, *Text Amendment Standards*:

i. Adoption of the amendment as proposed;

ii. Adoption of a revised amendment;

iii. Denial of the amendment; or

iv. Remand of the application back to the Planning Advisory Board for further consideration.

### (d) Statement of Consistency and Reasonableness

Regardless of its decision on the proposed amendment, the City Council shall adopt, by resolution, a statement of consistency and reasonableness that:

(1) Describes whether the decision is consistent with all City-adopted plans that are applicable; and

(2) Explains why the decision is reasonable and in the public interest.

### (e) Relationship to CAMA Land Use Plan

Nothing in this subsection shall preclude submission, review and approval of amendments to this ordinance whether consistent or inconsistent with the CAMA Land Use Plan. Rezoning of land and UDO text amendments may be approved by City Council provided that it is noted in the motion of approval that the action will create an inconsistency with the CAMA Land Use Plan.

### (f) Expiration

Approval of an amendment to the official zoning map (rezoning) or text of this ordinance shall not automatically expire. However, the amended map or text is subject to further amendment in accordance with the amendment procedures set forth in this section.

## 7. Protest Petitions

### (a) General

Protest petitions shall follow the procedures and requirements in accordance with the North Carolina General Statutes.

### (b) Valid Protest Petitions

For a protest petition to be considered valid, it shall:

(1) Be on a form prescribed by the City Council for protest petitions;

(2) State that the signers do protest the proposed map amendment;

(3) Contain all information prescribed by the City Council as necessary to determine the sufficiency and accuracy of the petition;

(4) Be signed by the owners as defined by the North Carolina General Statutes; and

(5) Be filed in the office of the City Clerk for validation in accordance with North Carolina General Statutes.

## 8. Map Amendment (Rezoning) Standards

Amending the official zoning map (rezoning) is a matter committed to the legislative discretion of the City Council. In determining whether to adopt or deny a proposed amendment, the City Council shall consider and weigh the relevance of the following factors:

(a) Whether and the extent to which the proposed amendment is consistent with all City-adopted plans that are applicable;

(b) Whether and the extent to which there are changed conditions that require an amendment;

(c) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(d) Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zoning district for the land;

(e) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns;

(f) Whether and the extent to which the proposed amendment would encourage premature development;

(g) Whether and the extent to which the proposed amendment would result in strip or ribbon commercial development;

(h) Whether and the extent to which the proposed amendment would result in the creation of an isolated zoning district unrelated to adjacent and surrounding zoning districts;

(i) Whether and the extent to which the proposed amendment would result in significant adverse impacts on the property values of surrounding lands; and

(j) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

## 9. Text Amendment Standards

Amending the text of this ordinance is a matter committed to the legislative discretion of the City Council. In determining whether to adopt or deny the proposed amendment, the City Council shall consider and weigh the relevance of the following factors:

(a) Whether and the extent to which the proposed amendment is consistent with all City-adopted plans that are applicable;

(b) Whether the proposed amendment is in conflict with any provision of this ordinance, and related City regulations;

(c) Whether and the extent to which there are changed conditions that require an amendment;

(d) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(e) Whether and the extent to which the proposed amendment is consistent with the purpose and intent of the zoning districts in this ordinance, or would improve compatibility among uses and ensure efficient development within the City;

(f) Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern; and

(g) Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

## 10. Deviations from Planned Development Master Plan and Terms and Conditions

(a) Subsequent plans and permits for development within an approved Planned Development may include minor deviations from the PD master plan or PD terms and conditions, provided the Development Services Director determines that such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the planned development zoning classification process or any other change that has no material effect on the character of the approved Planned Development or any of its approved terms or conditions. Changes to the following shall constitute minor deviations:

(1) Driveway locations;

(2) Structure floor plan revisions;

(3) Facility design modifications for amenities; or

(4) Other similar modifications.

(b) Changes that the Development Services Director determines would materially affect the basic concept of the PD master plan or basic parameters set by the PD terms and conditions are not considered minor deviations, and shall only be changed as amendments to the PD master plan or PD terms and conditions (See Section 2.3.E.11, *Amendments*).

## 11. Amendments

### (a) General

If an applicant determines it is necessary to alter the concept or intent of the PD master plan or the PD terms and conditions beyond that addressed in Section 2.3.E.10, Minor Deviations from Master Plan and Terms and Conditions, the PD master plan or PD terms and conditions shall be amended only in accordance with the procedures and standards for its original approval.

### (b) Amendments Defined

Amendments include, but are not limited to, the following alterations of the concept or intent of the PD master plan or PD terms and conditions:

(1) Changes in use designations;

(2) Density/intensity increases;

(3) Decreases in open space set-asides;

(4) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);

(5) Change in the location of any public easement;

(6) Change in the proportion of housing types by more than 15 percent; or

(7) Violation of any specific condition of the PD terms and conditions.

### 12. Designation on Official Zoning Map

Designation of a PD zoning district on the official zoning map shall note the ordinance number approving the PD zoning classification.

## C. Site Plan

### 1. Purpose

Site plan review is intended to ensure that the layout and general design of proposed development is compatible with surrounding uses and complies with all applicable standards in this ordinance and all other applicable City regulations. The purpose for this section is to establish the procedure and standards for review and approval of three types of plans: Type I Site Plans, Type II Site Plans, and Type III Special Use Permits and Site Plans.

### 2. Applicability

All development, unless exempted in accordance with Section 2.3.C.2(d), *Exemptions*, shall be required to have a site plan approved in accordance with this section before issuance of a Zoning Permit or Building Permit.

As a means of limiting numerous sequential small-scale expansions, all new construction or expansion of existing floor area or other site features on a lot or site over any consecutive ten-year period shall be cumulative.

#### (a) Type I Site Plans (Administrative)

Development of a parcel that involves any one of the following shall be reviewed in accordance with procedures established for Type I Site Plans:

(1) New building construction of less than 25,000 square feet in gross floor area;

(2) Expansion of an existing building's gross floor area by less than 10,000 square feet; or

(3) In cases where a site plan proposed for expansion of an existing building or other site feature by 50 percent or more on a lot abutting a low-density residential district (see Table 3.3.A), the site plan shall be reviewed as a Type II site plan.

#### (b) Type II Site Plans (Management)

Development of a parcel that involves any one of the following shall be reviewed in accordance with procedures established for Type II Site Plans:

(1) New building construction of at least 25,000 square feet;

(2) Expansion of an existing building's gross floor area by at least 10,000 square feet; or

(3) Expansion of existing parking area, impervious surface by at least 10,000 square feet.

### (c) Type III Site Plans (Special Use Permit)

(1) Development of a parcel that involves the new construction or placement of a building or structure that requires a special and or conditional use permit and or was part of a special or conditional use permit. Sequential Construction or Expansion;

(2) Development Associated with a Conditional Use Permit, Conditional Rezoning, or Special Use Permit;

(3) New construction, expansion, or changes in impervious surface, disturbed land area or other use area, to a development subject to a Conditional Use Permit, Conditional Rezoning, or Special Use Permit shall be considered an amendment to a Conditional Use Permit, Conditional Rezoning, or Special Use Permit (as appropriate).

### (d) Exemptions

The following development shall be exempted from the requirements of this section (but not exempted from Section 2.3.G, *Zoning Permit*):

(1) Internal construction that does not increase building height, increase the density or intensity of use, or affect parking requirements However, if non-conforming site features have to be corrected (refer to nonconformities), a plot plan is required;

(2) Remodeling or renovation of single-family detached dwellings. However, if the dwelling is non-conforming then a site plan may be required;

### (e) Plot Plan Required

The following development shall be exempt from the requirements of Type I, II and III Site Plans; however, a plan with adequate detail shall be provided in order to ensure compliance with any or all applicable codes have been met:

(1) Expansion of single-family detached dwellings;

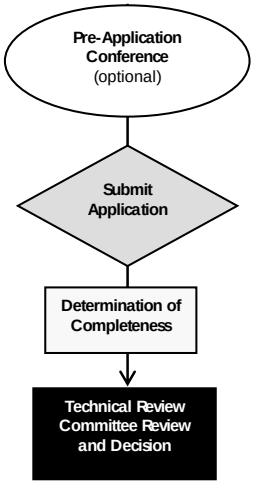
(2) Expansion of an existing lawfully-established non-residential structure by up to 25% or 2,500 square feet whichever is less (attached or detached), provided the expansion does not render the use, lot, structure, or site nonconforming;

(3) Detached accessory structures associated with a single-family detached dwelling that involve construction of less than 1,000 gross square feet of floor area;

(4) Utilities (minor) less than 1,000 square feet of floor area;

(5) Temporary uses; or

(6) Expansion of existing parking area, impervious surface, other disturbed land area, or other use area, by less than 10,000 square feet.




Type I Site Plan

## 3. Initiation

An application for site plan approval of any type may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

## 4. Type I Site Plan

### (a) Basic Procedures

Except as modified by Sections 2.3.C.4(b)-(d) below, procedures and requirements for the submission, determination of completeness, review, recommendation, and decision on applications for approval of a Type I Site Plan are as established in Section 2.2, *Common Review Procedures* except single family dwellings will be reviewed and approved in conjunction with a building permit.

### (b) Review and Action by Technical Review Committee

(1) The Development Services Director shall organize and conduct a meeting of the Technical Review Committee to consider the application and relevant support materials, and make comments and recommendations based on the application's compliance with the standards in Section 2.3.C.7, *Site Plan Standards*. If the Technical Review Committee determines the Type I Site Plan application complies with the standards in Section 2.3.C.7, *Site Plan Standards*, it shall approve the application or approve the application with conditions.

(2) In all other instances, the Development Services Director shall transmit, in writing, the Technical Review Committee's comments and recommendations to the applicant and invite the applicant to revise the application to address those comments and recommendations.

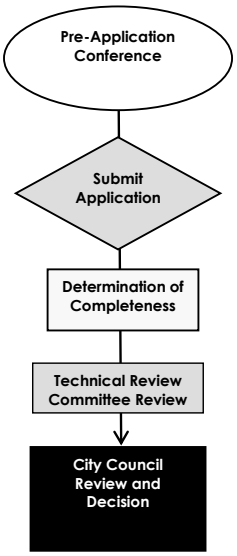
(3) In cases where revision of the application is required, the applicant shall be provided 45 business days to revise the application. If a revised Type I Site Plan application is not received within that time frame, the application shall be considered withdrawn. Upon receipt of a revised application within the appropriate time frame, the Technical Review Committee shall review and take action on the revised application in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.C.7, *Site Plan Standards*.

### (c) Conditions of Approval

In approving a Type I Site Plan, the Technical Review Committee may impose appropriate conditions on the approval in accordance with Section 2.2.L, *Conditions of Approval*.

### (d) Appeal

An appeal from the Technical Review Committee's decision on a Type I Site Plan application shall be reviewed and decided by the Board of Adjustment in accordance with Section 2.3.L, *Appeal*.




Type II Site Plan

## 5. Type II Site Plan Procedure

### (a) Basic Procedures

Except as modified by Sections 2.3.C.5(b)-(d) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for approval of a Type II Site Plan are as established in Section 2.2, *Common Review Procedures*.

### (b) Review and Action by the Technical Review Committee and Development Services Director

(1) The Development Services Director shall organize and conduct a meeting of the Technical Review Committee to consider the application and relevant support materials, and make comments and recommendations based on the application's compliance with the standards in Section 2.3.C.7, *Site Plan Standards*. The Technical Review Committee shall provide a recommendation to City Council to approve, approve with conditions, or disapprove the Type II Site Plan application.

(2) Following receipt of a recommendation from the Technical Review Committee, the City Council shall consider the application, the recommendation of the Technical Review Committee, and all other relevant information in determining to approve, approve with conditions, or deny the application in accordance with the standards in Section 2.3.C.7, *Site Plan Standards*.

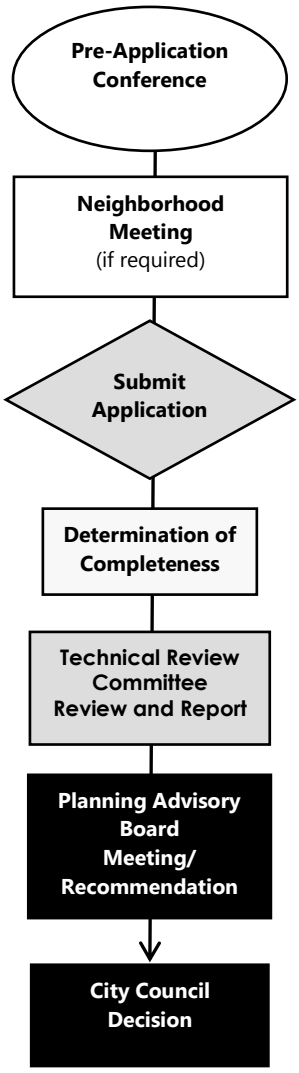
(3) In cases where revision of the application is required, the applicant shall be provided 45 business days to revise the application. If a revised Type II Site Plan application is not received within that time frame, the application shall be considered withdrawn. Upon receipt of a revised application within the appropriate time frame, the Development Services Director shall review and take action on the revised application in accordance with the procedures of Section 2.2.1, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.E.7, *Site Plan Standards.*

### (c) Conditions of Approval

In approving a Type II Site Plan, the City Council may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

### (d) Appeal

An appeal from a decision by the City Council to approve a Type II Site Plan shall be reviewed and decided by the Superior Court of Onslow County in accordance with Section 2.3.L, *Appeal*.




**Type III Site Plan**

## 6. Type III Site Plan with an Approved Special Use Procedure

### (a) Basic Procedures

Except as modified by Sections 2.3.C.6(b)-(e) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for approval of a Type III Site Plan with an Special Use Permit are as established in Section 2.2, *Common Review Procedures*.

### (b) Review and Recommendation by Planning Advisory Board

(1) Following staff review, the Planning Advisory Board shall meet to consider the application, relevant support materials, the staff report, and any comments given by the public. The Planning Advisory Board, by a majority vote of a quorum present, shall adopt a written recommendation for one of the following actions, based on the standards in Section 2.3.C.7, *Site Plan Standards:*

i. Approval of the application as submitted;

ii. Approval of the application subject to conditions ; or

iii. Denial of the application.

(2) The Development Services Director shall submit the staff report and Planning Advisory Board's recommendation to the City Council.

### (c) Review and Action by City Council

Following staff review and Planning Advisory Board review, the City Council shall meet to consider the application, relevant support materials, the staff report, the Planning Advisory Board's recommendation, and any comments given by the public. The City Council, by a majority vote of a quorum present, shall take one of the following actions based on the standards in Section 2.3.C.7, *Site Plan Review Standards*:

(1) Approval of the application as submitted;

(2) Approval of the application subject to conditions;

(3) Denial of the application; or

(4) Remand of the application back to the Planning Advisory Board for further consideration.

### (d) Conditions of Approval

In approving a site plan, the City Council may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

### (e) Appeal

An appeal from a decision by the City Council to approve a Type III Site Plan shall be to the Superior Court of Onslow County, in accordance with Section 2.2.Q, *Appeals*.

## 7. Site Plan Standards

All site plans shall comply with the following standards:

(a) All applicable use and use-specific standards;

(b) Section 5.6, *Transportation Impact Analysis*, if applicable;

(c) All other applicable standards in this Ordinance;

(d) All requirements or conditions of any applicable development approvals (e.g., conditional rezoning conditions, PD master plan and PD terms and conditions); and

(e) All other applicable City regulations.

## 8. Foundation Survey Required

The applicant shall provide a foundation survey depicting the post-construction structure placement to the City prior to any vertical construction.

## 9. Minor Deviations to Approved Site Plans

The Development Services Director, after consultation with appropriate City staff, may approve applicant requests for minor deviations to approved site plans. Minor deviations shall be limited to changes that the Development Services Director determines would not:

(a) Change the density of residential development by more than 5%;

(b) Change the gross square footage of nonresidential development by more than 5%;

(c) Change the lot coverage by more than 5%;

(d) Materially alter the drainage, streets, or other engineering design;

(e) Adversely impact stormwater quality or stormwater quantity management;

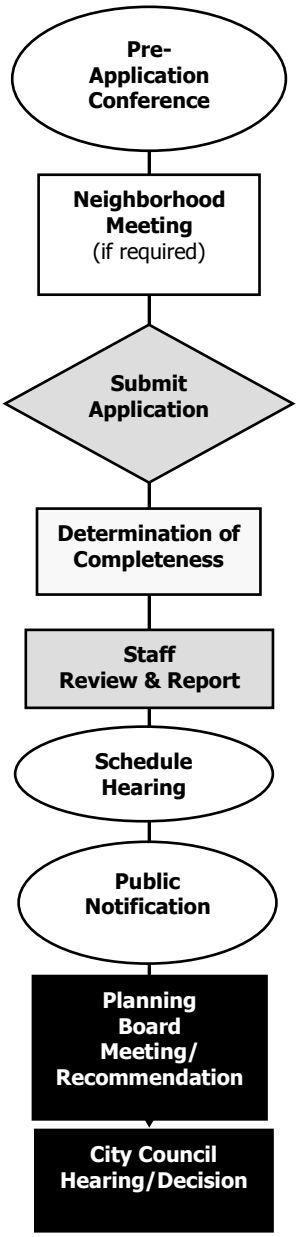
(f) Substantially affect the terms of the original approval; or

(g) Result in significant adverse impacts on the surrounding properties or the City at large.

## 10. Amendments

A site plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

# D. Special Use Permit




Special Use Permit

## 1. Purpose

A use designated as a special use in a particular zoning district is one that may be appropriate in the district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish procedures and standards for review and approval of Special Use Permits that provide such special consideration.

## 2. Applicability

A Special Use Permit is required for development of any use designated in the use table in (see Table 4.1.1, *Use Table*) as a special use in the zoning district where proposed.

## 3. Initiation

An application for a Special Use Permit may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

## 4. Procedure

### (a) Basic Procedures

Except as modified by Sections 2.3.D.4(b)-(g) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for a Special Use Permit are as established in Section 2.2, *Common Review Procedures*.

### (b) Public Hearing, Review, and Action by City Council

Following staff review, the City Council shall conduct a quasi-judicial public hearing on the application in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the City Council shall consider the application, relevant support materials, the staff report, and any testimony or evidence given at the hearing and entered into the record. The City Council shall take one of the following actions based on the standards in Section 2.3.D.5, *Special Use Permit Standards*:

(1) Approval of the application as submitted;

(2) Approval of the application subject to conditions; or

(3) Denial of the application.

Approval of a Special Use Permit application shall require an affirmative vote of at least four-fifths ($^4/_5$) of the members of the City Council who are eligible to vote.

### (c) Site Plan Required

Applications for a Special Use Permit shall include a site plan (prepared in accordance with the standards in Section 2.3.C, *Site Plan*), to be reviewed and approved by the City Council as part of the Special Use Permit.

### (d) Conditions of Approval

In approving a Special Use Permit, the City Council may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

### (e) Permit Issuance

If the application is approved, the Development Services Director shall prepare a Special Use Permit identifying the site and approved plans and documents and listing any conditions of approval, and shall issue the permit to the applicant.

### (f) Appeal

Any appeal from a decision by the City Council on a Special Use Permit application shall be to the Superior Court of Onslow County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision of the City Council is filed in the Development Services Department, or after the date the Special Use Permit is issued to the applicant, whichever is later.

### (g) Expiration

#### (1) General

i. A Special Use Permit approval shall automatically expire if a Zoning Permit is not obtained within 18 months of the Special Use Permit approval.

ii. The City Council may prescribe a shorter time limit within which a Zoning Permit for the development authorized by a Special Use Permit shall be obtained. Failure to obtain a Zoning Permit within the specified time limit shall void the Special Use Permit.

iii. In cases where an application for a Zoning Permit does not include the entire lot or site subject to the Special Use Permit approval, the Special Use Permit approval for the undeveloped portion of the lot or site shall expire one year after good and substantial progress on the remaining development has ceased.

#### (2) Extension

Upon written request submitted at least 30 days before expiration, and upon a showing of good cause, the Development Services Director may grant one extension not to exceed one year. Failure to submit a written request for an extension within the time limits established by this section shall result in the expiration of the Special Use Permit.

## 5. Special Use Permit Review Standards

A Special Use Permit application shall be approved only upon a finding that the applicant demonstrates all of the following standards are met:

(a) The proposed use is designated as an allowable special use in the zoning district where located;

(b) The development complies with all applicable standards in Section 4.2, *Use-Specific Standards*;

(c) The location and character of the development conforms with all City-

adopted plans addressing the City's growth and development;

(d) The development's streets, driveways, parking areas, traffic control, and any other traffic circulation features are designed or provided in accordance with current traffic engineering standards and relevant City regulations, and will be adequate for the proposed use;

(e) The development will not substantially injure the value of adjoining properties;

(f) The development is compatible and in harmony with adjoining land uses and the development pattern of the immediate area; and

(g) The proposed development will not materially endanger the public health or safety.

### 6. Applications Including Requests for Vested Rights

During review and preparation of staff reports on applications a for a Special Use Permit that includes a request for a vested rights determination, the Technical Review Committee or Development Services Director shall indicate whether the application includes a site-specific development plan suitable for establishing a statutory vested right in accordance with Section 2.3.N, *Vested Rights*.

### 7. Effect of Approval

A Special Use Permit shall authorize only the particular special use and associated development that is approved. A Special Use Permit, including any approved plans and conditions, shall run with the land and shall not be affected by a change in ownership unless specifically conditioned as part of the approval.

### 8. Amendments

A Special Use Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

## E. Subdivision Plats

### 1. Purpose

The purpose of this section and Article 6: *Subdivision Standards*, are to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City by:

(a) Providing for the orderly growth and development of the City;

(b) Coordinating streets and roads within proposed subdivisions with the City's Comprehensive Transportation Plan and with other public facilities;

(c) Providing rights-of-way for streets and utility easements;

(d) Avoiding congestion and overcrowding, and encouraging the proper arrangement of streets in relation to existing or planned streets;

(e) Ensuring there is adequate open space and recreation facilities to serve development; and

(f) Ensuring there is proper recordation of landownership or property owner association records, where applicable.

## 2. Applicability

### (a) General

Except to the extent exempted in accordance with Section 2.3.E.2.c, *Exemptions*, the procedures in this section and standards in Article 6: *Subdivision Standards*, shall apply to:

(1) Any division of a tract or parcel of land into two or more lots, building sites, or other divisions when any one of those divisions is created for the purpose, whether immediate or future, of sale or building development; and

(2) Any division of land involving the dedication of a new street or a change in existing streets.

### (b) Three Types of Subdivisions

A subdivision may be either an exempt subdivision in accordance with Section 2.3.E.2(c), a minor subdivision in accordance with Section 2.3.E.2(d), or a Major Subdivision in accordance with Section 2.3.E.2(e).

### (c) Exempt Subdivisions

The following divisions of land are exempt from the subdivision requirements of this Ordinance and therefore shall be classified as exempt subdivision.

i. The combination or recombination of portions of previously subdivided and recorded lots where:

ii. The total number of lots is not increased;

iii. The resultant lots comply with the standards in Article 6: *Subdivision Standards*; and

iv. No nonconformities are created.

(2) The division of land into parcels greater than ten acres in area each, where no street right-of-way dedication is involved;

(3) The City's acquisition of land, including the acceptance of donated land for the establishment, extension, widening, or expansion of streets, public transportation corridors, rail corridors, greenway corridors, parks, open space, utility easements/rights of way, and conservation areas;

(4) The division of a tract of land in single ownership into not more than three lots where:

i. The tract to be divided is no greater than two acres in area;

ii. No street right-of-way dedication is involved; and

iii. The resultant lots comply with the standards in Article 6: *Subdivision Standards*.

(5) The division of land within an existing cemetery into individual gravesites; and

(6) The division of land solely for the purpose of creating a site for electrical substations, electrical transformers, water towers, wells, wastewater pump stations, wells, and similar structures used for public or quasi-public utility

purposes, provided no street right-of-way dedication is involved.

### (d) Minor Subdivisions

A subdivision shall constitute a Minor Subdivision where:

(1) The tract to be subdivided is ten acres or less in area;

(2) No more than five lots would result from the subdivision; and

(3) No new public or private streets, right-of-way dedications, or utility extensions are involved.

### (e) Major Subdivisions

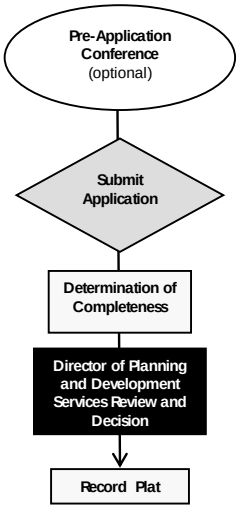
Any subdivision not qualifying as a Subdivision Exemption or Minor Subdivision in accordance with Section 2.3.E.2(c & d) shall constitute a Major Subdivision.

### (f) Modifications

Modifications of approved subdivisions shall follow the procedures for approving modifications as determined by the Development Services Director.

## 3. Initiation

An application for approval of a Subdivision Exemption, Sketch Plat, Preliminary Plat, or Final Plat may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.




Subdivision Exemption

## 4. Subdivision Exemption

### (a) Procedure

#### (1) Basic Procedures

Except as modified by Sections 2.3.E.4(a)(2-6) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for a Subdivision Exemption are as established in Section 2.2, *Common Review Procedures*.

#### (2) Review and Action by Development Services Director

The Development Services Director shall review and take action on the application in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.E.4(b), *Subdivision Exemption Standards*.

#### (3) Notification to Applicant

i. The Development Services Director Service shall notify the applicant of the decision on the application in accordance with Section 2.2.P, *Notification to Applicant*.

ii. If the Development Services Director determines the division of land is exempt from the City's subdivision regulations, the notification shall also require that any plat showing the division and proposed to be recorded with the Onslow County Register of Deeds be submitted to the Development Services Director for certification required by Section 2.3.F.4(a)(5), *Certification*, before the plat is recorded.

iii. If the Development Services Director determines the division of land is not exempt from the City's subdivision regulations, the notification shall also state the division of land is subject to the subdivision requirements of this ordinance and shall refer the applicant to the procedures and standards applicable to a Minor Subdivision or Major Subdivision, as appropriate.

#### (4) Appeal to City Council

i. The applicant may appeal the decision of the Development Services Director on a Subdivision Exemption application to the City Council by filing a written notice of appeal with the Development Services Director within 30 days after the date of the decision.

ii. On receiving a written notice of appeal, the Development Services Director shall transmit to the City Council all the plans, documents, and other materials relating to the decision, and notify the applicant of the time and place of the City Council meeting on the appeal.

iii. Following receipt of the notice of appeal, the City Council shall meet to consider the appeal, the decision of the Development Services Director, and any comments given by the public, and shall act on the appeal. The City Council may affirm (wholly or partly), modify, or reverse the decision. The City Council shall

reverse or modify a decision on appeal only if it finds that there has been a clear and demonstrable error or abuse of discretion by the Development Services Director in applying the standards in Section 2.3.E.4(b), *Subdivision Exemption Standards*, to the application.

iv. Any further appeal from the decision of the City Council shall be to the Superior Court for Onslow County, and shall be filed with the Clerk of Court no later than 30 days after the date the decision of the City Council is filed with the Development Services Director.

(5) **Certification**

If the applicant proposes to record a plat showing a land division determined to be exempt from the subdivision requirements of this ordinance, the applicant shall first submit the plat to the Development Services Director, who shall enter onto the plat a signed certification that the plat does not constitute a subdivision subject to approval by the City.

(6) **Recordation**

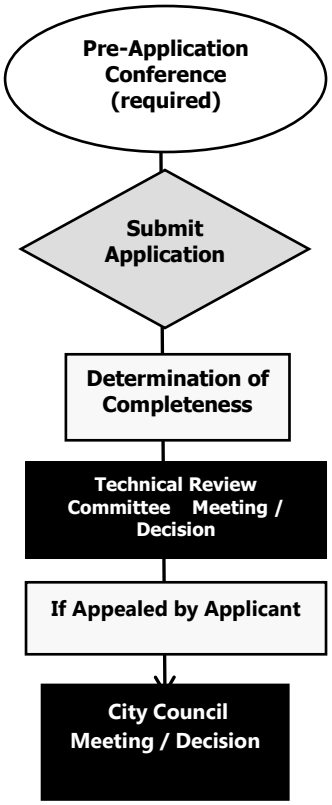
If the applicant records a plat certified as exempt from the City's subdivision regulations, the applicant shall provide proof of recording to the Development Services Director within 15 days after the date of certification, or the determination of subdivision exemption shall expire.

### (b) Subdivision Exemption Standards

A Subdivision Exemption shall be approved only upon a finding that the division of land, resultant lots, and any associated development fully comply with the eligibility standards in Section 2.3.E.2(b), *Exemptions*.

## 5. Sketch Plat

### (a) Procedure




**Sketch Plat**

#### (1) Basic Procedures

Except as modified by Sections 2.3.E.5(a)(2-4) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for approval of a Sketch Plat are as established in Section 2.2, *Common Review Procedures*.

#### (2) Review and Action by Technical Review Committee

The Technical Review Committee shall review and take action on the application for a Sketch Plat approval in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.E.5(b), *Sketch Plat Standards*. At the option of the developer, applicant or City staff the sketch plat may be waived and the application may proceed to the preliminary plat stage.

#### (3) Appeal to City Council

i. The applicant may appeal the Technical Review Committee's decision on a Sketch Plat application to the City Council by filing a written notice of appeal with the Development Services Director within 30 days after the date of the decision.

ii. On receiving a written notice of appeal, the Development Services Director shall transmit to the Planning Advisory Board all the plans, documents, and other materials relating to the decision, and notify the applicant of the time and place of the Planning Advisory Board meeting.

iii. Following receipt of the notice of appeal, the Planning Advisory Board shall meet to consider a recommendation on the appeal, the Technical Review Committee's decision, and any comments given by the public, and shall make a recommendation on the appeal.

iv. The Planning Advisory Board, Technical Review Committee's recommendations, plans, documents and other materials relating to the decision shall then be transmitted to the City Council to consider the appeal. Staff shall notify the applicant of the time and place of the City Council meeting on the appeal. City Council may affirm (wholly or partly), modify, or reverse the decision. The City Council shall reverse or modify a decision on appeal only if it finds that there has been a clear and demonstrable error or abuse of discretion by the Technical Review Committee in applying the standards in Section 2.3.E.5(b), Sketch Plat Standards, to the application.

v. Any further appeal from the decision of the City Council shall be to the Superior Court for Onslow County, and shall be filed with the Clerk of Court no later than 30 days after the date the decision of the Planning Advisory Board is filed with the Development Services Director.

(4) **Expiration**

i. A Sketch Plat shall automatically expire if an application for a Preliminary Plat for at least a portion of the development is not submitted within one year of the Sketch Plat approval.

ii. Upon written request submitted at least 30 days before expiration, and upon determining that the Sketch Plat continues to conform to applicable regulations, the Technical Review Committee may grant a one-year extension of the time period, and the Development Services Director may grant subsequent one-year extensions of the time period.

iii. A change in ownership of the land shall not affect expiration time periods.

## (b) Sketch Plat Standards

A Sketch Plat shall be approved only upon a finding that all of the following standards are met:

(1) The development complies with the applicable standards in Article 6: *Subdivision Standards*;

(2) The development complies with Section 5.6, *Transportation Impact Analysis*, if applicable;

(3) The Sketch Plat addresses the entire site or tract being considered for development;

(4) The development complies with all other applicable standards in this ordinance;

(5) The development complies with all requirements or conditions of any applicable development approvals (e.g., conditional rezoning conditions, PD master plan and PD terms and conditions); and

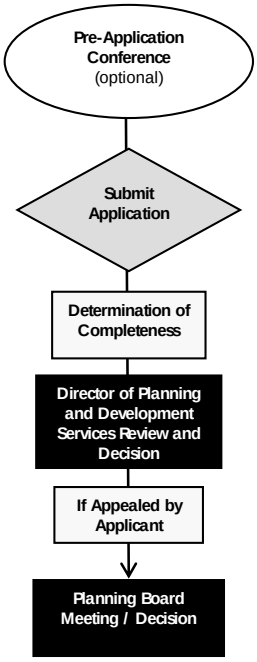
(6) The development complies with all other applicable City regulations.

## (c) Effect of Approval

Approval of a Sketch Plat shall constitute approval of the general layout and size of streets, lots, and open space. Sketch Plat approval does not authorize any development, but rather authorizes the applicant to apply for approval of a Preliminary Plat for the subdivision or a phase of the subdivision approved as part of the Sketch Plat approval.

## 6. Preliminary Plat

### (a) Procedure




Preliminary Plat

#### (1) Basic Procedures

Except as modified by Sections 2.3.E.6(a)(2-6) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for approval of a Preliminary Plat are as established in Section 2.2, *Common Review Procedures*.

#### (2) Application Submission

No application for approval of a Preliminary Plat for a Major Subdivision or a phase of a Major Subdivision shall be submitted unless a Sketch Plat for the subdivision or phase has been approved or the Preliminary Plat application is being submitted simultaneously with a Sketch Plat application for the same subdivision.

#### (3) Review and Action by Technical Review Committee

The Technical Review Committee shall review and take action on the application in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.E.6(b), *Preliminary Plat Standards*.

#### (4) Conditions of Approval

In approving a Preliminary Plat, the Technical Review Committee may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

#### (5) Appeal to City Council

i. The applicant may appeal the Technical Review Committee's decision on a Preliminary Plat application to the City Council by filing a written notice of appeal with the Development Services Director within 30 days after the date of the decision.

ii. On receiving a written notice of appeal, the Development Services Director shall transmit to the Planning Advisory Board all the plans, documents, and other materials relating to the decision, and notify the applicant of the time and place of the Planning Advisory Board meeting on the appeal.

iii. Following receipt of the notice of appeal, the Planning Advisory Board shall meet to consider a recommendation on the appeal, the Technical Review Committee's decision, and any comments given by the public, and shall make a recommendation on the appeal.

iv. The Planning Advisory Board, Technical Review Committee's recommendations, plans, documents and other materials relating to the decision shall then be transmitted to the City Council to consider the appeal. Staff shall notify the applicant of the time and place of the City Council meeting on the appeal. City Council may affirm (wholly or partly), modify, or reverse the decision. The City Council shall reverse or modify a decision on appeal only

if it finds that there has been a clear and demonstrable error or abuse of discretion by the Technical Review Committee's in applying the standards in Section 2.3.E.6(b), *Preliminary Plat Standards*, to the application.

v. Any further appeal from the decision of the City Council shall be to the Superior Court for Onslow County, and shall be filed with the Clerk of Court no later than 30 days after the date the decision of the Planning Advisory Board is filed with the Development Services Director.

(6) **Expiration**

i. A Preliminary Plat shall automatically expire if an application for a Final Plat for all portions of the land subject to the Preliminary Plat is not submitted within two years of the Preliminary Plat approval.

ii. Upon written request submitted at least 30 days before expiration, and upon determining that the Preliminary Plat continues to conform to applicable regulations, the Technical Review Committee may grant a one-year extension of the time period, and the Development Services Director may grant subsequent one-year extensions of the time period.

iii. A change in ownership of the land shall not affect expiration time periods.

### (b) Preliminary Plat Standards

A Preliminary Plat shall be approved only upon a finding that all of the following standards are met:

(1) The Preliminary Plat is in substantial conformity with the approved Sketch Plat (if applicable);

(2) The development complies with the applicable standards in Article 6: *Subdivision Standards*;

(3) The development complies with Section 5.777, *Transportation Impact Analysis*, if applicable;

(4) The development complies with all other applicable standards in this ordinance;

(5) The development complies with all requirements or conditions of any applicable development approvals (e.g., conditional rezoning conditions, PD master plan and PD terms and conditions); and

(6) The development complies with all other applicable City regulations.

### (c) Applications Including Requests for Vested Rights

Applications to determine Request for Vested Rights shall follow the standards established in the North Carolina General Statutes.

### (d) Effect of Approval

Approval of a Preliminary Plat authorizes the subdivider to proceed with the construction and installation of the approved public infrastructure and utilities. Approval of a Preliminary Plat also authorizes the subdivider to submit an

application for approval of a Final Plat for the subdivision or any phase of the subdivision approved as part of the Preliminary Plat approval, provided all required public improvements or performance guarantees are approved by the City in accordance with Section 2.3.E.6(e), *Inspection of Public Improvements and Performance Guarantees*.

### (e) Inspection of Public Improvements and Performance Guarantees

Before submitting an application for approval of a Final Plat, the subdivider shall submit to the Public Services Director a request for inspection of all public improvements required to serve the area covered by the Final Plat. To the extent that any required improvements are not approved by the City as complete, the subdivider shall provide a performance guarantee in accordance with Section 6.3, *Performance Guarantees*, for the incomplete improvements. The subdivider may apply for approval of a Final Plat only after all required public improvements or performance guarantees are approved by the City.

Final Plat

## 7. Final Plat

### (a) Procedure

#### (1) Basic Procedures

Except as modified by Sections 2.3.E.7(a)(2-8) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for approval of a Final Plat are as established in Section 2.2, *Common Review Procedures*.

#### (2) Application Submission

For subdivisions requiring Preliminary Plat approval, no application for approval of a Final Plat for a subdivision or an approved phase of a subdivision shall be submitted until:

i. A Preliminary Plat for the subdivision or phase has been approved; and

ii. Construction and installation of all public improvements approved as part of the Preliminary Plat for the subdivision or phase have been inspected and approved as complete, or a performance guarantee for incomplete improvements has been provided, in accordance with Section 2.3.E.6(e), *Inspection of Public Improvements* and Section 6.3, *Performance Guarantees*.

A subdivider may submit a Final Plat for a portion of the subdivision, but Building Permits may not be issued for structures on lots not subject to an approved Final Plat.

#### (3) Review and Action by Technical Review Committee

The Technical Review Committee shall review and take action on the application in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.E.6(b), Preliminary Plat Standards.

### (4) Conditions of Approval

In approving a Final Plat, the Technical Review Committee may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

### (5) Appeal to City Council

i. The applicant may appeal the Technical Review Committee's decision on a Final Plat application to the City Council by filing a written notice of appeal with the Development Services Director within 30 days after the date of the decision.

ii. On receiving a written notice of appeal, the Development Services Director shall transmit to the City Council all the plans, documents, and other materials relating to the decision, and notify the applicant of the time and place of the City Council meeting on the appeal.

iii. Following receipt of the notice of appeal, the City Council shall meet to consider the appeal, the Technical Review Committee's decision, and any comments given by the public, and shall act on the appeal. The City Council may affirm (wholly or partly), modify, or reverse the decision. The City Council shall reverse or modify a decision on appeal only if it finds that there has been a clear and demonstrable error or abuse of discretion by the Technical Review Committee's in applying the standards in Section 2.3.E.7(b), *Final Plat Standards*, to the application.

iv. Any further appeal from the decision of the City Council shall be to the Superior Court for Onslow County, and shall be filed with the Clerk of Court no later than 30 days after the date the decision of the City Council is filed with the Development Services Director.

### (6) Certification

If the Final Plat application is approved, the applicant shall revise the Final Plat as necessary to incorporate any conditions of approval and any required certification forms, and shall submit the revised plat to the Development Services Director within 15 days after the date of approval. On determining that the plat is properly revised, the Development Services Director shall enter onto the plat a signed certification that the plat is approved by the City in accord with this ordinance, and any other certifications as may be appropriate.

### (7) Recordation

The subdivider shall file an approved and certified Final Plat with the Onslow County Register of Deeds for recording, and shall provide proof of recording to the Development Services Director.

### (8) Building Permits

No building shall be issued for development on subdivided land prior to the approval of the final plat.

(9) **Expiration**

Every effort should be made to record an approved Final Plat with the Onslow County Register of Deeds within 15 days after the date the it is certified as approved.

## (b) Final Plat Standards

A Final Plat shall be approved only upon a finding that all of the following standards are met:

(1) The Final Plat is in substantial conformity with the approved Preliminary Plat (if applicable);

(2) The Final Plat complies with the standards in Article 6: *Subdivision Standards*;

(3) The Final Plat complies with all other relevant provisions of this ordinance;

(4) The Final Plat complies with all other relevant City regulations; and

(5) The Final Plat includes all required certificates.

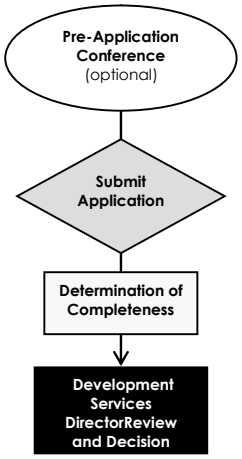
## (c) Effect of Approval

Approval of a Final Plat allows a subdivider to proceed with recording the plat and conveying the platted lots by reference to the recorded plat.

## (d) Acceptance of Dedications

Approval of a Final Plat and recordation of the plat with the Onslow County Register of Deeds shall, unless otherwise specified on the plat, constitute the granting of the dedication for public use of any rights-of-way, easements, completed public improvements, and public parks or open space as shown on the Final Plat. This grant of dedication shall not constitute or imply a responsibility of the City or other public agency to open or maintain such rights-of-way, easements, public improvements, or public parks or open space until so determined by the City Council or other public agency.

# F. Zoning Permit




Zoning Permit

## 1. Purpose

A Zoning Permit shall be required in accordance with the provisions of this section to ensure that proposed development complies with the standards of this ordinance, and to otherwise protect the public health, safety, and welfare of the citizens of the City.

## 2. Applicability

### (a) General

Except for development identified in Section 2.3.F.2(b), *Exemptions*, the provisions of this section shall be applicable to all development within the City's planning jurisdiction. No building, sign, or other structure shall be erected, moved, extended, enlarged, or structurally altered, nor shall a use change, nor shall any temporary use commence, nor shall any change in the use of land occur, nor shall any Building Permit be issued until the Development Services Director has issued a Zoning Permit in accordance with this section. A site plan or building permit shall constitute the issuance of a zoning permit.

### (b) Exemptions

The following development shall be exempt from the requirements of this section:

(1) Street construction or repair;

(2) Except when an electrical permit is required from the City, erection of an exempt sign in accordance with Section 5.12.D, *Signs Excluded from Regulation*;

(3) Temporary uses and events not required to obtain a permit in accordance with Table 4.4.b, *Permitted Temporary Uses and Structures;*

(4) Remodeling or renovation of existing single-family homes; and

(5) Construction of mailboxes, newspaper boxes, walls, fences, flag poles, pump covers, driveways, playground equipment, and doghouses. All such items must be located outside of the right-of-way and on private property.

## 3. Initiation

An application for a Zoning Permit may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

## 4. Procedure

### (a) Basic Procedures

Except as modified by Sections 2.3.F.4(b-e) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for a Zoning Permit are as established in Section 2.2, *Common Review Procedures*.

### (b) Review and Action by Development Services Director

The Development Services Director shall review and take action on the application in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.F.5, *Zoning Permit Standards*.

(c) **Conditions of Approval**

In approving a Zoning Permit, the Development Services Director may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

(d) **Appeal**

An appeal from a decision of the Development Services Director to approve a Zoning Permit shall be reviewed and decided by the Board of Adjustment in accordance with Section 2.3.L, *Appeal*.

(e) **Expiration**

(1) In cases where a maximum time frame for development is established as a condition of approval, the Zoning Permit shall expire upon the lapse of the allowable time frame.

(2) If a Building Permit is required, the Zoning Permit shall automatically expire if the Building Permit is not issued within six months after the date of issuance of the Zoning Permit.

(3) In cases where a Building Permit is not required, the Zoning Permit shall automatically expire if the activity authorized by the Zoning Permit is not commenced within six months of the date of issuance of the Zoning Permit.

5. **Zoning Permit Standards**

(a) A Zoning Permit shall be approved only upon a finding that the application complies with all relevant standards of this ordinance, as well as any other applicable City requirements and applicable conditions of approval.

(b) In cases where a development is required by Section 5.6, *Transportation Impact Analysis*, to provide on-site or off-site infrastructure, such infrastructure shall be completed or guaranteed in accordance with the standards in Section 5.14, *Performance Guarantees*, before issuance of a Zoning Permit.

6. **Amendment**

A Zoning Permit may be amended, extended, or modified only in accordance with the procedures and standards established in its original approval.

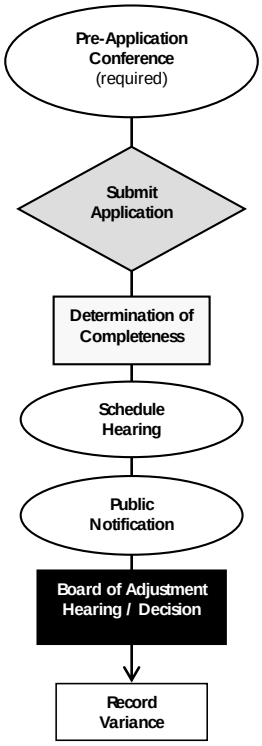
## G. Building Permit

Building Permits are approved and issued by the Development Services Director in accordance with Section 160A-417 of the North Carolina General Statutes and the construction standards of the North Carolina State Building Code. The construction standards are intended to ensure that buildings and other structures are structurally sound and can be occupied and used safely. The procedures for review and approval of applications for a Building Permit are established in Section 404.3 of the Administrative Code and Policies portion of the State Building Code.

# H. Floodplain Development Permit and or Certification

## See City of Jacksonville Floodplain, Soil and Erosion Control Regulations

# I. Variance




Variance

### 1. Purpose

The purpose of a Variance is to allow certain deviations from the dimensional standards of this ordinance (such as height, yard setback, lot coverage, or similar numeric standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards would result in undue and unique hardship to the landowner, and the deviation would not be contrary to the public interest. Variances are to be sparingly exercised and only in rare instances and under exceptional circumstances to relieve undue and unique hardships to the landowner. No change in permitted uses may be authorized by variance and the inability to secure maximum return on investment is not a sufficient justification for a Variance.

### 2. Authority

The Board of Adjustment shall review and decide any applications for variances from the requirements of this ordinance in accordance with this section.

### 3. Applicability

The following standards may be varied through the variance procedure.

(a) The maximum height standards, maximum lot coverage standards, minimum yard and setback standards, minimum lot area standards, and minimum lot width standards in Article 3: *Zoning Districts*;

(b) The standards in:

(1) Section 5.1, *Off-Street Parking, Loading, and Circulation*;

(2) Section 5.2, *Landscaping Standards*;

(3) Section 5.4, *Fencing and Walls*;

(4) Section 5.5, *Exterior Lighting*; and

(5) Section 5.12, *Signage*.

### 4. Variance Prohibited

Variances are limited to "standards" in the ordinance. Land Use Variances are prohibitied

### 5. Initiation

An application for a Variance may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

### 6. Procedure

#### (a) Basic Procedures

Except as modified by Sections 2.3.I.6(b-f) below, procedures and requirements for the submission, determination of completeness, review, recommendation,

hearing, and decision on applications for a Variance are as established in Section 2.2, *Common Review Procedures*.

### (b) Review and Action by Board of Adjustment

(1) Following receipt of the application from the Development Services Director, the Board of Adjustment shall conduct a quasi-judicial public hearing in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedure*. After close of the hearing, the Board of Adjustment shall consider the application, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment shall take one of the following actions based on the standards in Section 2.3.I.7, *Variance Standards*:

i. Approval of the application as submitted;

ii. Approval of the application subject to conditions; or

iii. Denial of the application.

iv. Granting a Variance shall require an affirmative vote of at least four-fifths ($^4/_5$) of the members of the Board of Adjustment who are eligible to vote.

### (c) Conditions of Approval

In approving a Variance, the Board of Adjustment may impose appropriate conditions on the approval in accordance with Section 2.2.O, *Conditions of Approval*.

### (d) Appeal

Any appeal from a decision by the Board of Adjustment on a Variance application shall be to the Superior Court for Onslow County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision of the Board of Adjustment is filed in the Planning and Development Services Department, or after the date a written copy of the decision is delivered (via personal delivery or by registered or certified mail, return receipt requested) to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the public hearing, whichever is later.

### (e) Expiration

Variance issued relative to the "land" shall run with the land. Variance issued relative to "structures" built upon the land shall expire when the structure is demolished or altered to the extent that the variance is eliminated or no longer necessary.

## 7. Variance Standards

Established in the North Carolina General Statutes 160A-388

## 8. Insufficient Justification for Variance

The following does not constitute grounds for a Variance:

(a) The citing of other nonconforming or conforming uses of land or structures in the same or other districts;

(b) The request for a particular use expressly, or by inference, prohibited in the district; or

(c) Economic hardship or the fact that property may be utilized more profitably with a variance.

### 9. Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the City. A Variance shall not ensure that the development receiving a Variance receives subsequent approval for other applications for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

### 10. Amendment

A Variance may be amended, extended, or modified only in accordance with the procedures and standards established in its original approval.

## J. Administrative Adjustment

### 1. Purpose

The purpose of this section is to provide a mechanism for allowing minor variations, or adjustments, to certain dimensional or numerical standards based on very specific criteria, with the intent of providing relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by the standards and is compatible with the area.

### 2. Types of Administrative Adjustment

There are three types of Administrative Adjustments. The Development Services Director is authorized to make adjustments in the following fashion and to the limits as indicated below:

(a) Type I Adjustment – Maximum 10% - Type I adjustments shall be limited to height, parking, landscaping standards, density, loading and unloading standards.

(b) Type II Adjustment – Maximum 25% - Type II adjustments shall be limited to setback requirements for front, side and rear yards only.

(c) Type III Adjustment – Maximum 10% - Type III adjustments shall be for all development standards not covered by Type I or II adjustments.

### 3. Administrative Adjustment Standards

Administrative adjustments shall be approved only upon a finding that the applicant demonstrates the following standards are met:

#### (a) General

The requested administrative adjustment is not inconsistent with the character of development in the surrounding area, and will not result in incompatible uses.

#### (b) Mitigates Adverse Impacts

Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum extent practicable.

### (c) Technical Nature

The administrative adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:

(1) Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;

(2) Supporting an objective or goal from the purpose and intent statements of the zoning district where located; or

(3) Proposed to save healthy existing trees.

### (d) Not Substantially Interfere with Convenient and Enjoyable Use of Adjacent Land

The administrative adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

### (e) Landscaping Standards

Adjustment to minimum aggregate caliper inch (ACI) or other minimum plant count requirement is allowable when it can be demonstrated that:

(1) The topography of a site equals or exceeds the buffering objective;

(2) An alternative design exceeds the level of buffering that would otherwise be provided by strict compliance to the standards in this Ordinance;

(3) Mature landscaping will be ineffective due to topography; or

(4) Compliance with the minimum landscaping standards could pose a threat to vehicular or pedestrian safety.

## 4. Expiration

(a) In cases where a maximum time frame for development is established as a condition of approval, the administrative adjustment shall expire upon the lapse of the allowable time frame.

(b) If a Building Permit is required, the administrative adjustment shall automatically expire if the Building Permit is not issued within six months after the date of issuance of the administrative adjustment.

(c) In cases where a Building Permit is not required, the administrative adjustment shall automatically expire if the activity authorized by the administrative adjustment is not commenced within six months of the date of approval of the administrative adjustment.

## 5. Subsequent Development

Development authorized by the administrative adjustment shall not be carried out until the applicant has secured all other permits required by this ordinance or any other applicable provisions of the City. An Administrative Adjustment shall not ensure that the development receiving an Administrative Adjustment receives subsequent approval for other applications for development unless the relevant and applicable portions of this ordinance or any other applicable provisions are met.

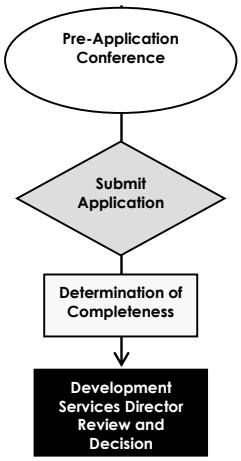
### 6. Effect of Approval

Approval of an Administrative Adjustment shall authorize only the particular adjustment that is approved. An Administrative Adjustment, including any conditions, shall run with the land and not be affected by a change in ownership.

### 7. Amendment

An administrative adjustment may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

## K. Interpretation




Interpretation

### 1. Purpose

The purpose of this section is to provide a uniform mechanism for interpreting provisions of this ordinance whose meaning or application to a particular circumstance may not be readily clear.

### 2. Authority

Interpretations of all provisions of this ordinance shall be made by the Development Services Director, including, but not limited to interpretations of:

(a) The text of this ordinance;

(b) The zoning district boundaries;

(c) Compliance with a condition of approval; and

(d) Whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district.

### 3. Initiation

An application for a formal written interpretation may be initiated by the City Council, the Planning Advisory Board, the Board of Adjustment, any resident or landowner, or any person having a contractual interest in land in the City's planning jurisdiction.

### 4. Procedure

#### (a) Basic Procedures

Except as modified by Sections 2.3.K.4(b-e) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications for an Interpretation are as established in Section 2.2, *Common Review Procedures*.

#### (b) Review and Action by Development Services Director

The Development Services Director shall review and take action on the application in accordance with the procedures of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, and the standards in Section 2.3.K.5, *Interpretation Standards*.

#### (c) Appeal

An appeal from a written interpretation from the Development Services Director shall be reviewed and approved by the Board of Adjustment in accordance with Section 2.3.L, *Appeal*.

#### (d) Official Record

The Planning and Development Services Department shall maintain a record of written interpretations that shall be available for public inspection, upon reasonable request, during normal business hours.

#### (e) Expiration

A written interpretation shall not expire, but may be overturned or modified by a subsequent written interpretation or an appeal decision, or superseded by an amendment to this Ordinance.

### 5. Interpretation Standards

Interpretations of zoning district boundaries on the official zoning map shall be in accordance with the standards in Section 1.8.D, *Interpretation of Official Map Boundaries*. Interpretations of text provisions and their application shall be based on the standards in Section 9.1, *Rules for Interpretation*, and the following considerations:

(a) The clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used, as established in Section 9.3, *Definitions*, and by the common and accepted usage of the term;

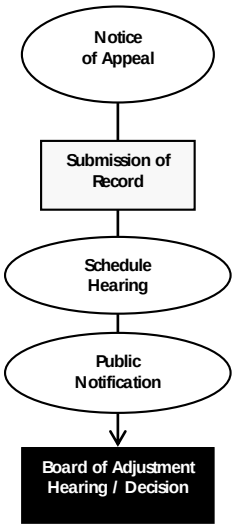
(b) The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history to its adoption; and

(c) The general purposes served by this ordinance, as set forth in Section 1.3, *General Purposes and Intent.*

### 6. Effect of Interpretation

A written interpretation shall be binding on subsequent decisions by the Development Services Director, Technical Review Committee, or other City administrative official in applying the same provision of this Ordinance in the same circumstances.

## L. Appeal




Appeal

### 1. Right of Appeal

Any aggrieved party affected by (1) an interpretation of the Development Services Director, or (2) a decision of the Technical Review Committee or other City administrative official in administering or enforcing this ordinance may, in accordance with this section, appeal such interpretation or decision to the Board of Adjustment.

### 2. Initiation

An appeal shall be initiated by filing a written notice of appeal with the Development Services Director within 30 days of the date of the decision or interpretation being appealed.

### 3. Procedure

#### (a) Basic Procedures

Except as modified by Sections 2.3.L.3(b)-(e) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on an appeal are as established in Section 2.2, *Common Review Procedures*.

### (b) Staff Submittal to Board of Adjustment

Upon receipt of a written notice of appeal, the Development Services Director shall transmit to the Board of Adjustment all the papers, documents, and other materials relating to the interpretation or decision being appealed. These materials shall constitute the record of the appeal.

### (c) Review and Action by Board of Adjustment

(1) Following receipt of the notice of appeal from the Development Services Director, the Board of Adjustment shall conduct a quasi-judicial public hearing on the appeal in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the Board of Adjustment shall consider the notice of appeal, relevant support materials, and any testimony or evidence given at the hearing and included in the record. The Board of Adjustment may affirm (wholly or partly), modify, or reverse the interpretation or decision being appealed based on the evidence in the record of the appeal. The Board of Adjustment shall modify or reverse an interpretation or decision only if it finds that there has been a clear and demonstrable error, abuse of discretion, or denial of due process in the application of facts in the record to the standards of this ordinance.

(2) Reversing or modifying an interpretation or decision shall require an affirmative vote of at least four-fifths ($^4/_5$) of the members of the decision-making board who are eligible to vote.

### (d) Appeal

Any appeal from the decision of the Board of Adjustment shall be to the Superior Court for Onslow County by petition for a writ of certiorari. Any petition to the Superior Court shall be filed with the Clerk of Court no later than 30 days after the date the decision is filed in the Planning and Development Services Department, or after the date a written copy of the decision is delivered (via personal delivery or by registered or certified mail, return receipt requested) to every aggrieved party who has filed a written request for such copy with the decision-making body at the public hearing, whichever is later.

### (e) Expiration

A decision on an appeal shall not expire, but may be overturned or modified by a subsequent appeal decision or superseded by an amendment to this ordinance.

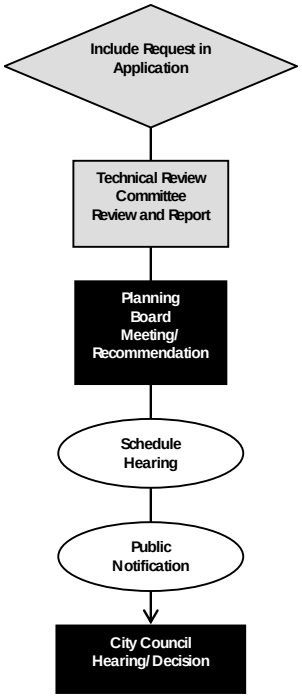
## 4. Effect of Pending Appeal

A pending appeal stays all City actions seeking enforcement of or compliance with the interpretation or decision being appealed unless the Development Services Director certifies to the Board of Adjustment that because of facts stated in the certificate, a stay would cause imminent peril to life or property or would seriously interfere with enforcement of this Ordinance due to the violation's transitory nature. In that case, proceedings shall not be stayed other than by an order issued by the Board of Adjustment or a court of competent jurisdiction after notice to the Development Services Director and for due cause shown.

### 5. Effect of Appeal Decision

To the extent the Board of Adjustment's decision on an appeal pertains to application of a particular provision of this ordinance in particular circumstances, the appeal decision shall be binding on subsequent decisions by the Development Services Director, Technical Review Committee, or other City administrative officials in applying the same provision of this ordinance in the same circumstances.

## M. Vested Rights




Vested Right Determination

### 1. Purpose

The purpose of this section is to establish procedures by which an applicant for certain development approvals that involve a site specific development plan may obtain a determination of whether approval of the plan establishes a vested right pursuant to the provisions of Section 160A-385.1 of the North Carolina General Statues.

### 2. General

(a) A vested right shall be deemed established upon the valid approval or conditional approval of a site-specific development plan, following notice and public hearing, associated with the following development approvals:

(1) Type I Site Plan;

(2) Type II Site Plan;

(3) Type III Site Plan;

(4) Preliminary Plat; or

(5) Special Use Permit.

(b) Notwithstanding subsection (a), approval of a site specific development plan with the condition that a variance be obtained shall not establish a vested right unless and until the necessary variance is obtained.

(c) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or the application of ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the City of Jacksonville. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to site specific development plan upon the expiration or termination of the vested right in accordance with this ordinance.

(d) A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of the site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(e) All site plans shall automatically expire after the two year period from approval if:

1. No Building Permit associated with the development is approved and still valid;

2. A Building Permit for at least some portion of the development is approved, but expires prior to construction;
3. A Building Permit for at least some portion of the development is approved and construction is completed, but good and substantial progress on the undeveloped portion of the lot or site subject to Site Plan approval ceases for a period of one year or more.

## 3. Request for Vested Rights Determination

A request for a Vested Rights Determination may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*. Applications for a Vested Rights Determination may be submitted simultaneously with an application for a Type I Site Plan, Type II Site Plan, Type III Site Plan, Preliminary Plat, or a Special Use Permit, or after the approval of a Type I Site Plan Type II Site Plan, Type III Site Plan, Preliminary Plat, or Special Use Permit, provided the approval has not expired.

## 4. Procedure

### (a) Basic Procedures

Except as modified by Sections 2.3.M.4(b-g) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on requests for a Vested Rights Determination are as established in Section 2.2, *Common Review Procedures*, and as established for the particular type of development approval in Section 2.3, *Standards and Requirements for Development Applications*.

### (b) Application Contents

If an applicant for one of the development approvals listed in Section 2.3.M.2(a) wishes to establish a vested right to a site-specific development plan associated with the application, the application shall include, on a form provided by the Planning and Community Services Department, a written request for a Vested Rights Determination by the City Council following Planning Advisory Board review and a duly-noticed public hearing.

### (c) Review by Technical Review Committee

(1) When reviewing a Type I or Type II Site Plan application that includes a request for a Vested Rights Determination, the Technical Review Committee shall consider the plans included in the application and prepare a staff report addressing whether the application includes a site-specific development plan establishing a statutory vested right, based on the standards in Section 2.3-M.5*, Vested Rights Determination Standards*. On approving the application, the Technical Review Committee or Development Services Director, as appropriate, shall submit the application and the Technical Review Committee's staff report to the Planning Advisory Board.

(2) When reviewing and preparing a staff report on a Type III Site Plan application that includes a request for a Vested Rights Determination, the Technical Review Committee shall address whether the application includes a site-specific development plan establishing a statutory vested right, based on the standards in Section 2.3.M.5, *Vested Rights Determination Standards*.

(3) On approving a Preliminary Plat application that includes a request for a Vested Rights Determination, the Technical Review Committee shall prepare a staff report addressing whether the application includes a site-specific development plan establishing a statutory vested right, based on the standards in Section 2.3.M.5, *Vested Rights Determination Standards*. On approving the application, the Technical Review Committee shall submit the application and the staff report to the Planning Advisory Board.

(4) When reviewing and preparing a staff report on a Special Use Permit application, the Development Services Director shall submit the application to the Technical Review Committee, who shall consider the plans included in the application and prepare a staff report addressing whether the application includes a site specific plan establishing a statutory vested right, based on the standards in Section 2.3.M.5, *Vested Rights Determination Standards*. If the City Council approves the Special use Permit application, the Development Services Director shall submit the application and the Technical Review Committee's staff report to the Planning Advisory Board.

### (d) Review and Recommendation by Planning Advisory Board

(1) Following staff review, the Planning Advisory Board shall consider the plans included in the application and the staff report, and make a recommendation on whether the application includes a site-specific development plan establishing a statutory vested right based on the standards in Section 2.3.M.5, *Vested Rights Determination Standards*.

(2) The Development Services Director shall submit the application, staff report, and Planning Advisory Board's recommendation to the City Council.

### (e) Public Hearing, Review, and Action by City Council

(1) Following staff review and Planning Advisory Board review of an approved Type I Site Plan, Type II Site Plan, Preliminary Plat, or Special Use Permit application with a request for a Vested Rights Determination, the City Council shall conduct a public hearing on the request in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the City Council shall consider the plans included in the application, the staff report, the Planning Advisory Board's recommendation, and any comments given by the public. The City Council, by a majority vote of a quorum present, determine whether the application includes a site-specific development plan establishing a statutory vested right, based on the standards in Section 2.3.M.5, *Vested Rights Determination Standards*.

(2) If the City Council approves a Type III Site Plan application that includes a request for a Vested Rights Determination, the City Council shall conduct a public hearing on the request in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the City Council shall consider the plans included in the application, the staff report, the Planning Advisory Board's recommendation, and any comments given by the public. The City Council, by a majority vote of a quorum present, determine whether the

application includes a site-specific development plan establishing a statutory vested right, based on the standards in Section 2.3.M.5, *Vested Rights Determination Standards*.

(f) **Conditions of Approval**

In determining that an approved application includes a site-specific development plan establishing a statutory vested right, the City Council may impose appropriate conditions on its determination in accordance with Section 2.2.O, *Conditions of Approval*. Such conditions of approval may provide that the right be vested for a period exceeding two years, but not exceeding five years, where warranted by the development's size or phasing, the level of investment, the need for the development, economic cycles, market conditions, or other relevant circumstances.

(g) **Certification**

If the City Council determines in accordance with this section that an approved application includes a site-specific development plan establishing a statutory vested right, the Development Services Director shall enter onto the approved site-specific development plan a certification that approval of the plan establishes a zoning vested right under Section 160A-385.1 of the North Carolina General Statutes.

5. **Vested Rights Determination Standards**

Approval of an application shall be determined to establish a vested right to development authorized by the approval in accordance with Section 160A-385.1 of the North Carolina General Statutes only upon a finding that the approved application includes one or more plans that describe with reasonable certainty the type and intensity of use proposed on a specific parcel or parcels of property and show:

(a) The approximate boundaries of the development site;

(b) Significant topographical and other natural features affecting development of the site;

(c) The approximate location on the site of proposed buildings, structures, and other improvements;

(d) The approximate dimensions of proposed buildings, structures, and other improvements; and

(e) The approximate location and dimensions of all existing and proposed infrastructure on the site, including water and sewer facilities, streets, and pedestrian walkways.

6. **Effect of Vested Right Approval**

(a) In accordance with Section 160A-385.1 of the North Carolina General Statutes, approval of a development application determined to include a site-specific development plan establishing a vested right confers on the landowner the right to undertake and complete the approved development under the terms and conditions of the site specific development plan, including any approved amendments to the plan.

(b) Nothing in this ordinance shall exempt development pursuant to an approved site-specific development plan establishing a statutory vested right

from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(c) Nothing in this ordinance shall prohibit the revocation of the vested right or other remedies for failure to comply with applicable terms and conditions of the approval or this ordinance.

### 7. Duration, Expiration, and Termination of Vested Rights

(a) In cases where a condition of approval provides that a right to the approved development is vested for a period of between two years and five years, the vested right shall expire upon the lapse of the allowable time frame. Otherwise, a right to the approved development shall expire two years after the date the application is approved.

(b) A vested right shall not be extended by any amendments or modifications to a site-specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(c) Upon issuance of a building permit for the vested development, the expiration provisions of Section 160A-418 of the North Carolina General Statutes and the revocation provisions of Section 160A-422 of the North Carolina General Statutes shall apply, except that a building permit shall not expire or be revoked while a vested right established under this section is outstanding.

(d) A vested right established in accordance to this section shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(2) With the written consent of the affected landowner;

(3) Upon findings by the City Council, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

(4) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner due to termination of the vested right—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 City, together with interest thereon at the legal rate until paid; but not including any diminution in the value of the property caused by such action;

(5) Upon findings by the City Council, by ordinance after notice and a 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 for the site-specific development plan; or

(6) Upon the enactment or promulgation of a state or federal law or regulations that precludes development as contemplated in the site-

specific development plan, in which case the City Council, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan.

### (e) Expiration

All Site Plans shall be considered vested for a two year period upon approval. Said approval shall automatically expire after the two year period if:

i. No Building Permit associated with the development is approved;

ii. A Building Permit for at least some portion of the development is approved, but expires prior to construction;

iii. A Building Permit for at least some portion of the development is approved and construction is completed, but good and substantial progress on the undeveloped portion of the lot or site subject to the Site Plan ceases for a period of one year or more.

(2) Upon written request submitted at least 30 days before expiration, and upon determining that any un-constructed portions of the site plan continue to conform to applicable regulations, the Development Services Director may grant a one-year extension of the time period, and the City Council may grant subsequent one-year extensions of the time period.

(3) A change in ownership of the land shall not affect expiration time periods.

## 8. Voluntary Annexation

A petition for annexation filed with the City in accordance with Section 160A-31 of the North Carolina General Statutes shall contain a signed statement declaring whether or not any vested right with respect to the properties subject to the petition has been established under Section 160A-385.1 of the North Carolina General Statutes. A statement that declares that no vested right has been established under Section 160A-385.1 of the North Carolina General Statutes, or the failure to sign a statement declaring whether or not such a vested right has been established, shall be binding on the landowner and any such vested right shall be terminated.

# N. Development Agreement

Development Agreement

## 1. Purpose

The purpose of this section is to establish standards and procedures for the City entering into Development Agreements for long-term, large-scale developments, in recognition of the following findings and statements of intent:

### (a) Large-Scale Development Projects and Long-Term Commitment of Resources

Large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.

### (b) Potential Community Impacts

Such large-scale developments often create potential community impacts and potential opportunities that are difficult or impossible to accommodate within traditional zoning processes.

### (c) Careful Integration between Public Capital Facilities Planning, Financing, Schedules

Because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.

### (d) Stable Development Standards

Because of their scale and duration, such large-scale projects involve substantial commitments of private capital by private developers, which private developers are unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.

### (e) Nontraditional Development Types

Because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing the impacts on the surrounding areas.

### (f) Negotiating Flexibility

To better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.

### (g) Plan Consistency

In negotiating for such developments, it is the intent of the City to remain consistent with the adopted plans, policies, and goals of the City as they relate to land use and capital improvements

## 2. Authority

The City may enter into a Development Agreement with a developer, subject to the requirements of this section. In entering into such an agreement, the City may not

exercise any authority or make any commitment not authorized by general or local act, and may not impose any tax or fee not authorized by otherwise applicable law. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the Development Agreement.

### 3. Relationship to Other Development Approvals

Although an application for a Development Agreement generally is submitted and reviewed before, or in conjunction with, the first development approval required for the proposed development (e.g., Planned Development), such an application may be submitted and decided at any stage of the development. If the application is submitted after development approvals have been granted, either the Development Agreement should incorporate the terms and conditions of those prior approvals, or any approval of the Development Agreement shall be contingent upon any amendments to those prior approvals necessary to ensure conformance between the Development Agreement and applicable development approvals.

### 4. Initiation

An application for a Development Agreement may be initiated by any person who may submit applications in accordance with Section 2.2.A, *Authority to File Applications*.

### 5. Procedure

#### (a) Basic Procedures

Except as modified by Sections 2.3.N.5(b-e) below, procedures and requirements for the submission, determination of completeness, review, recommendation, hearing, and decision on applications are as established in Section 2.2, *Common Review Procedures*.

#### (b) Application Contents

(1) An application for a Development Agreement shall include a proposed Development Agreement that shall, at a minimum, include all of the following:

i. A legal description of the property subject to the agreement and the names of its legal and equitable property owners.

ii. The duration of the agreement.

iii. A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.

iv. The development uses permitted on the property, including densities, building types, intensities, placement on the site, and design.

v. A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.

vi. If the Development Agreement provides that the City shall provide certain public facilities, the Development Agreement shall provide that the delivery date of such public facilities will be tied to

successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards).

vii. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.

viii. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.

ix. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens.

x. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

xi. An indemnification and "hold harmless" clause whereby the developer/property owner holds the City and its agents harmless from liability for damages, injury, or death that may arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

(2) The proposed Development Agreement may include the following:

i. A provision that the entire development or any phase of it be commenced or completed within a specified period of time.

ii. Other defined performance standards to be met by the developer.

iii. Other matters not inconsistent with law.

(3) The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, general building types, pedestrian and vehicular circulation, open space, public facilities, and phasing.

### (c) Review and Report by Development Services Director

As part of the staff review of the application, the Development Services Director may negotiate revisions to the proposed Development Agreement consistent with the provisions of Section 2.3.N.6, *Development Agreement Standards*.

### (d) Review and Action by City Council

Following staff review, the City Council shall conduct a standard public hearing on the application in accordance with Section 2.2.L, *Public Notification*, and Section 2.2.M, *Public Hearing Procedures*. After close of the hearing, the City Council shall consider the application, relevant support materials, the staff report, and any comments given by the public. As part of its review of the application, the City Council may suggest revisions to the proposed Development Agreement, consistent with the provisions of 2.3.N.6, *Development Agreement Sta*ndards. The City Council, by a majority vote of a quorum present, shall take one of the

following actions based on the standards in Section 2.3.N.6, *Development Agreement Standards*:

(1) Enter into the Development Agreement as submitted;

(2) Enter into the Development Agreement subject to modifications agreed to by the applicant, in writing;

(3) Not enter into the Development Agreement; or

(4) Remand of the application back to the Development Services Director for further consideration.

#### (e) Recordation

Within 14 days after entering into a development agreement, the City shall record the agreement with the Onslow County Register of Deeds.

### 6. Development Agreement Standards

For consideration of the City to participate in a Development Agreement, a development subject to the agreement must meet the following criteria:

#### (a) Scale of Development

The property subject to the Development Agreement shall contain 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, FEMA designated floodplain, and other portions of the property that may be precluded from the property at the time of application).

#### (b) Phasing and Duration of Development

The development shall demonstrate phasing, and participation in the proposed agreement shall not exceed 20 years.

#### (c) Social and Capital Value of Development

The estimated appraised value of the development (including all real property) at build out shall equal or exceed $10,000,000.00, or shall provide a demonstrated value to significantly enhance opportunities for very-low income or special populations, protect natural resources, or preserve critical viewsheds within the City's planning jurisdiction.

#### (d) Impact on Capital Improvements

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

### 7. Effect of Development Agreement

#### (a) Burdens and Benefits

The burdens of the Development Agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

#### (b) Rights and Obligations

Rights and obligations established by a Development Agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding

building permits, site specific development plans, phased development plans or other provisions of law.

### (c) Building and Housing Code

A Development Agreement shall not exempt the property owner or developer from compliance with the State Building Code or the City's Minimum Housing Code.

### (d) Application of Subsequently Enacted Laws

Unless the Development Agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a Development Agreement are those in force at the time of execution of the agreement.

### (e) Application of Subsequently Adopted Ordinances and Policies

The City may not apply subsequently adopted ordinances or development policies to a development that is subject to a Development Agreement except for grounds specified in Section 160A-385.1(e) of the North Carolina General Statutes as exceptions to vested rights established for site-specific development plans.

### (f) Change in State or Federal Law

If state or federal law is changed after a Development Agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the Development Agreement, the City, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the Development Agreement.

## 8. Vested Rights

This ordinance does not abrogate any rights preserved by Sections 160A-385 or 160A-385.1 of the North Carolina General Statutes, or that may vest pursuant to common law or otherwise in the absence of a Development Agreement.

## 9. Approval of Debt

If any of the obligations of the City in the Development Agreement constitute debt, the City shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the City, with any applicable constitutional and statutory procedures for the approval of this debt. The agreement shall be signed by the City Attorney, Finance Director, and City Manager.

## 10. Periodic Review and Breach of Agreement

### (a) Annual Review

During any period of time in which a development permit is active, the City shall review the development at least once every 12 months for compliance with the agreement. The developer must be required to demonstrate good faith compliance with the terms of the Development Agreement. The failure to meet a commencement or completion date specified in the Development Agreement shall not, in and of itself, constitute a material breach of the agreement, but must be judged based upon the totality of the circumstances.

### (b) Material Breach

If the City finds and determines that the developer has committed a material breach of the terms or conditions of the Development Agreement, the City shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and shall provide the developer a reasonable time in which to cure the material breach.

### (c) Failure to Cure Material Breach

If the developer fails to cure the material breach within the time given, then the City unilaterally may terminate or modify the Development Agreement.

### (d) Appeal

The notice of termination or modification may be appealed to the Board of Adjustment for review and decision in accordance with Section 2.3.L, *Appeal*.

## 11. Amendments to Development Agreement

### (a) Mutual Consent

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

### (b) Major Modification

Consideration of a proposed major modification of a development agreement shall follow the same procedures as required for initial approval of the agreement.

### (c) Minor Modification

The City Manager may approve minor modifications of the development agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this ordinance, and would not adversely affect the public health, safety, or general welfare.

## 12. Assumption of Jurisdiction over Development Agreements

### (a) City Assumes Planning Jurisdiction

If the City assumes planning jurisdiction over land subject to a development agreement established by another jurisdiction, such development agreement shall be valid for the duration of the agreement, or eight years from the effective date of the City's assumption of planning jurisdiction over the subject property, whichever is earlier.

### (b) Right and Obligations

The parties to the development agreement and the City shall have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction.

### (c) Modification or Suspension

The City may modify or suspend the provisions of the assumed development agreement if the City determines that the failure to do so would place the residents of the area subject to the development agreement, or the residents of the City's planning jurisdiction, or both, in a condition dangerous to their health or safety, or both.

# Article 3: Zoning Districts

# Article 3: Zoning Districts Table of Contents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# ARTICLE 3: Zoning Districts

## 3.1 Types of Zoning Districts

Land within the City's corporate limits and its extra-territorial jurisdiction (ETJ) is generally classified by this UDO to be within one of a number of base zoning districts. Land may be reclassified to one of a number of comparable conditional zoning districts, or to one of several planned development zoning districts in accordance with Section 2.3.B, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*. Land within any base, conditional, or planned development zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, conditional zoning district, or planned development zoning district.

## 3.2 Compliance with District Standards

No land within the City's planning jurisdiction shall be developed except in accordance with the zoning district regulations of this article and all other regulations of this UDO, including but not limited to, Article 4: *Use Standards*, Article 5: *Development Standards*, and Article 6: *Subdivision Standards*.

## 3.3 Base Zoning Districts Established

Table 3.3.A, *Base Zoning Districts Established*, sets out the base zoning districts established by this UDO. Base zoning districts are grouped into low, medium, and high density residential districts, and nonresidential/mixed-use districts.

**Table 3.3.A: Base Zoning Districts Established**

| Abbreviation | Base Zoning District |
|---|---|
| Low Density Residential Zoning Districts | |
| RSF-40 | Residential Single-Family 40 |
| RSF-20 | Residential Single-Family 20 |
| RSF-10 | Residential Single-Family 10 |
| Medium Density Residential Zoning Districts | |
| RSF-7 | Residential Single-Family 7 |
| High Density Residential Zoning Districts | |
| RSF-5 | Residential Single-Family 5 |
| RMF-LD | Residential Multi-Family Low Density |
| RMF-HD | Residential Multi-Family High Density |
| Nonresidential/Mixed-use Zoning Districts | |
| DTR | Downtown Residential |
| OI | Office and Institutional |
| NC | Neighborhood Commercial |
| DTB | Downtown Business |
| CC | Corridor Commercial |
| IND | Industrial |
| MR | Military Reservation |

### A. Classification of Base Zoning Districts

Land shall be classified or reclassified into a base zoning district only in accordance with the procedures and requirements set forth in Section 2.3.B, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*.

### B. Relationship to Overlay Zoning Districts

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district. If the standards governing a base zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay zoning district shall control.

### C. Organization of Base Zoning District Regulations

Sections 3.4 through 3.5 set out the general purposes of each group of base zoning districts and contain subsections that set out the purpose and bulk and dimensional standards for each individual base zoning district. These subsections have a common structure consisting of a purpose statement, applicable dimensional standards, a photograph showing a hypothetical preferred building form for the district, a graphic depiction of hypothetical street layout and lot patterns, and a hypothetical graphic depiction of the district's bulk and dimensional standards as applied to typical lot patterns and building forms. The building form photographs and lot pattern diagrams are for illustrative purposes only, and may not be consistent with all the dimensional requirements. In these cases, the dimensional requirements described in the text of this UDO shall control. Article 4: *Use Standards*, includes Table 4.1.1.B, *Use Table*, a summary use table specifying permitted, special, and allowable uses for each of the base and planned development zoning districts, and references to any standards specific to individual uses.

## 3.4 Standards Applicable to all Districts

### A. Area of Environmental Concern Standards

All lots shall comply with any applicable Area of Environmental Concern (AEC) setback standards in accordance with the *State Guidelines for AEC's*, Article 15, Section 7H of the North Carolina Administrative Code and the Coastal Area Management Act of 1974.

### B. Thoroughfare Setbacks

Except within the DTR, DTB and MR districts, all buildings shall comply with the following thoroughfare setback requirements:

#### 1. Generally

All buildings shall be set back from their established front yard setback from the right-of-way edge.

#### 2. Expansions to Existing Buildings

Existing buildings located within the setback area may not expand into the required setback from the right-of-way.

(a)

### C. Setback Standards

#### 1. General Standards

(a) Except as established in Section 3.4.C.2, *Allowable Encroachments*, or where otherwise expressly stated in this UDO, a building, structure, or lot shall not be developed, used, or occupied unless it complies with the minimum lot

dimension, setback or yard requirements, lot coverage, or other dimensional requirements set forth for the zoning district in which it is located.

(b) A yard, setback, or other open space required by this UDO shall not be included as part of a yard, setback, or other open space required for another building or structure on a separate lot.

(c) All the area within a required yard or setback on a lot shall be open from its lowest point to the sky, except that trees, shrubs, flowers, fences, walls, hedges, other landscape features, driveways, and uncovered parking pads may be located within any required setback or yard.

(d) Accessory structures or uses are prohibited within front and corner side setback areas.

### 2. Allowable Encroachment

The buildings or structures on a lot shall not be located within a required setback or yard, except as follows:

(a) Sills, belt courses, cornices, buttresses, bay windows, ornamental features, eaves, or other architectural details may project into a required yard or setback up to 24 inches;

(b) Open or enclosed fire escapes, outside stairways, ramps, and other necessary features required for ingress or egress, may project into a required setback or yard by up to 36 inches, provided they do not obstruct light and ventilation;

(c) Chimneys, HVAC units, decks, porches (covered or uncovered), or carports may project into a required setback or yard by up to 50 percent provided they do not obstruct light and ventilation; and

(d) In the DTR and DTB districts, upper-story balconies, decks, and awnings may project into front and corner side setbacks subject to an encroachment agreement with the City or NCDOT, as appropriate, and provided they maintain a minimum clearance of 10 feet from the established grade, sidewalk, curb, or building entranceways.

## 3.5 Residential Base Zoning Districts

### A. General Purposes

The residential base zoning districts established in this section are intended to provide a comfortable, healthy, safe, and pleasant environment in which to live and recreate. More specifically, they are intended to:

1. Provide appropriately located lands for residential development that are consistent with the goals, objectives, and policies of the CAMA Land Use Plan and all other applicable City-adopted plans;
2. Ensure adequate light, air, privacy, and recreational and open space areas for each dwelling, and protect residents from the negative effects of noise, excessive population density, traffic congestion, flooding, and other significant adverse environmental impacts;
3. Provide for residential housing choice, affordability, and diversity with varying housing densities, types, and designs, including accessory dwelling units in the lower-density residential districts;
4. Provide for safe and efficient vehicular access and circulation and promote bicycle-, pedestrian-, and transit-friendly neighborhoods;
5. Provide for public services and facilities needed to serve residential areas and accommodate public and semi-public land uses that complement residential development or require a residential environment while protecting residential areas from incompatible nonresidential development;
6. Create neighborhoods and preserve existing community character while accommodating new infill development and redevelopment consistent with the City's goals and objectives; and
7. Preserve the unique character and historic resources of the traditional neighborhoods and the community.

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## B. Residential Single-Family 40 (RSF-40) District

# RSF-40
## Residential Single-Family 40

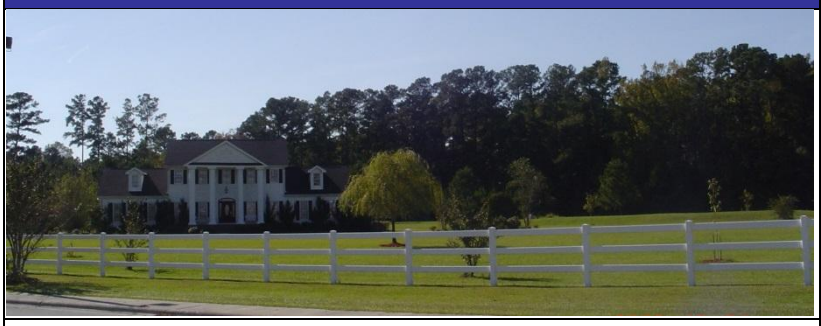
### Purpose

The RSF-40 district is established to accommodate primarily single-family detached residential development and agricultural uses in a rural setting. The district accommodates residential cluster subdivisions in accordance with the standards in Section 6.2. Also allowed are complementary uses usually found in residential zoning districts such as parks, open space, and minor utilities. Major utilities, religious institutions and manufactured home parks are allowed subject to a Special Use Permit (See Section 2.3.D.).

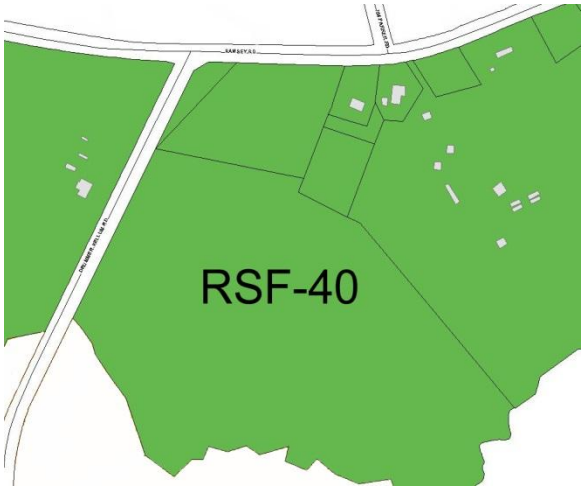
### Dimensional Standards

| | |
|---|---|
| Number of Dwelling Units per Lot, max. | 1 principal |
| Lot Size, min. (square feet) | 40,000; None for conservation subdivisions |
| Net Density, max. (units/acre) | .91 |
| Lot Coverage, max. (% of lot area) | 30 |
| Lot Width, min. (feet) | 120; 60 at street |
| Front Setback from ROW, min. (feet) | 50 |
| Corner Side Setback, min. (feet) | 50 |
| Side Setback, min. (feet) | 25 |
| Rear Setback, min. (feet) | 50 |
| Accessory Use Setback, min. (feet) | 5 (prohibited in front or corner side setbacks) |
| Height, max. (feet) | 35 |

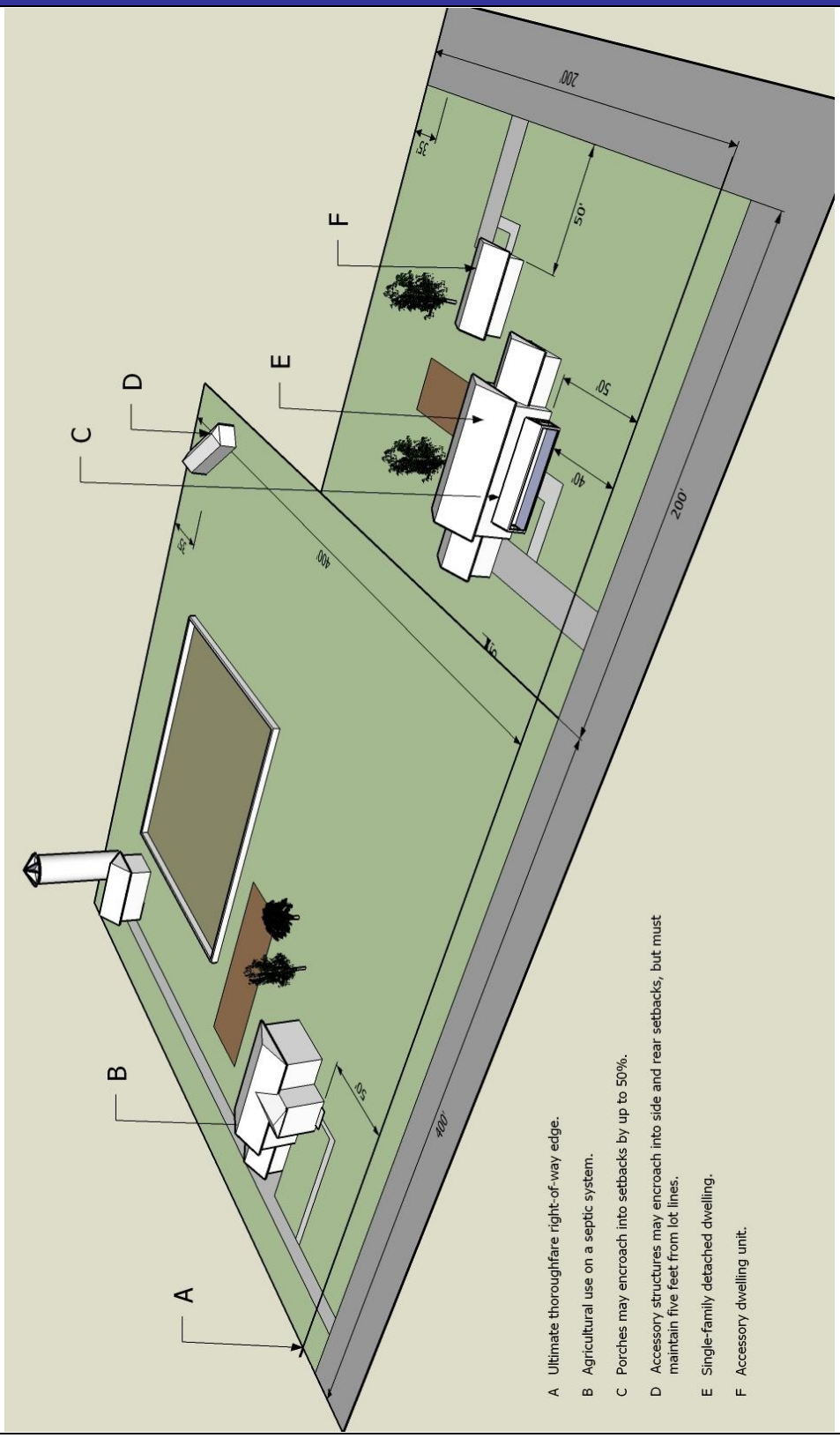
### RSF-40 Typical Building Form



### RSF-40 Typical Lot Pattern



## RSF-40 Typical Lot Configuration



## C. Residential Single-Family 20 (RSF-20) District

# RSF-20
## Residential Single-Family 20

### Purpose

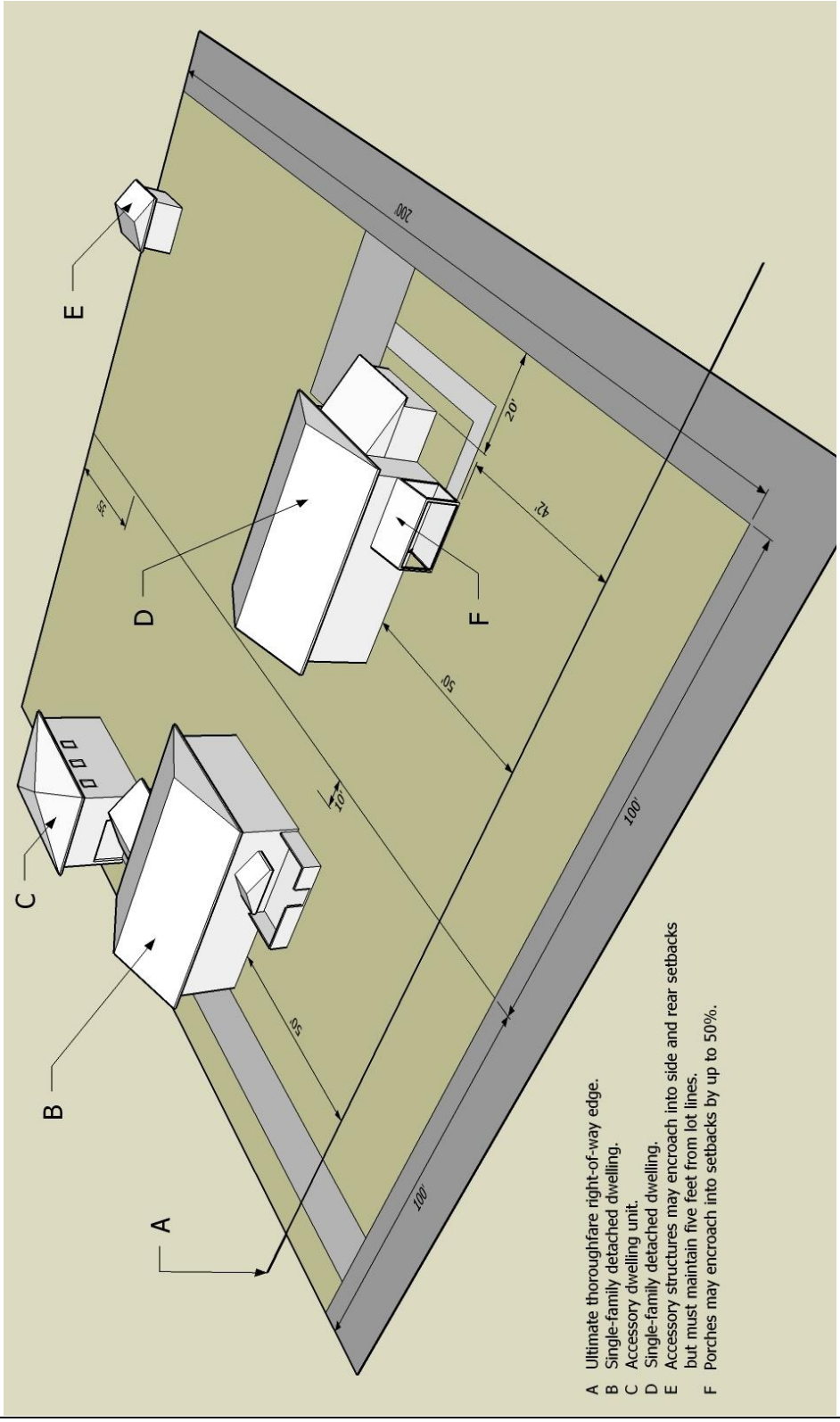
The RSF-20 district is established to accommodate primarily single-family detached residential development at low densities on lots of 20,000 square feet. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings or that is detrimental to the quiet residential nature of the district. The district accommodates complementary uses usually found in residential zoning districts such as parks, open space, and minor utilities. Major utilities, religious institutions, and manufactured home parks are allowed subject to a Special Use Permit (see Section 2.3.D).

| Dimensional Standards | |
|---|---|
| Number of Dwelling Units per Lot, max. | 1 principal |
| Lot Size, min. (square feet) | 20,000 |
| Net Density, max. (units/acre) | 2.18 |
| Lot Coverage, max. (% of lot area) | 40 |
| Lot Width, min. (feet) | 50; 25 at street |
| Front Setback from ROW, min. (feet) | 35; 50 from Thoroughfare Streets |
| Corner Side Setback, min. (feet) | 20; 50 from Thoroughfare Streets |
| Side Setback, min. (feet) | 10 |
| Rear Setback, min. (feet) | 35 |
| Accessory Use Setback, min. (feet) | 5 (prohibited in front or corner side setbacks) |
| Height, max. (feet) | 35 |

### RSF-20 Typical Building Form

### RSF-20 Typical Lot Pattern

## RSF-20 Typical Lot Configuration



## D. Residential Single-Family 10 (RSF-10) District

# RSF-10

## Residential Single-Family 10

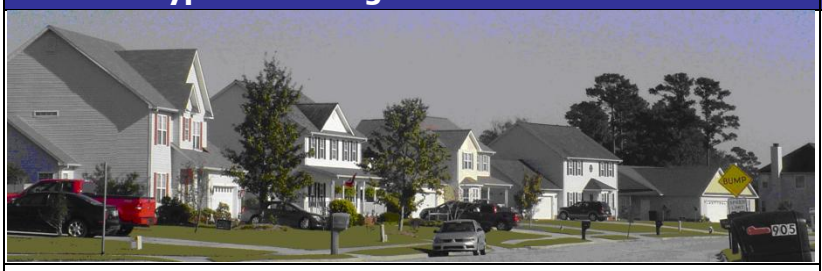
### Purpose

The RSF-10 district is established to accommodate primarily single-family detached residential development at low densities on lots of 10,000 square feet. District regulations are intended to discourage any use that substantially interferes with the development of single-family dwellings or that is detrimental to the quiet residential nature of the district. The district accommodates complementary uses usually found in residential zoning districts such as parks, open space, and minor utilities. Major utilities and religious institutions are allowed subject to a Special Use Permit (see Section 2.3.D).

### Dimensional Standards

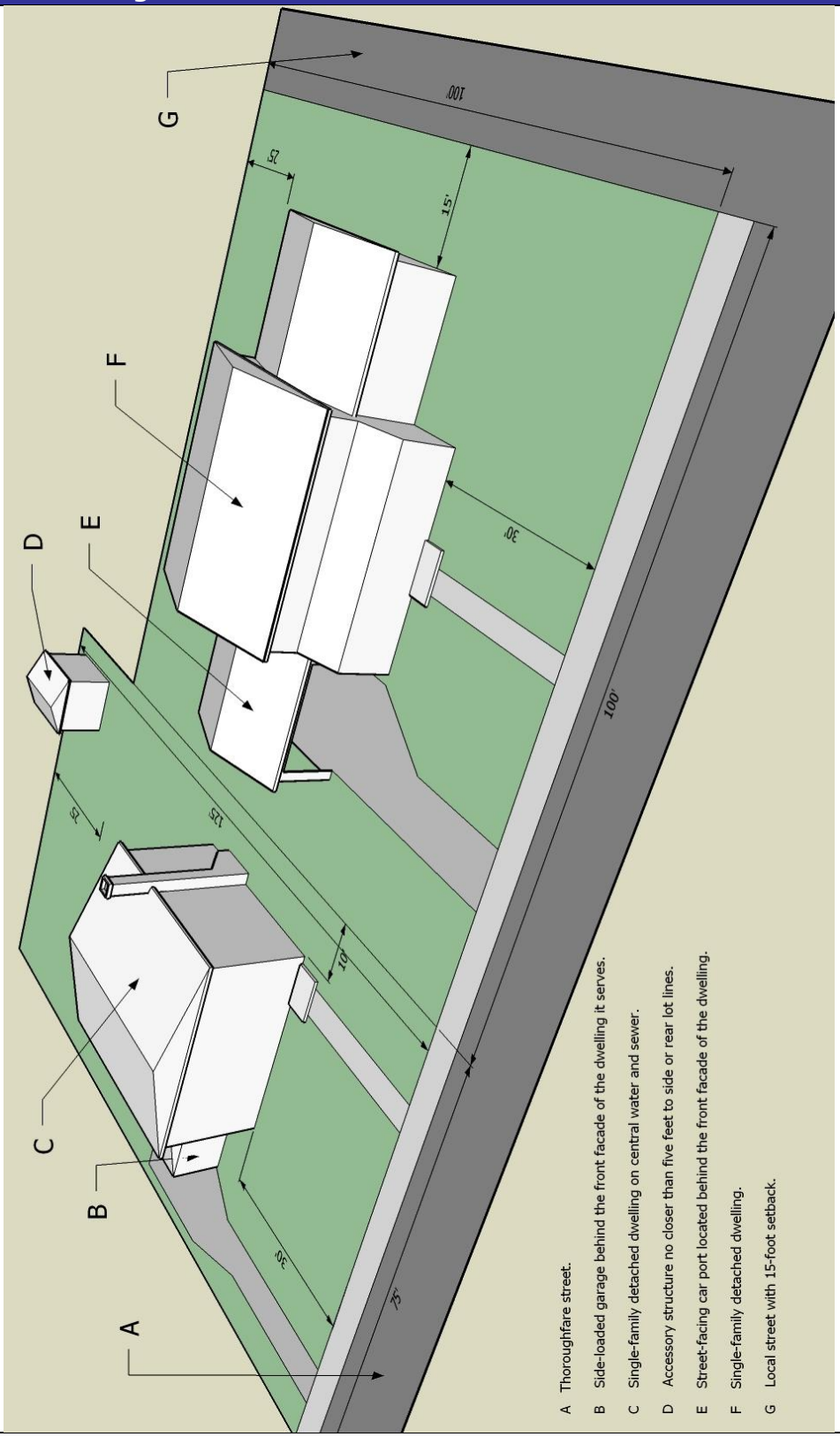
| | |
|---|---|
| Number of Dwelling Units per Lot, max. | 1 principal |
| Lot Size, min. (square feet) | 10,000 |
| Net Density, max. (units/acre) | 4.36 |
| Lot Coverage, max. (% of lot area) | 40 |
| Lot Width, min. (feet) | 50; 25 at street |
| Front Setback from ROW, min. (feet) | 30; |
| Corner Side Setback, min. (feet) | 15; |
| Side Setback, min. (feet) | 10 |
| Rear Setback, min. (feet) | 25 |
| Accessory Use Setback, min. (feet) | 5 (prohibited in front or corner side setbacks) |
| Height, max. (feet) | 35 |

### RSF-10 Typical Building Form



### RSF-10 Typical Lot Pattern

## RSF-10 Typical Lot Configuration




A Thoroughfare street.
B Side-loaded garage behind the front facade of the dwelling it serves.
C Single-family detached dwelling on central water and sewer.
D Accessory structure no closer than five feet to side or rear lot lines.
E Street-facing car port located behind the front facade of the dwelling.
F Single-family detached dwelling.
G Local street with 15-foot setback.

## E. Residential Single-Family 7 (RSF-7) District

# RSF-7
## Residential Single-Family 7

### Purpose

The RSF-7 district is established to accommodate primarily single-family detached residential development at medium densities on lots of 7,000 square feet. District regulations are intended to discourage any use that substantially interferes with the development of single-family dwellings or that is detrimental to the quiet residential nature of the district. The district accommodates complementary uses usually found in residential zoning districts such as parks, open space, schools, and minor utilities. Major utilities and religious institutions, are allowed subject to a Special Use Permit (see Section 2.3.D).

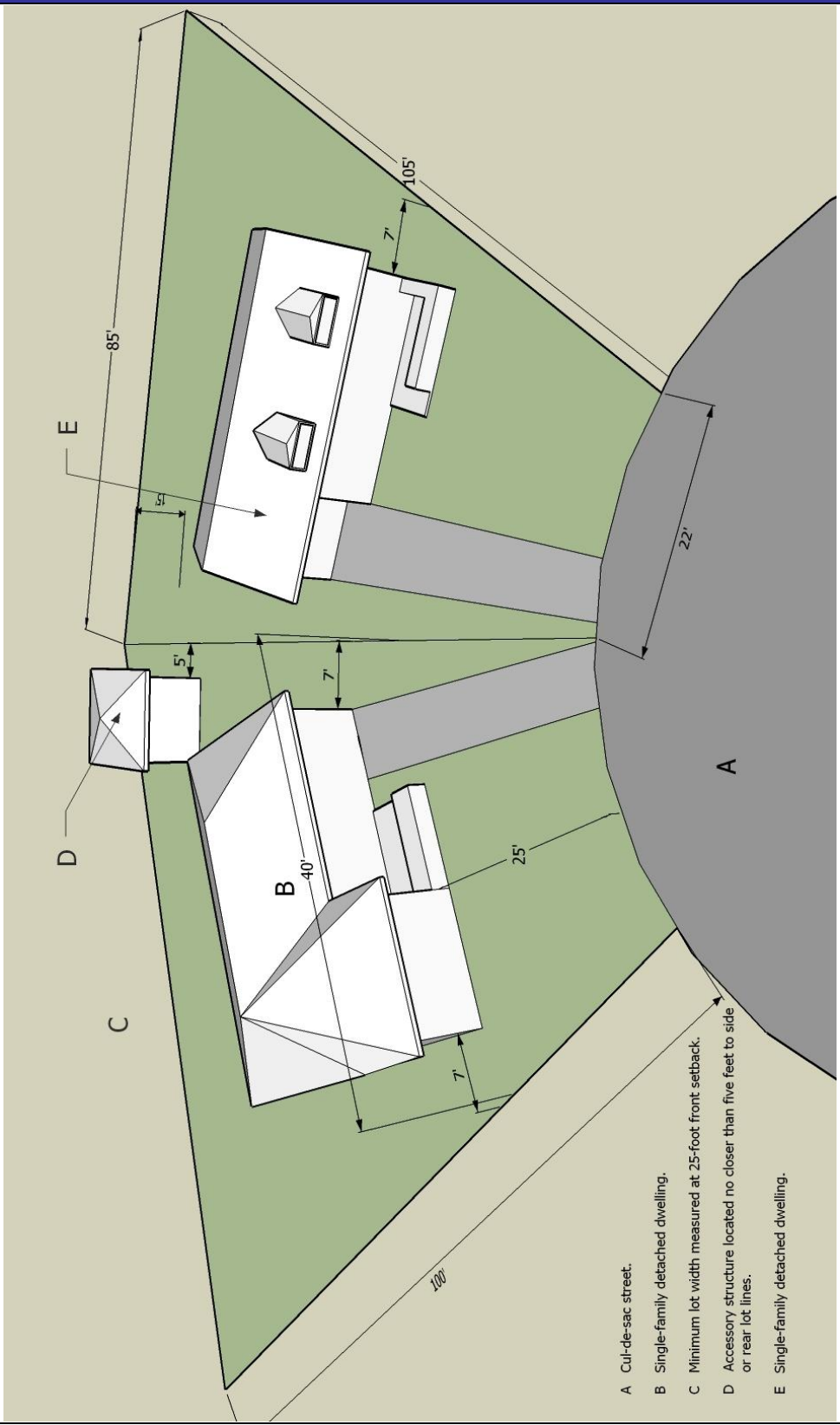
### Dimensional Standards

| | |
|---|---|
| Number of Dwelling Units per Single-Family Lot, max. | Single-family: 1 principal |
| Lot Size, min. (square feet) | 7,000 |
| Net Density, max. (units/acre) | 6.22 |
| Lot Coverage, max. (% of lot area) | 60 |
| Lot Width, min. (feet) | 40 |
| Front Setback from ROW, min. (feet) | 25 |
| Corner Side Setback, min. (feet) | 15 |
| Side Setback, min. (feet) | 7 |
| Rear Setback, min. (feet) | 15 |
| Accessory Use Setback, min. (feet) | 5 (prohibited in front or corner side setbacks) |
| Height, max. (feet) | 35 |

### RSF-7 Typical Building Form

### RSF-7 Typical Lot Pattern

## RSF-7 Typical Lot Configuration



## F. Residential Single-Family 5 (RSF-5) District

# RSF-5
## Residential Single-Family 5

### Purpose

The RSF-5 district is established to accommodate single-family residential development at higher densities on lots of 5,000 square feet as well as residentially-compatible office and personal service uses. District regulations are intended to discourage any use that substantially interferes with the quiet nature of the district. The district accommodates complementary uses usually found in residential zoning districts such as parks, open space, and minor utilities. Religious Institutions, daycare facilities, and major utilities are permitted subject to a Special Use Permit (see Section 2.3.D).

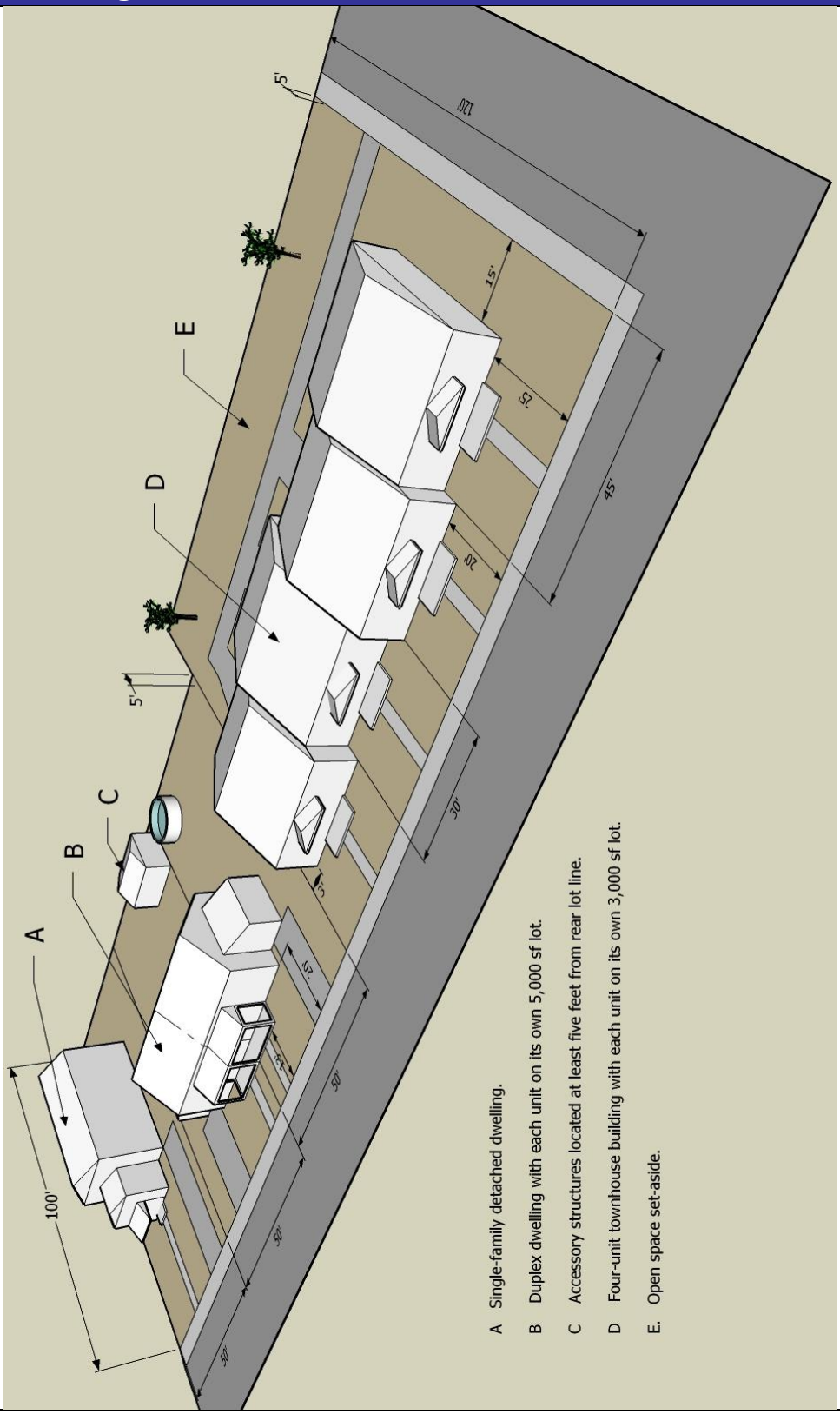
### Dimensional Standards

| | |
|---|---|
| Number of Dwelling Units per Lot, max. | Single-family: 1 principal |
| Lot Size, min. (square feet) | Single-family: 5,000 |
| Net Density, max. (units/acre) | 8.71 |
| Lot Coverage, max. (% of lot area) | 60 |
| Lot Width, min. (feet) | 30 |
| Front Setback from ROW, min. (feet) | 20 |
| Corner Side Setback, min. (feet) | 15 |
| Side Setback, min. (feet) [5] | 3 |
| Rear Setback, min. (feet) [5] | 3 |
| Accessory Use Setback, min. (feet) [4] | 3 (prohibited in front or corner side setbacks) |
| Height, max. (feet) | 35 |

### RSF-5 Typical Building Form

### RSF-5 Typical Lot Pattern

## RSF-5 Typical Lot Configuration



## G. Residential multi-family low density (RMF-LD) District

# RMF-LD

## Residential multi-family low density

### Purpose

The RMF-LD district is established to accommodate a several styles of residential developments. The district accommodates single-family detached, duplexes, and mansion apartments. Also allowed are complementary uses usually found in residential zoning districts such as parks, open space, and minor utilities. Religious institutions, schools, and major utilities are allowed subject to a Special Use Permit (see Section 2.3.D).

### Dimensional Standards

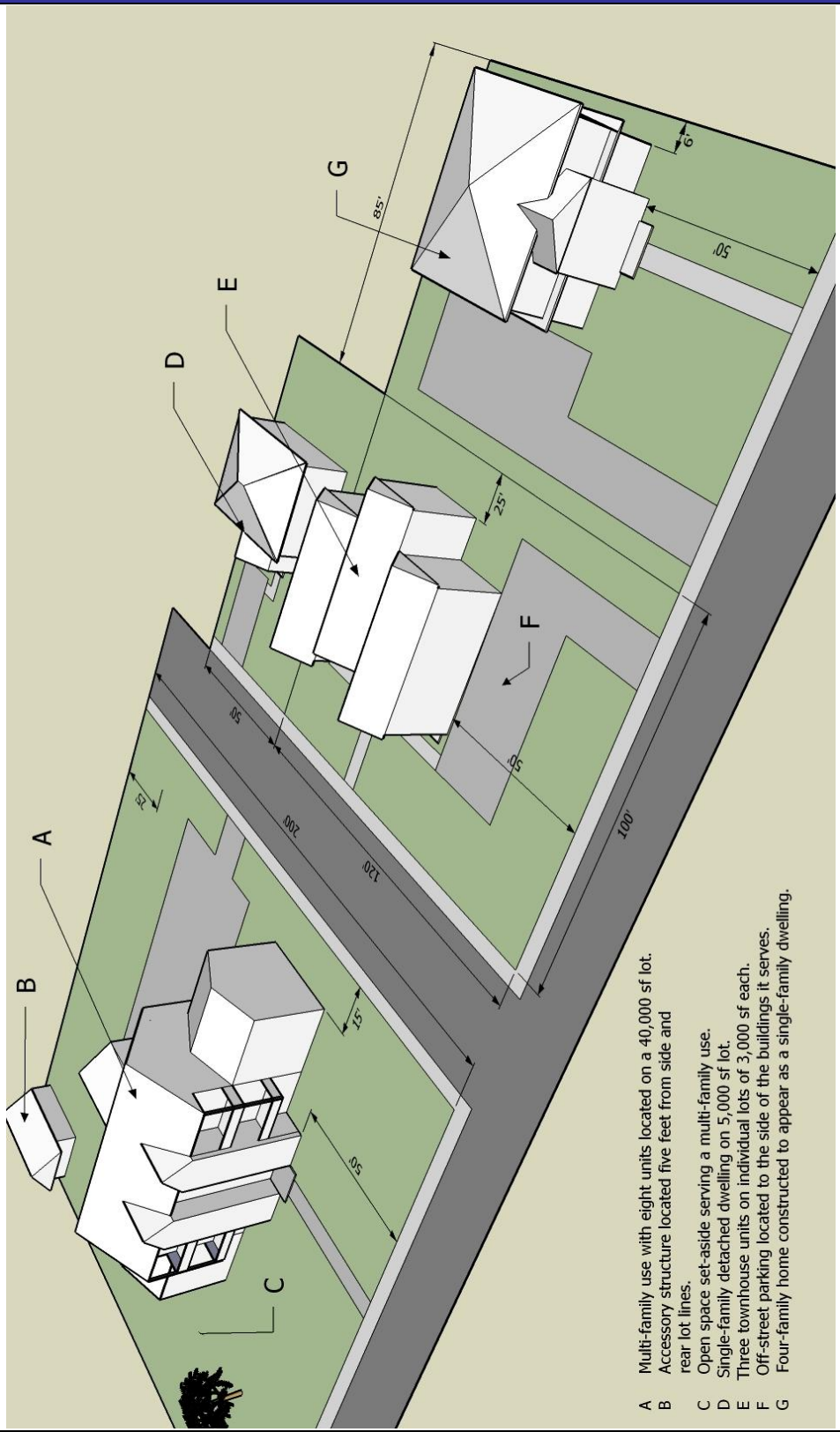
| | |
|---|---|
| Number of Dwelling Units per Lot, max. | Single-family 1<br>Duplex: 2 [1]<br>Multi-family: 4 |
| Lot Size, min. (square feet) | Single-family: 5,000<br>Duplex: 9,000<br>Multi-family: 20,000 |
| Net Density, max. (units/acre) | 8.71 |
| Lot Coverage, max. (% of lot area) | 60 [2] |
| Lot Width, min. (feet) | 40, 65 for duplexes &, 100 for mansion apartment sites |
| Front Setback from ROW, min. (feet) | 25 |
| Corner Side Setback, min. (feet) | 15 |
| Side Setback, min. (feet) | 6 |
| Rear Setback, min. (feet) | 15 |
| Accessory Use Setback, min. (feet) | 5 (prohibited in front or corner side setbacks) |
| Spacing Between Buildings, min. (feet) | 10 |
| Height, max. (feet) | 48 |

[1] Duplex dwellings may include one unit per lot or both units on a single lot.
[2] Applied to entire site

### RMX Typical Building form

### RMX Typical Lot Pattern

## RMF-LD Typical Lot Configuration



## H. Residential Multi-Family High Density (RMF-HD) District

# RMF-HD

## Residential Multi-Family – High Density

### Purpose

The RMF district is established to accommodate a diverse range of residential development at higher densities as well as limited forms of neighborhood-serving nonresidential development. The district accommodates all forms of residential development, including live/work units and upper-story residential development. Also allowed are complementary uses usually found in residential zoning districts such as parks, open space, schools, religious institutions, and minor utilities. Low-intensity nonresidential development is allowed to encourage diverse, functioning neighborhoods.

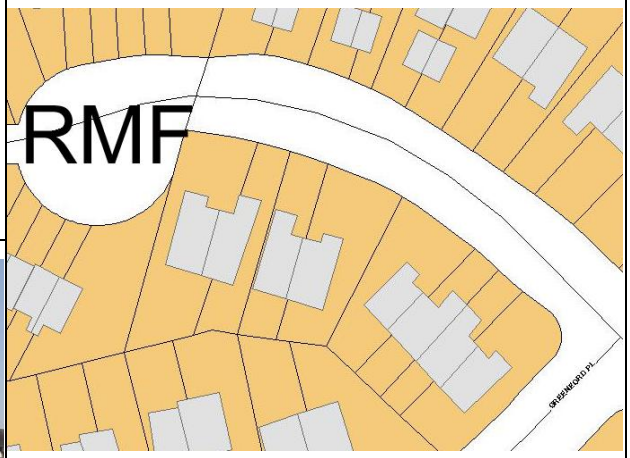
### Dimensional Standards

| | |
|---|---|
| Number of Dwelling Units per Lot, max. | Single-family, townhouse, and live/work: 1 [1]<br>Duplex: 1 or 2 [2]<br>Multi-family: N/A |
| Lot Size per Unit, min. (square feet) | Single-family:3000<br>Duplex : 1500/unit 3000 for single lot<br>Triplex:1,000/unit<br>Quadplex/Townhouse: 1,000/unit<br>Live/work:8,600<br>Multi-family: N/A [3] |
| Net Density, max. (units/acre) | 25 |
| Lot Coverage, max. (% of lot area) | 75 [4] |
| Lot Width, min. (feet) | 25 |
| Front Setback from ROW, min. (feet) | 30 |
| Corner Side Setback, min. (feet) | |
| Rear Setback, min. (feet) | |
| Side Setback, min. (feet) | 5 (prohibited in front or corner side setbacks) |
| Accessory Use Setback, min. (feet) | |
| Spacing Between Buildings, min. (feet) | 10; 15 for buildings over 35 feet tall |
| Height, max. (feet) | 56 |

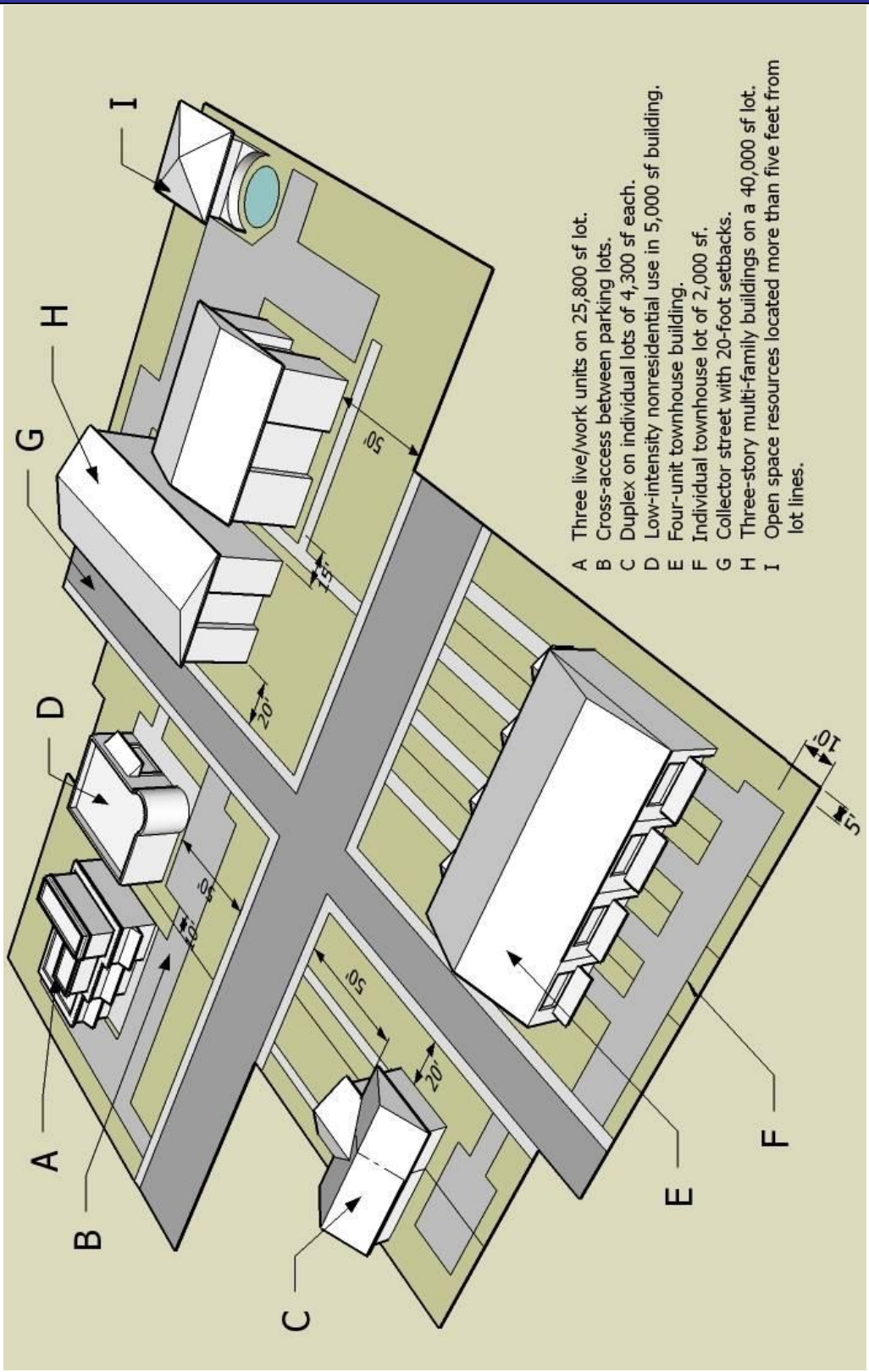
[1] Each townhouse unit has its own lot, but townhouse development shall include additional site area for common open space and site amenities.
[2] Duplex dwellings may include one unit per lot or both units on a single lot.
[3] Multi-family uses are not subject to a minimum lot size, but are required to provide common open space (See Section <5.3 *Open Space set aside*>.).
[4] Applied to entire townhouse, live/work, or multi-family site.

### RMF Typical Building Form

### RMF Typical Lot Pattern



## RMF Typical Lot Configuration



# 3.6 Nonresidential and Mixed Use Zoning Districts

## A. General Purposes

The nonresidential and mixed-use base zoning districts are established for the general purpose of ensuring there are lands in the City that provide a wide range of office, retail, service, industrial, mixed, and related uses to meet household and business needs, and more specifically to:

1. Provide appropriately located lands for the full range of business uses needed by the City's residents, businesses, and workers, consistent with the goals, objectives, and policies of the CAMA Land Use Plan and all other applicable City-adopted plans;
2. Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding communities;
3. Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;
4. Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;
5. Support the military and governmental activities taking place in the community;
6. Preserve the unique character and historic resources of the downtown; and
7. Minimize the impact of business development on residential districts and uses.

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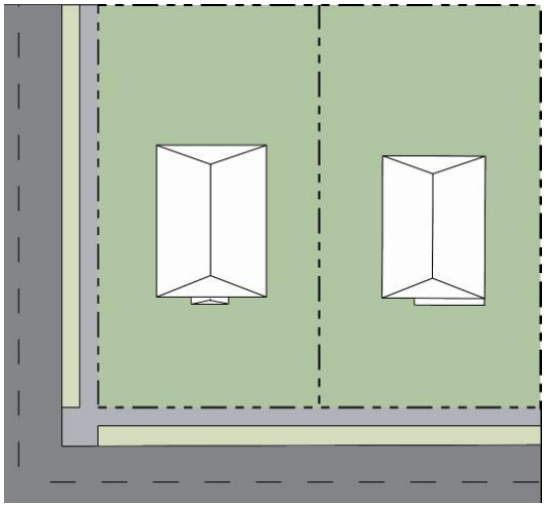
## B. Downtown Residential (DTR) District

# DTR
## Downtown Residential

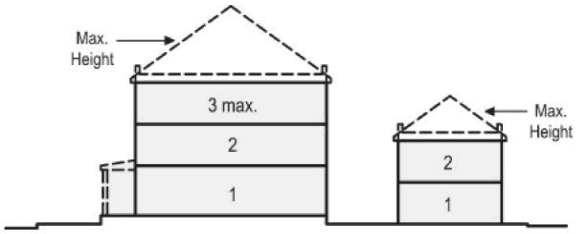
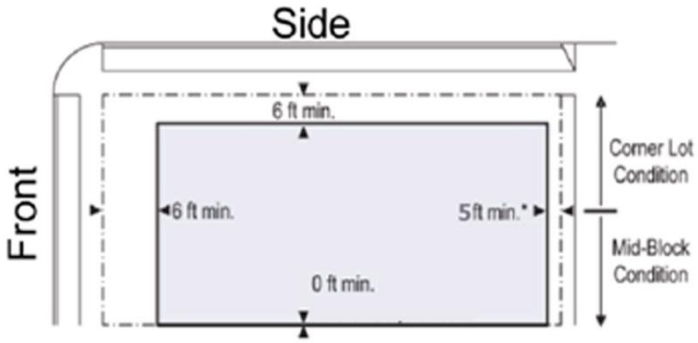
### Purpose and Character

The DTR zoning district includes the urban neighborhoods surrounding and within the downtown area. The districts are intended to include a mix of single-family dwellings, townhouses, and small-scale multi-family development. In addition, limited, neighborhood-serving nonresidential uses that do not attract traffic from outside the surrounding neighborhood are also permitted. Landscaped front and corner side yards are located between buildings and streets. Buildings in the districts typically include porches and are two to three stories in height. Open space areas take the form of squares, small parks, and formal greens. These districts are subject to standards intended to ensure development is consistent with the neighborhood scale and compatible with surrounding uses.

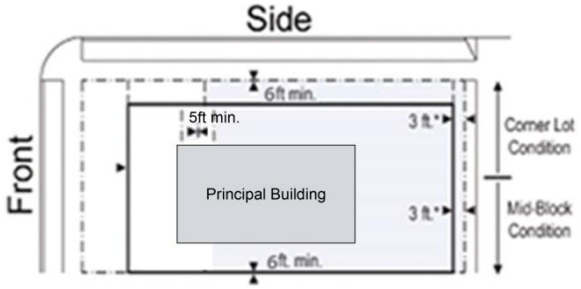
### Typical Lot Pattern



### Dimensional Standards

| | | |
|---|---|---|
| Building Height | Principal Building, Maximum: 3 stories or 35′. The maximum height of a parapet style roof will be measure to the base of the parapet. |   |
| | Accessory Building, Maximum: 2 stories or 25′ | |
| Principal Building Location [1] | Front and Corner Side Setback, Minimum: Within 125% of the average setbacks for the lots on the same block face. Where a block face is less than 40% developed, then the minimum setback from the property line is 6′ |   |
| | Interior Side Setback, Minimum: 0 feet [2] | |
| | Rear Setback, Minimum: 5 feet | |

| | | | | | |
|---|---|---|---|---|---|
| Permitted Building Placement | Edgeyard<br>Sideyard<br>Rearyard<br>Courtyard<br>Partial Frontage | Allowable Frontage Types | Common Lawn<br>Porch & Fence<br>Terrace<br>Forecourt<br>Stoop | Lot Coverage, Maximum | 75% |

| | | |
|---|---|---|
| Accessory Building Location [3] | Front Setback: At least 5 feet behind the principal building facade |  |
| | Side Setback, Minimum: 6 feet | |
| | Rear Setback, Minimum 3 feet; 15 feet from alley centerline to alley-loaded garages | |
| | Maximum Size: 50% of the total square footage of the principal structure or 1,500 square feet, whichever is less. | |

NOTES:
[1] In cases where new development is proposed on vacant lands between two existing structures along the same block face, the front and side setbacks of the new development shall be within 125 percent of the average for the two adjacent existing structures.
[2] The Building Code may specify additional setbacks or suitable fire prevention treatment.
[3] Accessory buildings shall follow all design standards just as principal buildings are required.

## 1. Purpose and Intent

The Downtown Residential (DTR) District is established and intended to encourage the urban form and architectural character found in the traditional downtown as well as promote redevelopment that will make the downtown area a more diverse and vibrant mixed-use, urban center. More specifically, the DTR district is proposed to:

(a) Implement the Downtown Master Plan;

(b) Encourage economic development activities that increase the tax base and provide desirable places to live, work, shop, and recreate in the downtown;

(c) Promote redevelopment of buildings and land in the downtown;

(d) Encourage mixed-use, pedestrian–friendly development to reduce the need for the automobile and foster greater use of alternative modes of transportation;

(e) Encourage a strong pedestrian-orientation by locating buildings close to sidewalks;

(f) Place more emphasis on the design and appearance of development, and less emphasis on the types of uses within the development;

(g) Provide civic buildings that are distinctive and located in visually-prominent locations; and

(h) Protect established residential uses and encourage new residential developments in the downtown.

## 2. Applicability

(a) All new development, including changes to building facades, located within the DTR district on the official zoning map shall be subject to provisions in this section. When façade improvements to existing buildings cannot be made fully compliant with this section, then the improvements shall make the building no more non-conforming than before the improvements were undertaken.

(b) Existing development within the downtown district not meeting the standards of this section shall be considered nonconforming, and shall be subject to the standards in Article 8: *Nonconformities*.

### 3. Flexibility in Administration Required

Recognizing that there may be other suitable construction methods, changes in the field, topography or environmental constraints and the like, the inflexible application of this section may result with development with either insufficient facilities or one that cannot reasonably comply with the standards herein. Therefore, the Development Services Director may waive, accept or require alternate designs, construction methods, and materials not specifically prescribed herein.

### 4. Conflict

In cases where these standards conflict with other provisions in this Ordinance, the standards in this section shall control. In the event the standards in this section conflict with the standards in the City Code of Ordinances or other adopted standards, the more strict provision shall control.

### 5. Compliance with Downtown Master Plan

#### (a) Regulating Plan Not Incorporated

The regulating plan included within the Downtown Master Plan is not incorporated by reference into this Ordinance or the Official Zoning Map.

#### (b) District Established

The DTR district exists as depicted on the official zoning map. Allowable uses, bulk and dimensional characteristics, and site design shall be in accordance with the applicable standards in this Section.

#### (c) Streets

Where streets are depicted on individual lots in the Downtown Master Plan, but such streets do not exist, proposed development on those lots shall be responsible for the reservation and construction of the designated street(s) as part of the development process where required by City Council.

### 6. Minimum Lot Size

(a) All lots in the DTR Zone shall be a minimum of 3,000 square feet with the following exception:

(1) If a lot has an area less than the above minimum requirement and was of record on April 8, 1952, a single-family dwelling can be built upon it; provided, that all other requirements set forth in this section are met.

(b) The further division of a lot below the 3,000 square foot minimum is permitted for duplexes and/or townhouses provided that the General Standards listed in 7 below continue to be met. However, the residual area surrounding the duplex and/or townhouse units cannot be recombined with other tracts of land to further subdivide adjoining property.

### 7. General Standards

All development shall comply with the following general standards:

#### (a) Lot Standards

##### (1) Lot Frontage

All lots shall front a paved street or public open space area.

(2) **Lot Width/Depth**

i. **Townhouse lots**

Minimum width of 15′ at the front setback line. Minimum depth shall be at least 40′. (Shall contain a minimum of 3 units per development).

ii. **Duplex lots**

Minimum width of 30′ measured at the front from the setback. No minimum lot depth.

iii. **Single family lots**

Minimum width of 30′ measured at the front from the setback. No minimum lot depth.

iv. **Commercial lots**

No minimum width No minimum depth

(3) **Front Setback Exceptions**

The front facade of a building may be located outside a maximum or average front setback when the area between the front facade and the right-of-way is used for outdoor dining, for the location of public art, terraced landscaping, for location of plazas, fountains, or other gathering spaces.

(4) **Grade of Adjacent Lots**

The average grade of adjacent lots should match where lot lines meet. If there is a significant grade difference, development should create an attractive transition using creative grading and landscaping or a decorative retaining wall, incorporating vehicular and pedestrian cross-access. Blank retaining walls or rock-covered slopes shall be screened with landscaping or decorative fencing.

(b) **Frontage Type**

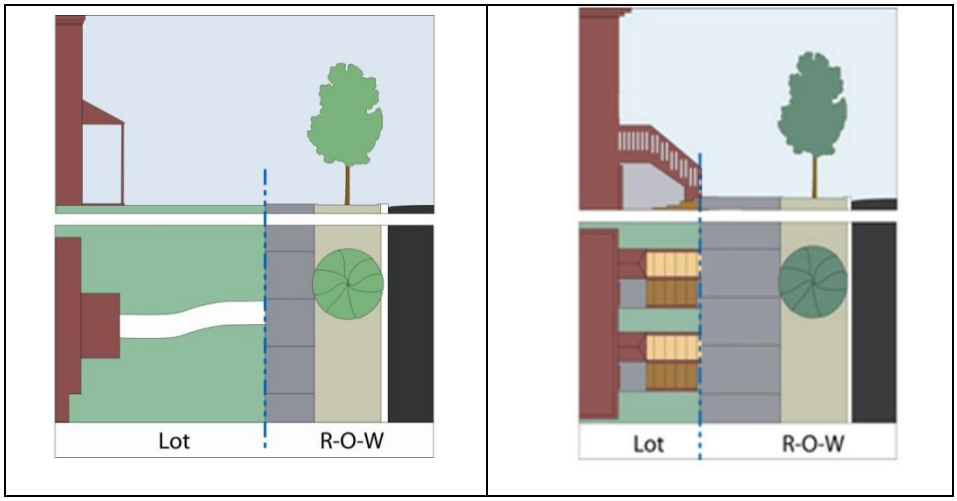
Development in the DTR district shall take one of the four different frontage types set out in Table 3.6.B.7.b.1, *Frontage Types*.

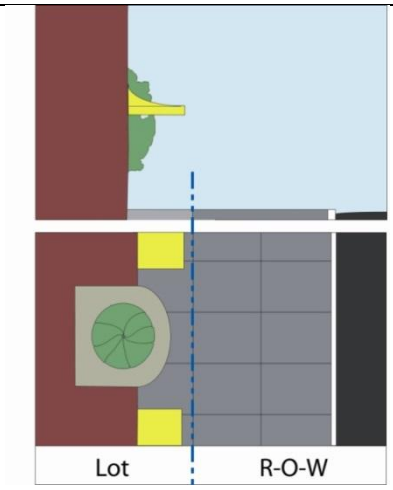
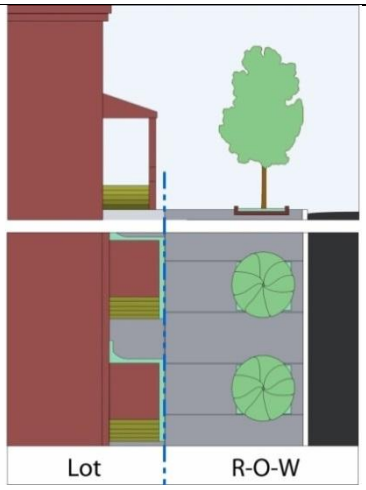
Table 3.6.B.7.b.1 Frontage Types

| Common Yard | Terrace or Light Court |
|---|---|
| A frontage where the facade is set back substantially from the front lot line. The front yard is either fenced or unfenced and is visually continuous with adjacent yards, supporting a common landscape. Porches, when provided, shall be no less than six feet deep or a minimum of 100 square feet. Fences, when provided shall be no taller than 4′. | A frontage where the facade is set back from the front lot line by an elevated terrace and/or a sunken light court. This frontage type raises ground-floor residential uses from urban sidewalks and removes the planted yard in front of the building. The terrace and light court are suitable for outdoor use like outdoor dining. |

Side View

Plan View

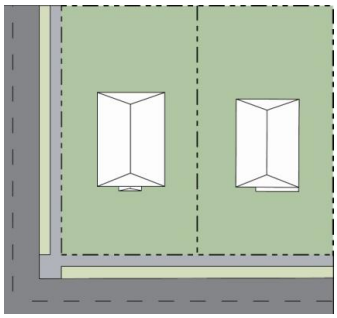
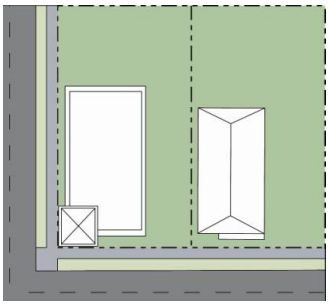
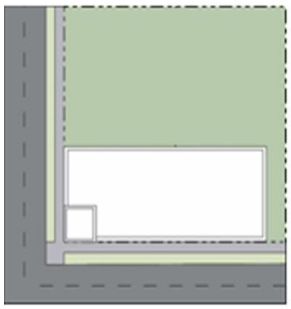
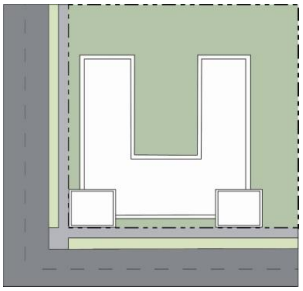


| | Forecourt | Stoop |
|---|---|---|
| | A frontage where a portion of the facade is close to the front lot line and the central portion is set back. The forecourt created is suitable for landscaping, gathering spaces, or vehicular drop-offs. This type should be allocated in conjunction with other frontage types. | A frontage where the facade is aligned close to the front lot line with the first story elevated from the sidewalk to secure privacy for the windows. The entrance is usually an exterior stair and landing. This frontage type is recommended for ground-floor residential uses. |
| Side View<br>Plan View |  |  |

## (c) Building Design

### (1) Building Placement

Development in the DTR districts shall take one of the five different building placement configurations set out in Table 3.6.B.7.c.1, *Building Placement Types*. A combination of placement types or a different placement type not identified here may be used for a development with the approval of the Development Services Director.

| TYPE | DESCRIPTION | ILLUSTRATION (BUILDINGS IN WHITE) |
|---|---|---|
| **EDGEYARD** | A building occupies the center of its lot with Setbacks on all sides. This is the least urban of types as the front yard sets the building back from the frontage. The rear yard can be secured for privacy by fences and a well-placed accessory structure. |  |
| SIDEYARD | A building occupies one side of the lot with the setback to the other side. The visual opening of the side yard on the street frontage causes this building type to appear freestanding. A shallow front setback defines a more urban condition. This building placement type permits systematic climatic orientation in response to the sun or the breeze. |  |
| REARYARD | A building occupies the full frontage, leaving the rear of the lot as the sole yard. This is a very urban type as the continuous façade that defines the public realm. The rear elevations may be articulated for functional purposes. For buildings with two or more stories, a single row of parking may be provided on site between the building façade and the sidewalk. |  |
| **COURTYARD** | A building that occupies the outer boundaries of its lot while internally defining private space. This is the most urban of types as it is able to shield the private realm from all sides while strongly defining the public realm. It accommodates incompatible activities, masking them from all sides and therefore it is recommended for more intense forms of commercial and light industrial, visitor accommodations, and educational facilities |  |

## (d) Additional Requirements

### (1) Primary Entrance

The primary building entrance shall front a street or open space. Additional entrances are allowed.

### (2) Primary Building Facades

The primary building facade shall be parallel to the front lot line. In cases where the front lot line is curved, the primary building facade shall be parallel to the tangent of the curve.

### (3) Roof and Eaves

i. Main roofs on residential buildings shall have a pitch between 5:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building and shall have a pitch of 3:12 or greater. A pitched roof shall be profiled by eaves a minimum of 8 inches from the building face or with a gutter. Roof pitches less than 3:12 and flat roofs shall be enclosed by parapets a minimum of 30 inches high, or as required to conceal mechanical equipment from public view, whichever is greater.

ii. Overhanging eaves may expose rafters. Flush eaves shall be finished by profiled molding or gutters.

iii. All rooftop equipment shall be screened from view.

iv. Changes in roof forms shall indicate changes in building form or footprint.

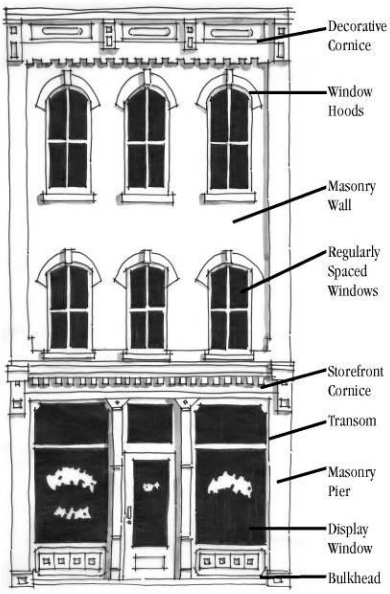
v. Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, dimensional asphalt shingles or synthetic materials similar and/or superior in appearance and durability.

### (4) Raised Foundations

All residences shall be constructed on either a crawl space or an elevated slab so the foundation walls are visible (minimum of 18" exposure). Slab on-grade construction is permitted for accessory structures only.

### (5) Porches

In cases where at least 40% of the surrounding development on the block face includes a porch or stoop, new development shall provide porch or stoop at least six feet deep or at least 100 square feet.




### (6) Crawlspace

The crawlspace of buildings, if provided, shall be enclosed.

### (7) Facade Design

i. All ground floor building elevations visible from the street shall provide doors, and/or windows comprising at least 20 percent of the ground floor elevation; and for the purposes of this section "percent of ground floor elevation" is measured as the horizontal plane (linear feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.

ii. Shutters, when used, shall be sized and shaped to correspond to their respective openings.

iii. Single family detached residential buildings shall include at least two of the following architectural elements on street facing facades: porches, stoops, articulated primary entrance, door yard, hood, projecting bays, balconies, contrasting gable depicting a change in building form awnings, towers or cupolas, dormers, decorative windows, window planter boxes, corbels, operable shutters, exposed rafters, decorative chimneys, decorative brickwork, vergeboards and similar details.

iv. Commercial buildings and multi-family buildings district shall include at least three of the following architectural elements on street facing facades: porches, stoops, articulated primary entrance, door yard, hood, projecting bays, balconies, contrasting gable depicting a change in building form awnings, towers or cupolas, dormers, decorative windows, window planter boxes, corbels, operable shutters, exposed rafters, decorative chimneys, decorative brickwork, vergeboards and similar details.

## (8) Building Walls

### i. Materials

a. Residential building walls shall be primarily clad in one of the following materials: clapboards, fiber cement siding, shingles, board and batten siding, brick, stone, stone, veneer stucco, vinyl siding with a thickness of at least 0.044 inches and a 4 to 8 inch reveal, aluminum siding with a 4 to 8 inch reveal, or other materials similar in appearance and durability when approved by the Development Services Director. When using vinyl siding, include a friezeboard of at least 6" width, a watertable board of at least 8" width, and cornerboards of at least 5" width.

b. Commercial and Mixed-use building walls shall be primarily clad in brick, stone, stucco, cement fiber board, or clapboard. Regular or decorative concrete block and EIFS may be used on building walls not visible from a public street or as an accent material only. All accessory buildings shall be clad in materials similar in appearance to the principal structure.

c. Unpainted wood, unfinished or poured in place concrete, CMU block, plywood, pressed wood, EFIS, vinyl siding with thickness of less than 0.044 inches and having a Dutch lap or D5 appearance are prohibited.

d. When two or more materials are used on a facade, the heavier material (i.e. brick) should be placed closer to the ground level than the lighter material (i.e. siding or stucco).

### ii. Windows & Doors

a. All window and door casings, regardless of material, must be at least four inches in width. If using vinyl siding, all of the following elements must be included: a friezeboard with a width of at least six inches, a watertable board with a width of at least eight inches, and cornerboards with widths of at least five inches.

b. Windows shall be vertically proportioned, wherever possible.

c. Window sills on commercial and mixed use buildings shall be located no higher than three feet above grade.

iii. **Building Wall Offsets**

a. Building wall offsets, including projections, recesses, and changes in floor level of one foot or more shall be used at least every 30 feet on all facades facing a street in order to add architectural interest and variety; relieve the visual effect of a single, long wall; and subdivide the wall into human size proportions.

b. Roofline offsets shall be provided on buildings of 50 feet in length or longer to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

iv. **Street Walls**

The ground floors of all commercial and mixed-use buildings shall be designed to encourage and complement pedestrian-style interest and activity by incorporating the following elements along streets:

a. A building canopy, awning or similar weather protection, that projects at least three feet from the facade;

b. Building walls with some form of glazing or articulation occurring at least every 20 feet of the building facade;

c. When ventilation grates or emergency exits are located on facades adjacent to sidewalks, they shall be decorative.

v. **Garages**

a. Garage doors shall not extend into the front setback farther than the principal façade and employ a setback of at least 20′ from the property line.

b. Multi car garages which face a street or right-of-way shall have individual doors for each parking space. The doors to these garages shall not exceed 10 feet in width.

c. Garage doors which face a street or right-of-way shall include a pergola or overhanging roof so that the door appears recessed.

d. The width of street facing, attached garage doors shall not exceed 45 percent of the total building facade width unless the ground floor of structure is uninhabitable due to topography, floodplain or similar natural site challenges.

e. The following shall apply to lots which front on Riverwalk Crossing Park, Court, Ford, Poplar and Newberry streets:

f. One car garages with street-facing doors shall be setback from the façade by a minimum of ten feet and designed to form a distinct building volume. The doors to these garages shall not exceed ten feet in width.

g. Multi car garages shall be setback behind the principal structure.

(9) **Solid Waste Storage Areas**

i. All commercial, mixed use and multi-family trash containment devices, including compactors and dumpsters, shall be located and

designed so as not to be visible from off-site views. Otherwise, screening shall be provided in accordance with the standards in Section 115 Screening and Bufferyard Standards.

ii. Single family trash and recycling containers shall not be visible from the public right of way or screened with a knee wall or shrubbery.

iii. Mechanical and utility equipment shall be screened from view from nearby streets and properties in the same manner as trash containment areas. Ground-mounted equipment shall be located in the rear or side yard and screened. For residential properties, screening is required when mechanical equipment is located within 20 feet of the right of way. Such equipment located on the roof of the building shall also be made invisible from nearby streets and properties through the use of setbacks from the edge of the roof or through the use of a screen exceeding the height of the equipment and using building materials and design which are compatible with those used for the exterior of the building. If the equipment is not visible off-site, then it need not be screened.

### (10) Loading Docks

Loading docks and service areas shall be located on building facades that do not front streets (except alleys).

### (11) Off-Street Parking

There are no minimum parking requirements in the DTR zoning district. However any off street parking except for off-street parking serving single-family detached and duplex dwellings shall comply with the following:

i. All off-street surface parking in the DTR district shall be located to the side or rear of the primary building facade.

ii. Parking areas and garages serving single-family detached and duplex buildings on lots of 60 feet in width or less shall be located to the side or rear of the structure they serve, and accessed from a rear-loaded secondary street or alley, to the maximum extent practicable.

iii. Alternative off-street parking configuration may be approved by the Development Services Director.

iv. Townhouse, single-family attached, or multi-family use shall not include off-street parking between the primary building facade and the street.

v. Off-street parking lots shall be screened by one or more of the following methods:

**a.** A four feet deep planting bed with a 36 inches high hedgerow with natural groundcover such as grass, mulch, etc. Stone alone is not acceptable.

b. A brick, metal (or similar) decorative fence or wall with landscaping treatments that are no less than 36 inches in height with a minimum total transparency of 40 percent along any single lot frontage and vegetation; or building walls located between the parking and off-site areas

### (12) Access to Parking Areas

i. Pedestrian entrances to all parking lots and parking structures shall be directly from a sidewalk or pedestrian way. Only underground parking structures may be entered by pedestrians directly from a principal building.

ii. The vehicular entrance of a parking lot or garage on a front or corner side frontage shall be no wider than 36 feet.

### (13) Street Trees

Street trees shall be planted along both sides of all streets (except alleys) at a rate of three canopy trees per 100 linear feet. Two, understory trees may be planted in lieu of one canopy tree.

### (14) Fences and Walls

Fences and walls shall comply with the following standards:

i. Fences, located in front, corner side, or side yard areas shall be decorative metal, brick, composite (such as TimberTech, Trex, etc.) vinyl pickets or wood pickets only. Fences in rear yards may be any of the materials listed above, wooden boards or green or black vinyl coated chain link. Space between pickets shall be between 1.5 and 2 inches. Alternate fencing materials may be approved by the Development Services Director.

ii. Barbed or razor wire is prohibited.

iii. The maximum height for fences in front and corner side yards shall be four feet in the Downtown zoning districts. The maximum fence height in all other areas is six feet.

### (15) Signage

In order to promote regional character and a sense of place in downtown while addressing site-specific civic and retail commercial graphics and signage, signs should be designed to promote retail and commercial activity by ensuring visibility for all licensed businesses to both pedestrian and vehicular traffic.

i. Signs for nonresidential uses, subdivision entrances and multi-family development in residential districts are limited to:

a. Panel and channel set letters that are mounted flat to the wall and do not exceed 5% of the wall area.

b. Monument style signs that do not exceed 6′ in height and 12′ in width. One such signs is allowed per development.

ii. Prohibited signs include:

a. Electronic message boards

b. Signs with moving, blinking, flashing or strobe lights

### (16) Underground Utilities

i. Underground utilities (and associated pedestals, cabinets, junction boxes and transformers) shall be located in alleys, where possible.

ii. New utility services serving individual developments shall be located underground

## C. Office and Institutional (OI) District

# OI
## Office and Institutional

### Purpose

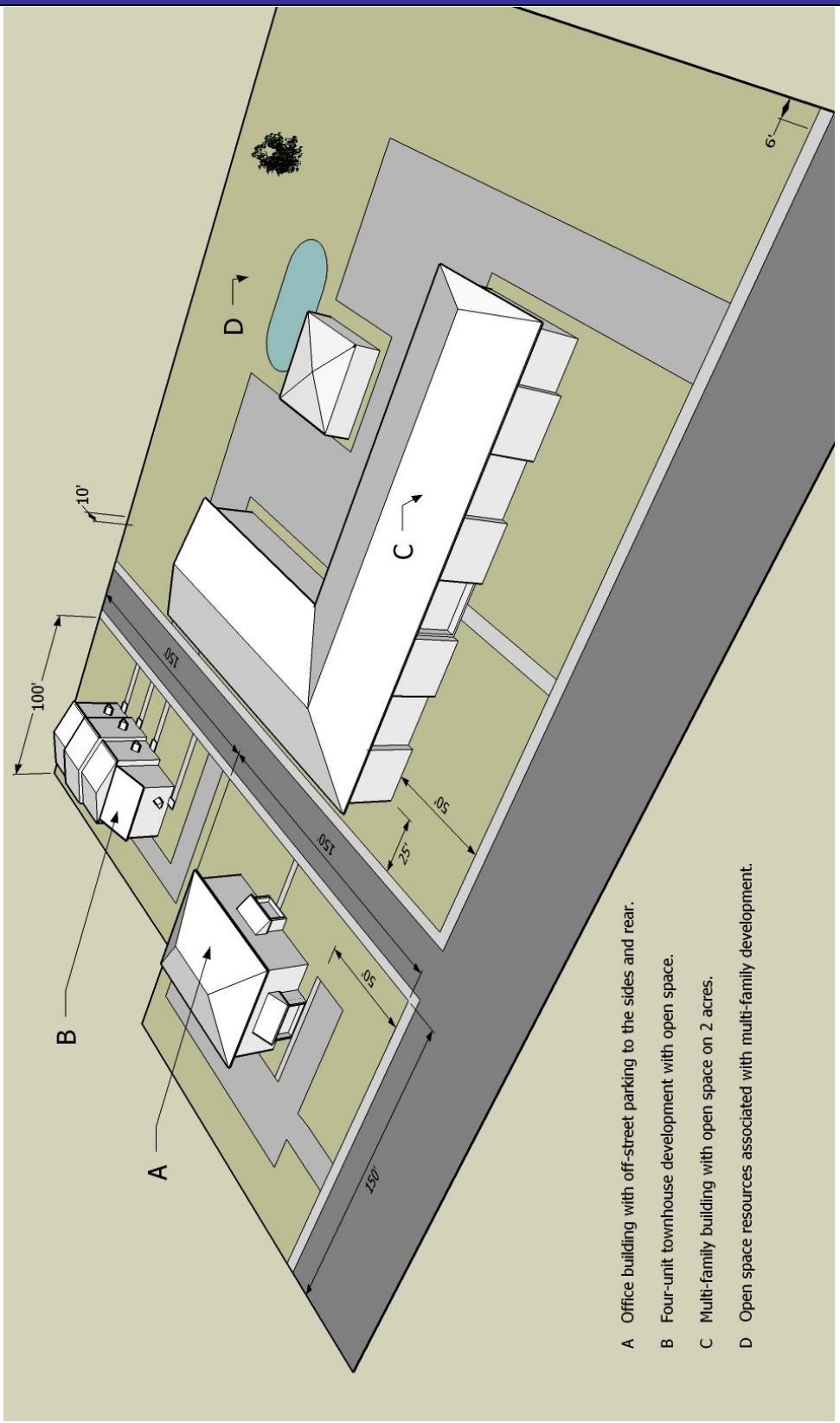
The OI district is established and intended to accommodate a mix of low-intensity professional and business offices and institutions, subject to design and compatibility standards. The districts are generally near residential neighborhoods and often serve as a buffer or transition between residential neighborhoods and more intense business districts. Small-scale, low intensity retail uses intended to serve the development where located are allowed subject to a Special Use Permit (see Section 2.3.D).

| Dimensional Standards | |
|---|---|
| Number of Dwelling Units per Lot, max. | N/A |
| Lot Size per Unit, min. (square feet) | N/A |
| Net Density, max. (units/acre) | N/A |
| Lot Coverage, max. (% of lot area) | N/A |
| Lot Width, min. (feet) | N/A |
| Front Setback , min. (feet) | 25 |
| Corner Side Setback, min. (feet) | |
| Rear Setback, min. (feet) | As required per landscaping standards |
| Side Setback, min. (feet) | As required per landscaping standards |
| Accessory Use Setback, min. (feet) | 5 feet/or as required per landscaping (prohibited in front or corner side setbacks) |
| Spacing Between Buildings, min. (feet) | 10; 15 for buildings over 35 feet |
| Height, max. (feet) | 75 |

### OI Typical Building Form

### OI Typical Lot Pattern

## OI Typical Lot Configuration



## D. Neighborhood Commercial (NC) District

# NC
## Neighborhood Commercial

### Purpose

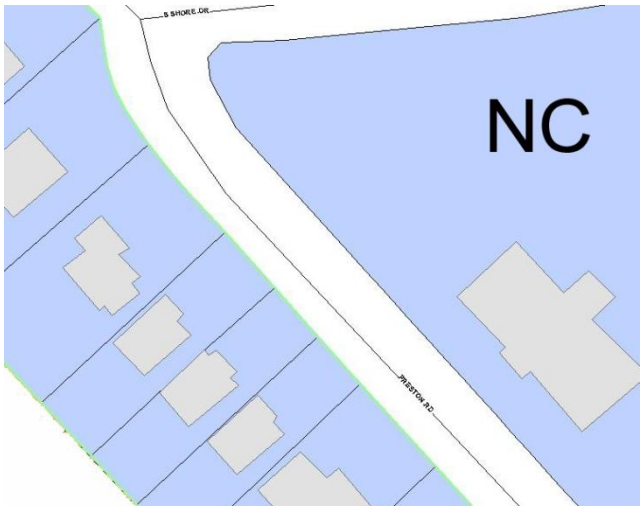
The NC district is established and intended to accommodate small-scale, low-intensity, and "convenience" retail and service uses that provide goods and services serving the residents of the immediately surrounding neighborhood (e.g., personal service uses, small restaurants, and limited retail). Development in the district should not include uses of a size that is out of scale with a residential neighborhood, or that attracts traffic from outside the surrounding neighborhood. Individual nonresidential uses shall not exceed 10,000 square feet (including any outdoor use area). Live work units arranged above nonresidential units are encouraged. The district is subject to standards intended to ensure development is consistent with the neighborhood scale and compatible with surrounding uses.

### Dimensional Standards

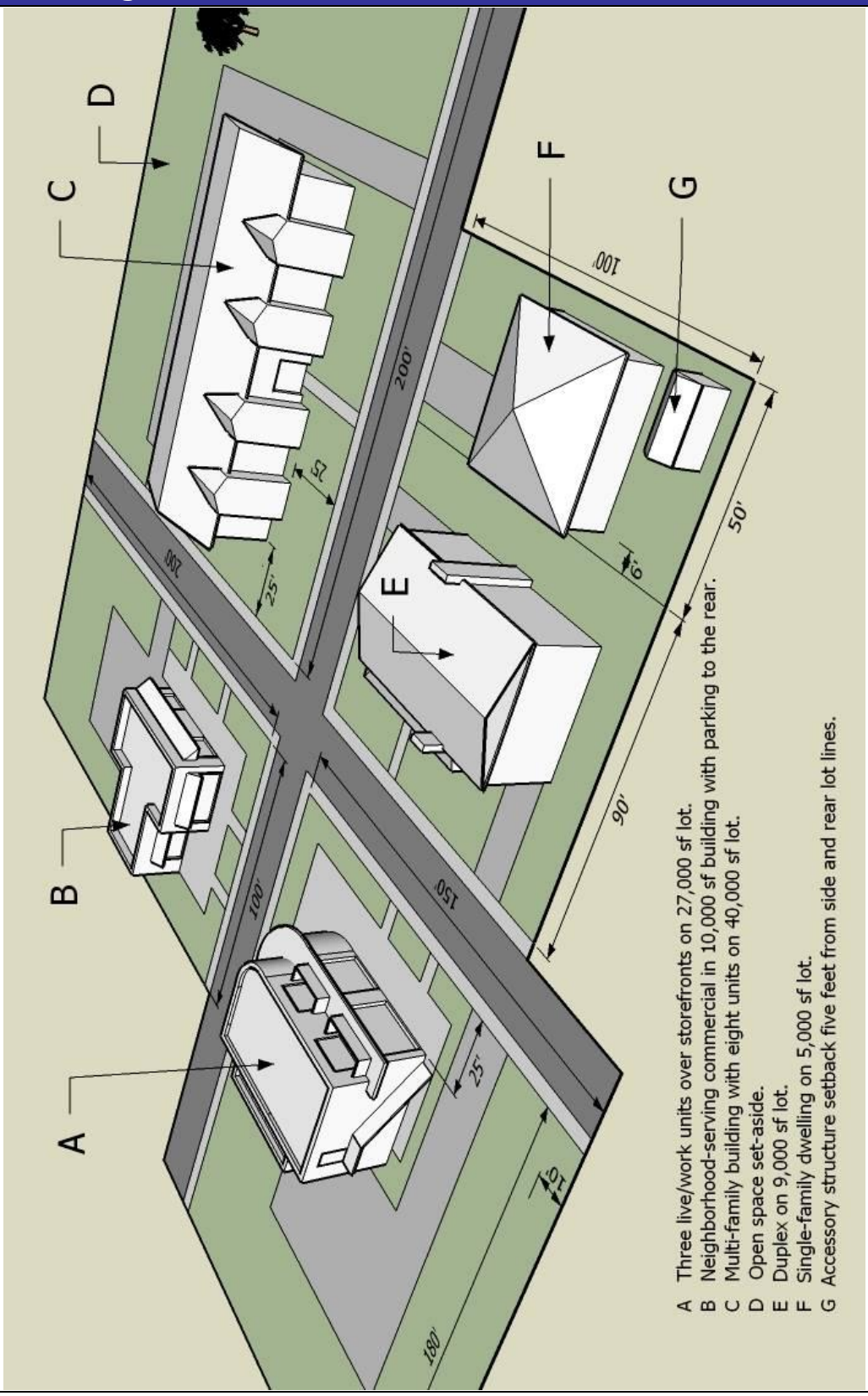
| | |
|---|---|
| Number of Dwelling Units per Lot, max. | live/work: N/A |
| Lot Size per Unit, min. (square feet) | N/A |
| Net Density, max. (units/acre) | N/A |
| Lot Coverage, max. (% of lot area) | N/A |
| Lot Width, min. (feet) | N/A |
| Front Setback, min. (feet) | 25; |
| Corner Side Setback, min. (feet) | |
| Rear Setback, min. (feet) | As required per buffering |
| Side Setback, min. (feet) | As required per buffering |
| Accessory Use Setback, min. (feet) | 5 feet/or as required per buffering (prohibited in front or corner side setbacks) |
| Spacing Between Buildings, min. (feet) | 10 feet/or as required per buffering unless the buildings are attached by a party wall |
| Height, max. (feet) | 35; 40 for mixed uses |
| Non Residential, max (square feet) | 10,000 |

### NC Typical Building Form

### NC Typical Lot Pattern



## NC Typical Lot Configuration



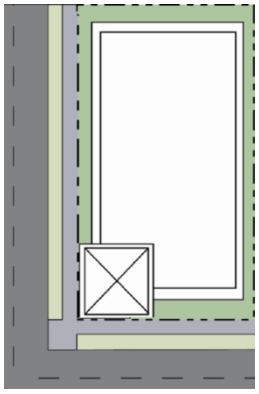
## E. Downtown Business (DTB) District

# DTB
## Downtown Business District

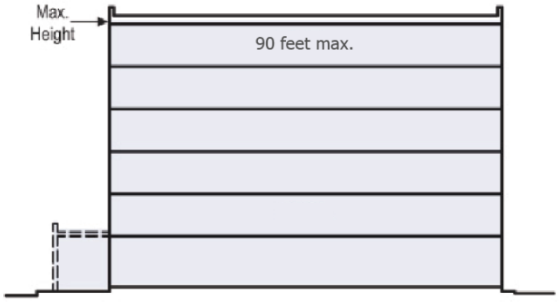
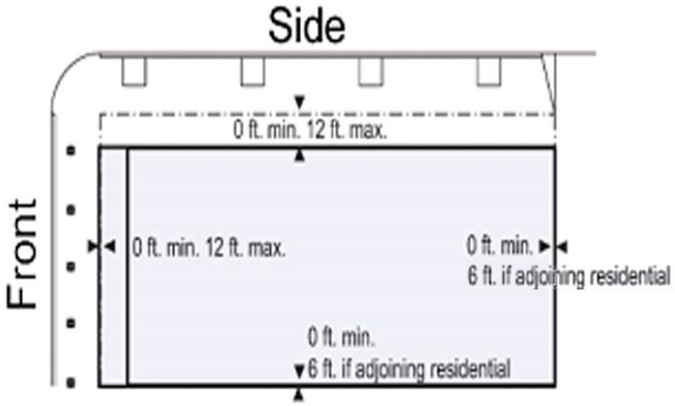
### Purpose and Character

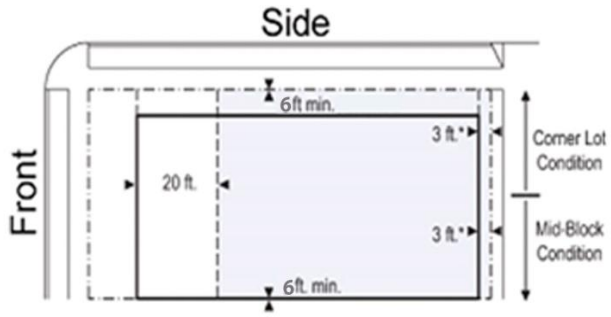
The DTB district is the most urban and pedestrian-oriented area of the City. The intent of this district is to establish the downtown core as an area comprised of medium to high density mixed-use buildings with numerous entertainment and public uses. Buildings in the district are built to the sidewalk, oriented to the street, and provide a continuous façade along the block face. Open space areas include plazas, parks, and squares located in front of buildings or as breaks in the building façade line along a block face. Most buildings are four or more stories, and front facades are comprised of storefronts, galleries, and arcades.

### Typical Lot Pattern



### Dimensional Standards

| | | |
|---|---|---|
| Building Height | Principal Building, Maximum: 6 stories or 90′ |   |
| | Accessory Building, Maximum: 2 stories or 25′ | |
| Principal Building Location [1] | Front and Corner Side Setback, Minimum: 0 |   |
| | Front and Corner Side Setback, Maximum: 12 feet from a publicly accessible sidewalk or within 125% of the average setbacks for the lots on the same block face. Front setbacks on Marine Blvd. shall be between 25′-35′. | |
| | Side Setback, Minimum: 0 feet [2]; 6 feet if a commercial or mixed use lot is adjacent to a residential building | |
| | Rear Setback, Minimum: 0 feet [2]; 6 feet if a commercial or mixed use lot is adjacent to a residential building | |

| Permitted Building Placement | Edgeyard<br>Sideyard<br>Rearyard<br>Courtyard<br>Partial Frontage | Allowable Frontage Types | Common Lawn<br>Porch & Fence<br>Terrace<br>Forecourt<br>Stoop | Lot Coverage Maximum | 100%<br>(This includes principal and accessory buildings) |
|---|---|---|---|---|---|
| Accessory Building Location [3] | Front Setback: Behind the principal building facade |  | | | |
| | Side Setback, Minimum: 0 feet; 6 feet if abutting residential | | | | |
| | Rear Setback, Minimum 3 feet; 15 feet from alley centerline to alley-loaded garages | | | | |
| | Accessory Building Maximum Size: 50% of the total square footage of the principal structure or 1,500 square feet, whichever is less. | | | | |



NOTES:
[1] In cases where new development is proposed on vacant lands between two existing structures along the same block face, the front and side setbacks of the new development shall be within 125 percent of the average for the two adjacent existing structures.
[2] The Building Code may specify additional setbacks or suitable fire prevention treatment.
[3] Accessory buildings shall follow all design standards just as principal buildings are required.

## 1. Purpose and Intent

The Downtown Business District (DTB) is established and intended to encourage the urban form and architectural character found in the traditional downtown as well as promote redevelopment that will make the downtown area a more diverse and vibrant mixed-use, urban center. More specifically, the DTB district is proposed to:

(a) Implement the Downtown Master Plan;

(b) Encourage economic development activities that increase the tax base and provide desirable places to live, work, shop, and recreate in the downtown;

(c) Promote redevelopment of buildings and land in the downtown;

(d) Encourage mixed-use, pedestrian–friendly development to reduce the need for the automobile and foster greater use of alternative modes of transportation;

(e) Encourage a strong pedestrian-orientation by locating buildings close to sidewalks;

(f) Place more emphasis on the design and appearance of development, and less emphasis on the types of uses within the development;

(g) Provide civic buildings that are distinctive and located in visually-prominent locations; and

(h) Protect established residential uses and encourage new residential developments in the downtown.

## 2. Applicability

(a) All new development, including changes to building facades, located within the DTB district on the official zoning map shall be subject to provisions in this section. When facade improvements to existing buildings cannot be made fully compliant with this section, then the improvements shall make the building no more non-conforming than before the improvements were undertaken.

(b) Existing development within the downtown district not meeting the standards of this section shall be considered nonconforming, and shall be subject to the standards in Article 8: *Nonconformities*.

## 3. Flexibility in Administration Required

Recognizing that there may be other suitable construction methods, changes in the field, topography or environmental constraints and the like, the inflexible application of this section may result with development with either insufficient facilities or one that cannot reasonably comply with the standards herein. Therefore, the Development Services Director may waive, accept or require alternate designs, construction methods, and materials not specifically prescribed herein.

## 4. Conflict

In cases where these standards conflict with other provisions in this Ordinance, the standards in this section shall control. In the event the standards in this section conflict with the standards in the City Code of Ordinances or other adopted standards, the more strict provision shall control.

## 5. Compliance with Downtown Master Plan

### (a) Regulating Plan Not Incorporated

The regulating plan included within the Downtown Master Plan is not incorporated by reference into this Ordinance or the Official Zoning Map.

### (b) District Established

The Downtown Business District exists as depicted on the official zoning map. Allowable uses, bulk and dimensional characteristics, and site design shall be in accordance with the applicable standards in this Section.

### (c) Streets

Where streets are depicted on individual lots in the Downtown Master Plan, but such streets do not exist, proposed development on those lots shall be responsible for the reservation and construction of the designated street(s) as part of the development process where required by City Council.

## 6. General Standards

All development shall comply with the following general standards:

### (a) Lot Standards

#### (1) Lot Frontage

All lots shall front a paved street or public open space area.

#### (2) Lot Width

All townhouse lots shall have a minimum width of 15′ at the front setback line. All single family detached lots shall have a minimum width of 30′ from the setback line. There is no minimum width for commercial lots.

### (3) Front Setback Exceptions

The front facade of a building may be located outside a maximum or average front setback when the area between the front facade and the right-of-way is used for outdoor dining, for the location of public art, terraced landscaping, for location of plazas, fountains, or other gathering spaces.

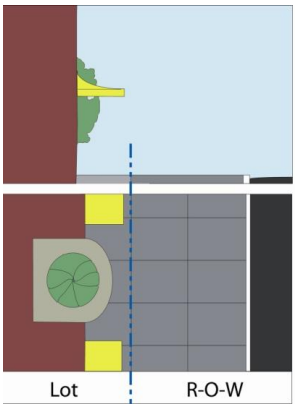
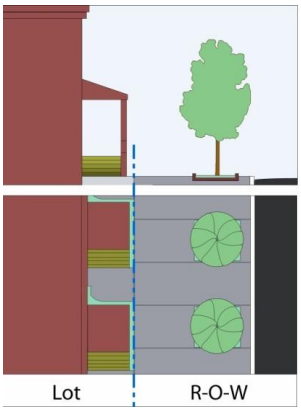
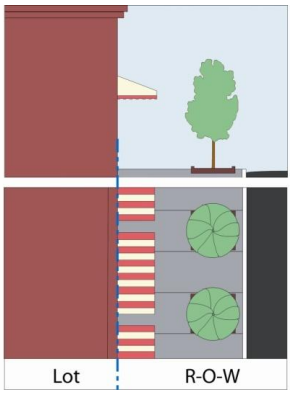
### (4) Grade of Adjacent Lots

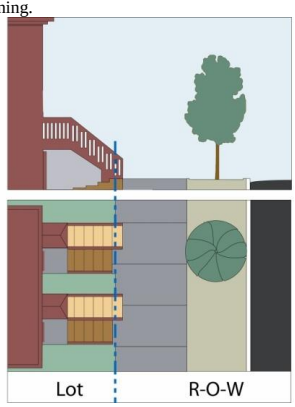
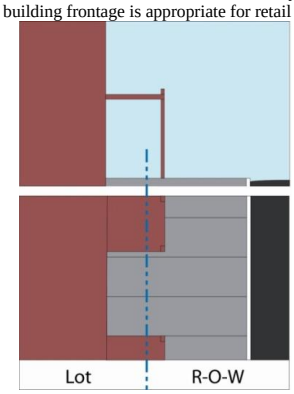
The average grade of adjacent lots should match where lot lines meet. If there is a significant grade difference, development should create an attractive transition using creative grading and landscaping or a decorative retaining wall, incorporating vehicular and pedestrian cross-access. Blank retaining walls or rock-covered slopes shall be screened with landscaping or decorative fencing.

### (5) Frontage Type

Development in the DTB district shall take one of the five different frontage types set out in Table 3.6.E.5, *Frontage Types*.

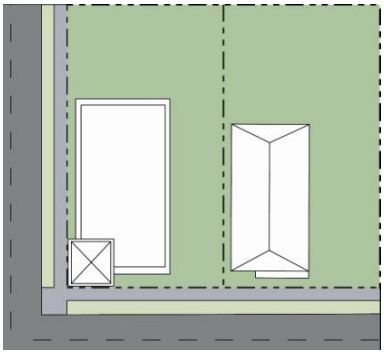
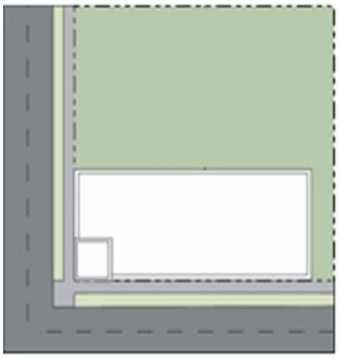
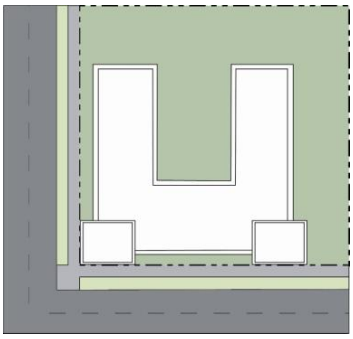
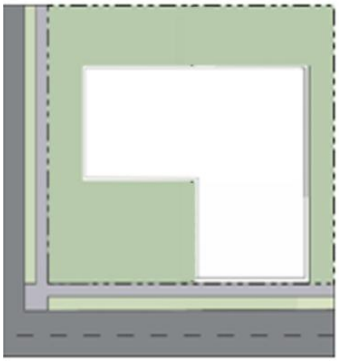
## Table 3.6.E.5 Frontage Types

| | | |
|---|---|---|
| **FORECOURT**<br>A frontage where a portion of the façade is close to the front lot line and the central portion is set back. The forecourt created is suitable for landscaping, gathering spaces, or vehicular drop-offs. This type should be allocated in conjunction with other frontage types.<br>  | **STOOP**<br>A frontage where the façade is aligned close to the front lot line with the first story elevated from the sidewalk to secure privacy for the windows. The entrance is usually an exterior stair and landing. This frontage type is recommended for ground-floor residential uses.<br>  | **SHOPFRONT AND AWNING**<br>A frontage where the façade is aligned close to the frontage line with the building entrance at sidewalk grade. This type is conventional for retail use. It has a substantial glazing of 20% or more on the sidewalk level and an awning that may overlap the sidewalk to the maximum extent practicable.<br>  |

| | | |
|---|---|---|
| SIDE VIEW<br><br>PLAN VIEW | **TERRACE OR LIGHT COURT**<br>A frontage where the façade is set back from the front lot line by an elevated terrace and/or a sunken light court. This frontage type raises ground-floor residential uses from urban sidewalks and removes the planted yard in front of the building. The terrace and light court are suitable for outdoor use like outdoor dining.<br>  | **GALLERY**<br>A frontage where the façade is aligned close to the front lot line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. When provided, the gallery shall be no less than 10 feet wide and may overlap the sidewalk to within 2 feet of the curb. This type of building frontage is appropriate for retail use.<br>  |

### (6) Building Placement

Development in the DTB districts shall take one of the five different building placement configurations set out in Table 3.6.E.6, *Building Placement Types.* A combination of placement types or a different placement type not identified here may be used for a development with the approval of the Development Services Director

| TYPE | DESCRIPTION | ILLUSTRATION (BUILDINGS IN WHITE) |
|---|---|---|
| SIDEYARD | A building occupies one side of the lot with the setback to the other side. The visual opening of the side yard on the street frontage causes this building type to appear freestanding. A shallow front setback defines a more urban condition. This building placement type permits systematic climatic orientation in response to the sun or the breeze. |  |
| REARYARD | A building occupies the full frontage, leaving the rear of the lot as the sole yard. This is a very urban type as the continuous façade that defines the public realm. The rear elevations may be articulated for functional purposes. For buildings with two or more stories, a single row of parking may be provided on site between the building façade and the sidewalk. Buildings may be accessed by their own drive aisle. |  |
| COURTYARD | A building that occupies the outer boundaries of its lot while internally defining private space. This is the most urban of types as it is able to shield the private realm from all sides while strongly defining the public realm. It accommodates incompatible activities, masking them from all sides and therefore it is recommended for more intense forms of commercial and light industrial, visitor accommodations, and educational facilities |  |
| PARTIAL FRONTAGE | Buildings that occupy part of a street frontage while orienting its principal entrance to the street. These types of buildings should occupy at least 40% of the lot frontage and defer to the public realm. These placement types allow for a limited amount of parking close to the front of the building while still maintaining a street wall. |  |

## (b) Building Entrances

(1) A primary building entrance shall front a street or open space. Additional entrances are allowed. The primary entrance shall be pedestrian oriented and distinguishable from the rest of the building through the use of different colors, materials, prominent placement, recessing, or other technique that makes the entrance obvious.

(2) Service entrances for shipping and receiving shall be oriented away from public streets.

## (c) Primary Building Facades

The primary building facade shall be parallel to the front lot line. In cases where the front lot line is curved, the primary building facade shall be parallel to the tangent of the curve.

## (d) Roof and Eaves

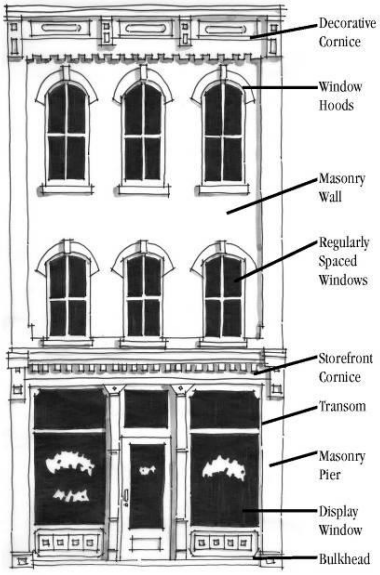
(1) Main roofs on residential buildings shall have a pitch between 5:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building and shall have a pitch of 3:12 or greater. A pitched roof shall be profiled by eaves a minimum of 8 inches from the building face or with a gutter. Roof pitches less than 3:12 and flat roofs shall be enclosed by parapets a minimum of 30 inches high, or as required to conceal mechanical equipment from public view, whichever is greater.

(2) Overhanging eaves may expose rafters. Flush eaves shall be finished by profiled molding or gutters.

(3) All rooftop equipment shall be screened from view.

(4) Changes in roof forms shall indicate changes in building form or footprint.

(5) Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, dimensional asphalt shingles or synthetic materials similarand/or superior in appearance and durability.




## (e) Raised Foundations

All residences shall be constructed on either a crawl space or an elevated slab so the foundation walls are visible (minimum of 18" exposure). Slab on-grade construction is permitted for accessory structures only.

## (f) Porches

In cases where at least 40% of the surrounding development on the block face includes a porch or stoop, new development shall provide a porch or stoop at least six feet deep or at least 100 square feet.

## (g) Crawlspace

The crawlspace of buildings, if provided, shall be enclosed.

## (h) Facade Design

(1) All ground floor building elevations visible from the street shall provide doors, and/or windows comprising at least 20 percent of the ground floor elevation; and for the purposes of this section "percent of ground floor elevation" is measured as the horizontal plane (linear feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.

(2) Shutters, when used, shall be sized and shaped to correspond to their respective openings.

(3) Single family detached residential buildings shall include at least two of the following architectural elements on street facing facades: porches, stoops, articulated primary entrance, door yard, hood, projecting bays, balconies, contrasting gable depicting a change in building form awnings, towers or cupolas, dormers, decorative windows, window planter boxes, corbels, operable shutters, exposed rafters, decorative chimneys, decorative brickwork, vergeboards and similar details.

(4) Commercial buildings and multi-family buildings shall include at least three of the following architectural elements on street facing facades: porches, stoops, articulated primary entrance, door yard, hood, projecting bays, balconies, contrasting gable depicting a change in building form awnings, towers or cupolas, dormers, decorative windows, window planter boxes, corbels, operable shutters, exposed rafters, decorative chimneys, decorative brickwork, vergeboards and similar details.

## (i) Building Walls

### (1) Materials

i. Residential building walls shall be primarily clad in one of the following materials: clapboards, fiber cement siding, shingles, board and batten siding, brick, stone, stone veneer, stucco, vinyl siding with a thickness of at least 0.044 inches and a 4 to 8 inch reveal, aluminum siding with a 4 to 8 inch reveal, or other materials similar in appearance and durability when approved by the Development Services Director. When using vinyl siding, include a friezeboard of at least 6" width, a watertable board of at least 8" width, and cornerboards of at least 5" width.

ii. Commercial and Mixed-use building walls shall be primarily clad in brick, stone, stucco, cement fiber board, or clapboard. Regular or decorative concrete block and EIFS may be used on building walls not visible from a public street or as an accent material only. All accessory buildings shall be clad in materials similar in appearance to the principal structure.

iii. Unpainted wood, unfinished or poured in place concrete, CMU block, plywood, pressed wood, EFIS, vinyl siding with thickness of less than 0.044 inches and having a Dutch lap or D5 appearance are prohibited.

iv. When two or more materials are used on a façade, the heavier material (i.e. brick) should be placed closer to the ground level than the lighter material (i.e. siding or stucco).

### (2) Windows & Doors

i. All window and door casings, regardless of material, must be at least four inches in width. If using vinyl siding, all of the following elements must be included: a friezeboard with a width of at least six inches, a watertable board with a width of at least eight inches, and cornerboards with widths of at least five inches

ii. Windows shall be vertically proportioned, wherever possible.

iii. Window sills on commercial and mixed use buildings shall be located no higher than three feet above grade.

(3) **Building Wall Offsets**

i. Building wall offsets, including projections, recesses, and changes in floor level of one foot or more shall be used at least every 30 feet on all facades facing a street in order to add architectural interest and variety; relieve the visual effect of a single, long wall; and subdivide the wall into human size proportions.

ii. Roofline offsets shall be provided on buildings of 50 feet in length or longer to lend architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

(4) **Street Walls**

The ground floors of all commercial and mixed-use buildings shall be designed to encourage and complement pedestrian-style interest and activity by incorporating the following elements along streets:

i. A building canopy, awning or similar weather protection, that projects at least three feet from the facade;

ii. Building walls with some form of glazing or articulation occurring at least every 20 feet of the building facade;

iii. When ventilation grates or emergency exits are located on facades adjacent to sidewalks, they shall be decorative.

(5) **Garages**

i. Garage doors shall not extend into the front setback farther than the principal façade and employ a setback of at least 20' from the property line.

ii. Multi car garages which face a street or right-of-way shall have individual doors for each parking space. The doors to these garages shall not exceed 10 feet in width.

iii. Garage doors which face a street or right-of-way shall include a pergola or overhanging roof so that the door appears recessed.

iv. The width of street facing, attached garage doors shall not exceed 45 percent of the total building facade width unless the ground floor of structure is uninhabitable due to topography, floodplain or similar natural site challenges.

v. The following shall apply to lots which front on Riverwalk Crossing Park, Court, Ford, Poplar and Newberry streets:

a. One car garages with street-facing doors shall be setback from the facade by a minimum of ten feet and designed to form a distinct building volume. The doors to these garages shall not exceed ten feet in width.

b. Multi car garages shall be setback behind the principal structure.

(j) **Solid Waste Storage Areas**

(1) All commercial, mixed use, and multi-family trash containment devices, including compactors and dumpsters, shall be located and designed so as not to be visible from off-site views. Otherwise, screening shall be provided in accordance with the standards in Section 115 Screening and Bufferyard Standards.

(2) Mechanical and utility equipment shall be screened from view from nearby streets and properties in the same manner as trash containment areas. Ground-mounted equipment shall be located in the rear or side yard and screened. For residential properties, screening is required when mechanical equipment is located within 20 feet of the right of way. Such equipment located on the roof of the building shall also be made invisible from nearby streets and properties through the use of setbacks from the edge of the roof or through the use of a screen exceeding the height of the equipment and using building materials and design which are compatible with those used for the exterior of the building. If the equipment is not visible off-site, then it need not be screened.

## (k) Loading Docks

Loading docks and service areas shall be located on building facades that do not front streets (except alleys).

## (l) Off-Street Parking

There are no minimum parking requirements in the DTB zoning district. However any off street parking except for off-street parking serving single-family detached and duplex dwellings shall comply with the following:

(1) All off-street surface parking in the DTB district shall be located to the side or rear of the primary building facade.

(2) Parking areas and garages serving single-family detached and duplex buildings on lots of 60 feet in width or less shall be located to the side or rear of the structure they serve, and accessed from a rear-loaded secondary street or alley, to the maximum extent practicable.

(3) Alternative off-street parking configuration may be approved by the Development Services Director.

(4) Townhouse, single-family attached, or multi-family use shall not include off-street parking between the primary building facade and the street.

(5) Off-street parking lots shall be screened by one or more of the following methods:

i. A four feet deep planting bed with a 36 inches high hedgerow with natural groundcover such as grass, mulch, etc. Stone alone is not acceptable.

ii. A brick, metal (or similar) decorative fence or wall with landscaping treatments that are no less than 36 inches in height with a minimum total transparency of 40 percent along any single lot frontage and vegetation; or building walls located between the parking and off-site areas.

## (m) Access to Parking Areas

(1) Pedestrian entrances to all parking lots and parking structures shall be directly from a sidewalk or pedestrian way. Only underground parking structures may be entered by pedestrians directly from a principal building.

(2) The vehicular entrance of a parking lot or garage on a front or corner side frontage shall be no wider than 36 feet.

## (n) Street Trees

Street trees shall be planted along both sides of all streets except alleys at a rate of three canopy trees per 100 linear feet. Two, understory trees may be planted in lieu of one canopy tree.

## (o) Fences and Walls

Fences and walls shall comply with the following standards:

(1) Fences, located in front, corner side, or side yard areas shall be decorative metal, brick, composite (such as TimberTech, Trex, etc.) vinyl pickets or wood pickets only. Fences in rear yards may be any of the materials listed above, wooden boards or green or black vinyl coated chain link. Space between pickets shall be between 1.5 and 2 inches. Alternate fencing materials may be approved by the Development Services Director.

(2) Barbed or razor wire is prohibited.

(3) The maximum height for fences in front and corner side yards shall be four feet in the Downtown zoning districts. The maximum fence height in all other areas is six feet.

## (p) Signage

In order to promote regional character and a sense of place in downtown while addressing site-specific civic and retail commercial graphics and signage, signs should be designed to promote retail and commercial activity by ensuring visibility for all licensed businesses to both pedestrian and vehicular traffic.

(1) Signs for nonresidential uses, subdivision entrances and multi-family development may utilize up to three of the following signs types. Corner buildings may utilize up to three sign types for each facade.

i. Mural style signs on secondary building facades depicting the principal user's product, service, name, or building name limited to 20% of the building face. One such sign is permitted per building with a maintenance plan and City Council approval.

ii. Wall signs located on principal facades that do not exceed 10% of the wall area, but are limited to 400 sq. ft. Signs may only be indirectly illuminated.

iii. Channel set lettering that does not exceed 15% of the wall area on secondary facades and 10% on principal facades. Letting may be internally illuminated or indirectly illuminated.

iv. Signs located parallel to or in storefront windows that are limited to 30% of the total window area.

v. Transom signs limited to 60% of the transom area.

vi. Signs printed or painted on awnings limited to 30% of the awning face.

vii. Projecting signs which are limited to 20 sq. ft. One projecting sign is allowed per building.

viii. Monument style identification signs which do not exceed eight feet in height by 12 feet in width. Signs may only be indirectly illuminated are limited to one per development

ix. Sandwich board signs limited to eight square feet per sign face. One such sign will be permitted per building and its placement must allow for at least five feet of unencumbered sidewalk space

(2) Prohibited signs include:

i. Electronic message boards

ii. Signs with moving, blinking, flashing or strobe lights

## (q) Underground Utilities

(1) Underground utilities (and associated pedestals, cabinets, junction boxes and transformers) shall be located in alleys, where possible.

(2) New utility services serving individual developments shall be located underground

## F. Corridor Commercial (CC) District

# CC
## Corridor Commercial

### Purpose

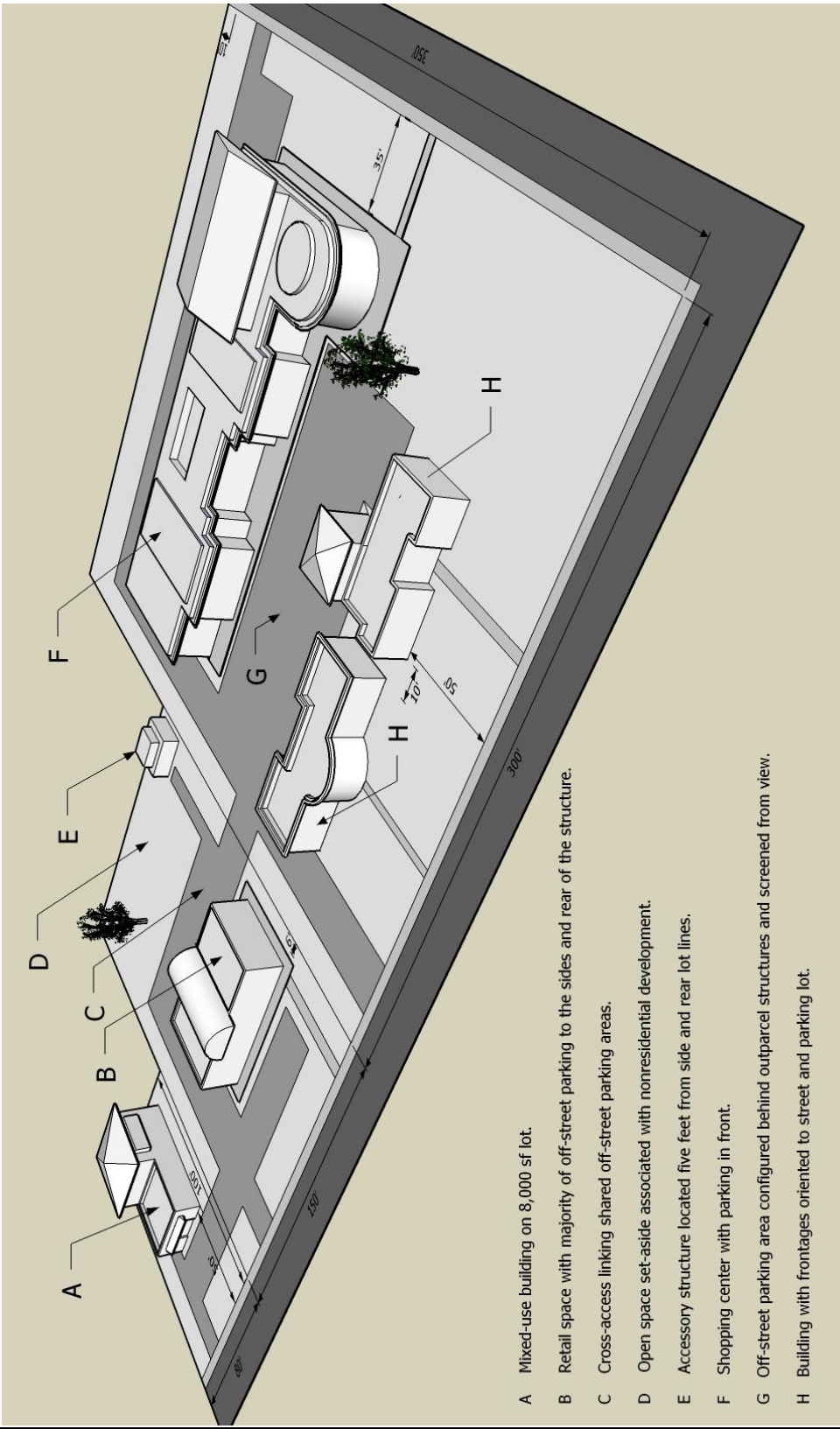
The CC district is established and intended to accommodate a diverse range of medium- to high-intensity retail, service, and office uses that provide goods and services serving the residents and businesses in the community at large—e.g., shopping centers, convenience stores, retail sales establishments, and heavier commercial uses. The district is typically located along major arterials, at the intersection of arterials, and along growth corridors. Higher-density residential uses are encouraged on the upper floors of nonresidential establishments, and as live/work units, but stand-alone residential development is prohibited. Uses allowed in the district are subject to various design standards intended to ensure development is compatible with residential surrounding uses.

| Dimensional Standards | |
|---|---|
| Lot Size, min. (square feet) [1] | N/A |
| Net Density, max. (units/acre) | N/A |
| Lot Coverage, max. (% of lot area) | N/A |
| Lot Width, min. (feet) | 25 |
| Front Setback, min. (feet) | 35 feet/may be reduced to 10 feet with Type II or III site plan approval; |
| Corner Side Setback, min. (feet) | |
| Rear Setback, min. (feet) | As required per landscaping |
| Side Setback, min. (feet) | As required per landscaping |
| Accessory Use Setback, min. (feet) | 5 feet/or as required per landscaping(prohibited in front or corner side setbacks) |
| Spacing Between Buildings, min. (feet) | 10 feet/or as required per landscaping unless the buildings are attached by a party wall |
| Height, max. (feet) | 75 |

[1] Residential uses are not subject to a minimum lot size, but are required to provide common open space (see Section 5.3 Open Space Set-Aside).

| CC Typical Building Form | CC Typical Lot Pattern |
|---|---|
| | |
| | |

## CC Typical Lot Configuration




A Mixed-use building on 8,000 sf lot.
B Retail space with majority of off-street parking to the sides and rear of the structure.
C Cross-access linking shared off-street parking areas.
D Open space set-aside associated with nonresidential development.
E Accessory structure located five feet from side and rear lot lines.
F Shopping center with parking in front.
G Off-street parking area configured behind outparcel structures and screened from view.
H Building with frontages oriented to street and parking lot.

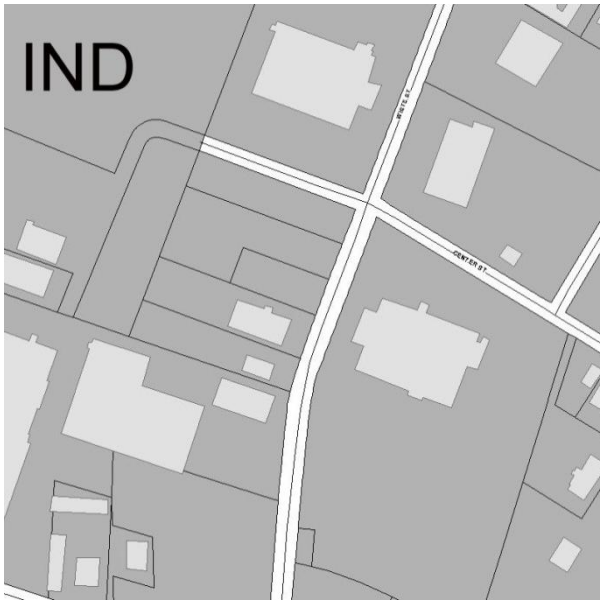
## G. Industrial (IND) District

# IND
## Industrial

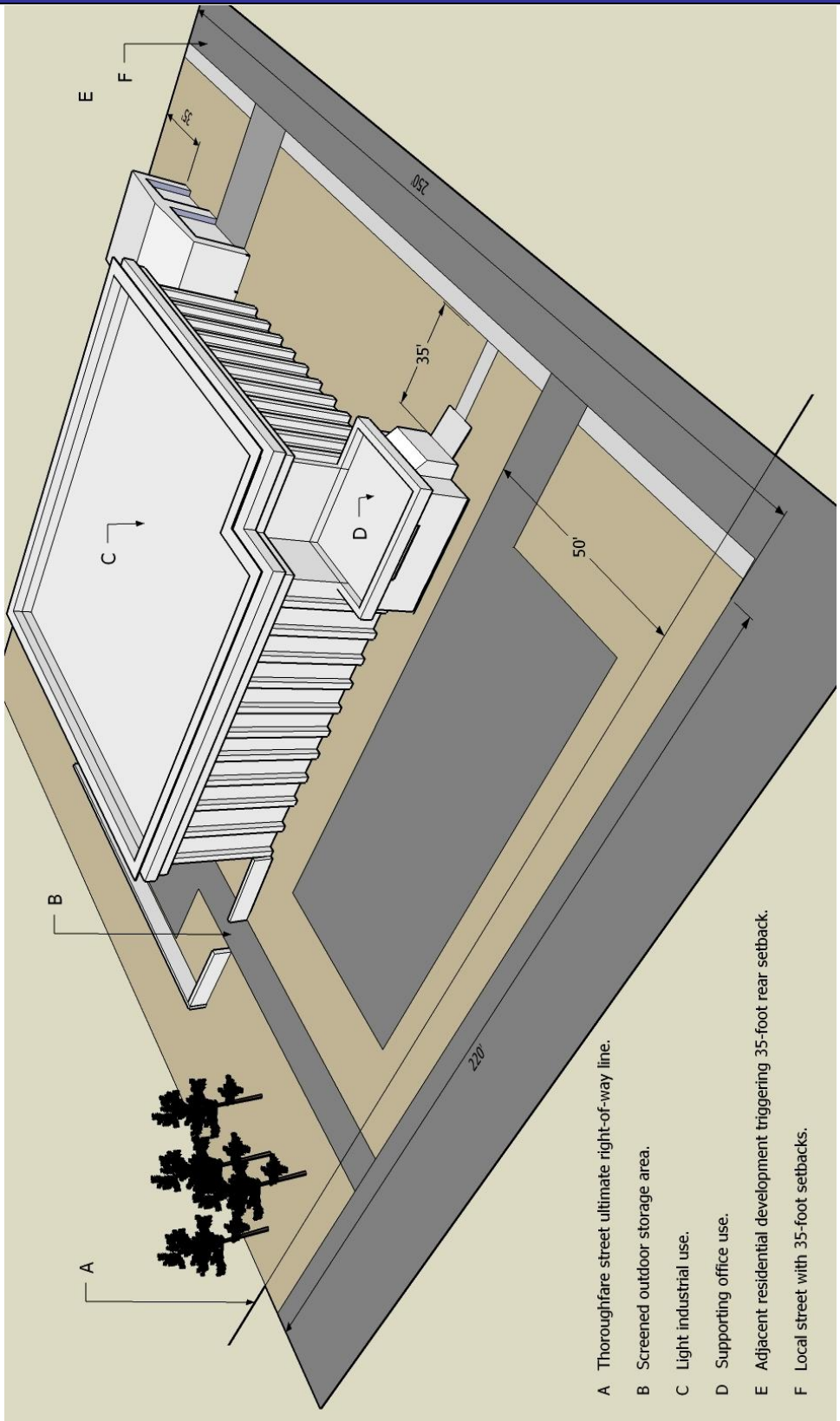
### Purpose

The Industrial (IND) district is established and intended to accommodate both heavy and light manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses at both large- and small-scales. The district is subject to standards intended to minimize potential nuisances or damage to the environment and adverse impacts on surrounding uses. Supporting office and limited retail uses may be permitted, but residential uses are prohibited, except as accessory uses. Heavier industrial uses with more substantial impact on adjacent uses shall require approval of a Special Use Permit (see Section 2.3.D).

| Dimensional Standards | |
|---|---|
| Lot Size, min. (square feet) | N/A |
| Net Density, max. (units/acre) | N/A |
| Lot Coverage, max. (% of lot area) | N/A |
| Lot Width, min. (feet) | 35 |
| Front Setback, min. (feet) | 35 feet/may be reduced to 10 feet with Type II or III site plan approval |
| Corner Side Setback, min. (feet) | |
| Rear Setback, min. (feet) | 10 feet; 35 feet from residential or as required per landscaping, whichever is greater |
| Side Setback, min. (feet) | 10 feet/or as required per landscaping unless the buildings are attached by a party wall |
| Accessory Use Setback, min. (feet) | 5 feet/or as required per landscaping (prohibited in front or corner side setbacks) |
| Height, max. (feet) | 75 |

| IND Typical Lot Pattern | IND Typical Building Form |
|---|---|
| |   |
| | |

## IND Typical Lot Configuration



## H. Military Reservation (MR) District

| **MR**<br>**Military Reserve** | **Standards** |
|---|---|
| **Purpose**<br>The MR district is intended to accommodate the military installations under federal authority and provide a zoning district classification of all lands held by the military that might be declared surplus or otherwise privatized in the future. It is the intent of the City to limit the activities occurring on military/federal property to those activities that are conducted by the military for specific, mission related military purposes. Property outside the secure perimeter of the Military Reserve Facility shall be zoned Military Reserve and subject to the land-use standards of the federal government where said property is in the ownership of the federal government. | No dimensional standards apply in the MR district, though military facilities are encouraged to provide a building setback from any base perimeter abutting a single-family residential zoning district equal to at least the minimum setback applicable on the other side of the perimeter.<br>If land within the MR district is declared surplus or otherwise conveyed to private ownership in the future, the land shall be classified as RSF-40 until reclassified to another zoning district in accordance with the provisions of this Ordinance (See Section 2.3.D.) |

# 3.7 Conditional Zoning Districts

## A. Establishment of Conditional Zoning Districts

Table 3.7.1, *Conditional Zoning Districts Established*, sets out the conditional zoning districts established by this UDO.

**Table 3.7.1: Conditional Zoning Districts Established**

| Abbreviation | Base Zoning District |
|---|---|
| Low Density Residential Zoning Districts | |
| RSF-40-C | Conditional Residential Single-Family 40 |
| RSF-20-C | Conditional Residential Single-Family 20 |
| RSF-10-C | Conditional Residential Single-Family 10 |
| Medium Density Residential Zoning Districts | |
| RSF-7-C | Conditional Residential Single-Family 7 |
| High Density Residential Zoning Districts | |
| RSF-5-C | Conditional Residential Single-Family 5 |
| RMF-LD-C | Conditional Residential Multi-Family Low Density |
| RMF-HD-C | Conditional Residential Multi-Family High Density |
| Nonresidential/Mixed-use Zoning Districts | |
| DTR-C | Conditional Downtown Residential |
| OI-C | Conditional Office and Institutional |
| NC-C | Conditional Neighborhood Commercial |
| DTB-C | Conditional Downtown Business |
| CC-C | Conditional Corridor Commercial |
| IND-C | Conditional Industrial |

## B. Purpose

The rezoning of land to a conditional zoning district is intended to provide a landowner and the City an alternative to rezoning the land to a base zoning district, where the base zoning district allows certain uses and development that may be appropriate but also allows uses and development that may not conform to City plans or would have adverse impacts on public facilities or surrounding lands. Reclassification of land to a conditional zoning district allows a landowner to propose, and the City Council to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel base zoning district. This enables the City to tailor a zoning classification to accommodate desirable development while avoiding or addressing anticipated problems that may arise from development otherwise allowed by the zoning classification.

## C. Classification of Conditional Zoning Districts

Land shall be classified into a conditional zoning district only in accordance with the procedures and requirements set forth in Section 2.3.C, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*.

## D. Applicable Regulations

1. Development in a conditional zoning district shall be subject to all the use and development standards and requirements that apply to development in the parallel base zoning district, plus the conditions imposed as part of the Conditional Rezoning approval, which may not be

less restrictive than the regulations for the parallel base zoning district.

2. Conditions embodied in a previously-approved Conditional Use Permit associated with establishment of a conditional use zoning district designation under the previous zoning regulations shall continue to apply unless modified in accordance with the procedures and requirements set forth in Section 2.3.C, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*.

### E. Relationship to Overlay Zoning Districts

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying conditional zoning district. If the standards governing a conditional zoning district expressly conflict with those governing an overlay zoning district, the standards governing the overlay district shall control.

### F. Applied to Entire Lot

After July 1, 2014 no application for conditional rezoning (see Section 2.3.C) may split an existing site or lot of record into a conditional zoning district and a base zoning district not subject to conditions.

## 3.8 Planned Development Districts

### A. General

#### 1. Establishment of Planning Development Zoning Districts

Table 3.8.1, *Planned Development Zoning Districts Established*, sets out the planned development zoning districts established by this UDO.

**Table 3.8.1: Planned Development Zoning Districts Established**

| District Abbreviation | District Name |
|---|---|
| PD-R | Planned Development-Residential |
| PD-C | Planned Development-Commercial |
| PD-T | Planned Development-Traditional Neighborhood |

#### 2. General Planned Development District Purposes

The Planned Development (PD) districts are established and intended to encourage innovative land planning and site design concepts that support a high quality of life and achieve a high quality of development, environmental sensitivity, energy efficiency, and other City goals and objectives by:

(a) Reducing or diminishing the inflexibility or uniform design that sometimes results from strict application of zoning and development standards designed primarily for individual lots;

(b) Allowing greater freedom in selecting the means of providing access, open space, and design amenities;

(c) Allowing greater freedom in providing a well-integrated mix of residential and nonresidential land uses in the same development, including a mix of housing types, lot sizes, and densities;

(d) Providing for efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs; and

(e) Promoting quality design and environmentally sensitive development that

respects surrounding established land use character and respects and takes advantage of a site's natural and man-made features, such as trees, streams, hillsides, floodplains, and historic features.

### 3. Classification of Planned Development Zoning Districts

Land shall be classified into a planned development zoning district only in accordance with the procedures and standards set forth in Section 2.3.C, *Rezoning, Conditional Zoning, Planned Development, or Text Amendment*, and this section.

### 4. Organization of Planned Development Zoning District Regulations

Section 3.8.B, *General Standards for All Planned Development Districts*, sets out general standards applicable to all types of planned development districts. Sections 3.8.C to 3.8.E set out the purpose statements and standards for each of the three specific types of planned development district. These subsections have a common structure consisting of a purpose statement and applicable development standards. Some PD districts also include additional district-specific standards. Article 4, *Use Standards*, includes a summary use table specifying the allowable uses for each of the PD districts (see Table 4.1.1, *Use Table*) subject to an approved master plan. Uses that do not include an "MP" under a particular PD district column in Table 4.1.1 are prohibited within that PD district.

## B. General Standards for All Planned Development Districts

Before approving a PD zoning district classification, the City Council shall find that the application for the PD zoning district classification, as well as the PD Master Plan and the PD Terms and Conditions included as part of the application, comply with the following standards:

### 1. Planned Development Master Plan

The PD Master Plan shall:

(a) Include a statement of planning objectives for the district;

(b) Identify the general location of individual development areas, identified by land use(s) or development density or intensity;

(c) Identify for the entire PD district and each development area the acreage, types and mix of land uses, number of residential units (by use type), nonresidential floor area (by use type), residential density, and nonresidential intensity;

(d) Identify the general location, amount, and type (whether designated for active or passive recreation) of open space;

(e) Identify the location of environmentally-sensitive lands, wildlife habitat, stream corridors, or other features to be protected as part of the Area of Environmental Concern Standards in accordance with the Coastal Area Management Act;

(f) Identify the on-site transportation circulation system, including the general location of all public and private streets, existing or projected transit corridors, and pedestrian and bicycle pathways, and how they will connect with existing and planned City systems;

(g) Identify the general location of on-site potable water and wastewater facilities, and how they will connect to City systems;

(h) Identify the general location of on-site stormwater management facilities,

and how they will connect to existing or planned City systems; and

(i) Identify the general location of all other on-site public facilities serving the development, including but not limited to parks, schools, and facilities for fire protection, police protection, EMS, and solid waste management.

### 2. Consistency with City Plans

The PD zoning district designation, the PD Master Plan, and the PD Terms and Conditions shall be consistent with the CAMA Land Use Plan and any functional plans and small area plans adopted by the City.

### 3. Compatibility with Surrounding Areas

Development along the perimeter of a PD district shall be compatible with adjacent existing or proposed development. Where there are issues of compatibility, the PD Master Plan shall provide for transition areas at the edges of the PD district that provide for appropriate buffering or ensure a complementary character of uses. Determination of complementary character shall be based on densities/intensities, lot size and dimensions, building height, building mass and scale, hours of operation, exterior lighting, and siting of service areas.

### 4. Development Phasing Plan

If development in the PD district is proposed to be phased, the PD Master Plan shall include a development phasing plan that identifies the general sequence or phases in which the district is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the City's capital improvements program.

### 5. Conversion Schedule

The PD Master Plan may include a conversion schedule that identifies the extent to which one type of residential use may be converted to another type of residential use and one type of nonresidential use may be converted to another type of nonresidential use (i.e., residential to residential, or nonresidential to nonresidential). These conversions may occur within development areas and between development areas, as long as they occur within the same development phase, as identified by the approved development phasing plan, and are consistent with established extents of conversion set down in the conversion schedule.

### 6. On-Site Public Facilities

#### (a) Design and Construction

The PD Master Plan shall establish the responsibility of the developer/landowner to design and construct or install required and proposed on-site public facilities in compliance with applicable City, State, and Federal regulations.

#### (b) Dedication

The PD Master Plan shall establish the responsibility of the developer/landowner to dedicate to the public the rights-of-way and easements necessary for the construction or installation of required and proposed on-site public facilities in compliance with applicable City, State, and Federal regulations.

### (c) Modifications to Street Standards

In approving a PD Master Plan, the City Council may approve modifications or reductions of City street design standards—including those for right-of-way widths, pavement widths, required materials, and turning radii—on finding that:

(1) The PD Master Plan provides for separation of vehicular, pedestrian, and bicycle traffic;

(2) Access for emergency service vehicles is not substantially impaired;

(3) Adequate off-street parking is provided for the uses proposed; and

(4) Adequate space for public utilities is provided.

## 7. Planned Development Terms and Conditions

The PD Terms and Conditions shall incorporate by reference or include, but not be limited to:

(a) Conditions related to approval of the application for the PD zoning district classification;

(b) The PD Master Plan, including any density/intensity standards, dimensional standards, and development standards established in the PD Master Plan;

(c) Conditions related to the approval of the PD Master Plan, including any conditions related to the form and design of development shown in the PD Master Plan;

(d) Provisions addressing how transportation, potable water, wastewater, stormwater management, and other public facilities will be provided to accommodate the proposed development;

(e) Provisions related to environmental protection and monitoring; and

(f) Any other provisions the City Council determines are relevant and necessary to the development of the PD in accordance with applicable standards and regulations.

## 8. Uses

The allowable uses in a PD district are identified in Table 4.1.1, *Use Table,* and may be permitted subject to a PD Master Plan. Allowed uses shall be established in the master plan and are subject to any use regulations applicable to the PD district. Allowed uses shall be consistent with City plans, the purpose of the particular type of PD district, and subject to any additional limitations or requirements set forth the PD district standards.

## 9. Densities and Intensities

The densities for residential development and the intensities for nonresidential development applicable in each development area of a PD district shall be as established in the PD Master Plan, and shall be consistent with City plans and the purpose of the particular type of PD district.

## 10. Dimensional Standards

The dimensional standards applicable in each development area of a PD district shall be as established in the PD Master Plan, and shall be consistent with the purpose of the particular type of PD district. The PD Master Plan shall include at least the following types of dimensional standards:

(a) Minimum lot area;

(b) Minimum lot width;

(c) Minimum and maximum setbacks;

(d) Maximum lot coverage;

(e) Maximum building height;

(f) Maximum individual building size;

(g) Maximum floor area ration; and

(h) Minimum setbacks from adjoining residential development or residential zoning districts.

## 11. Development Standards

All development in a PD district shall comply with the development standards of Article 5: *Development Standards*, or any modifications of those standards established in the PD Master Plan as consistent with City plans, the objective of the particular type of development standard, the purpose of the particular PD district, and any additional limitations or requirements set forth in Sections 3.8.C - 3.8.E for the particular type of PD district.

## 12. Amendments to Approved Master Plan

Amendments or modifications to a PD Master Plan shall be considered in accordance with the standards in Section 2.3.B.11.

## C. Planned Development-Residential (PD-R) District

# PD-R
## Planned Development-Residential

### Purpose

The PD-R district is established and intended to encourage the use of innovative and creative design to provide a mix of different residential uses in close proximity to one another, while at the same time providing an efficient use of open space. Limited, small-scale commercial uses are required in PD-R districts larger than 35 acres.

### Dimensional Standards

| District Size | |
|---|---|
| District Area, min. (acres) | 10;15 if commercial is included [1] |
| District Area Size Threshold before Commercial Uses Are Required, max. (acres) | 35 |

| Lot Standards | |
|---|---|
| Net Residential Density, max. (dwelling units/acre) [2] | To be established in PD Master Plan (See Section 3.8.B.1, *Planned Development Master Plan*) |
| Nonresidential Floor Area Ratio, max. (FAR) (if applicable) | |
| Lot Area, min. (sq ft) | |
| Lot Width, min. (sq ft) | |

| Building Standards | |
|---|---|
| Lot Coverage, max. (% of lot area) | To be established in PD Master Plan (See Section 3.8.B.1, *Planned Development Master Plan)* |
| Individual Building Size, max. (sq ft) | |
| Building Height, max. (ft) | |
| Setbacks, min. (ft) | |
| Setback from abutting residential zoning district or existing residential use (ft) | |

NOTES:
[1] May be waived by the City Council on finding that creative site planning is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development would result in more difficult or undesirable development.
[2] May not exceed 125 percent of the highest maximum net density standard for the base zoning district in place prior to designation as a planned development. This limitation does not apply to areas within the downtown.

### District Standards

The standards in Article 5: *Development Standards*, shall apply to all development in PD-R districts, but some of those standards may be modified as part of the PD Master Plan if consistent with the general purposes of the PD-R district and the procedures noted below.

| Development Standard | Means of Modifying[4] |
|---|---|
| Off-Street Parking & Loading | Specify in PD Master Plan |
| Landscaping [3] | Specify in PD Master Plan |
| Tree Protection | |
| Open Space Set-Aside | Specify in PD Master Plan |
| Fences and Walls | Specify in PD Master Plan |
| Exterior Lighting | Specify in PD Master Plan |
| Community Form | Specify in PD Master Plan |
| Commercial Building Design | |
| Multi-family Building Design | |
| Signage | Specify in PD Master Plan |

NOTES:
[3] Internal uses shall not be required to provide perimeter buffers.
[4] Deviations or modifications from required development standards must be specified in the planned development master plan or terms and conditions statement.

## D. Planned Development-Commercial (PD-C) District

# PD-C
## Planned Development-Commercial

### Purpose

The PD-C district is established and intended to encourage the development of a mix of employment generating uses (office, research, light industrial, commercial), and may allow high density residential uses at appropriate locations in a planned and aesthetically pleasing way and intended primarily for those working within the district. This is done by allowing design flexibility as well as a mix of uses. The district is intended to accommodate commercial uses.

### Dimensional Standards

| District Size | |
|---|---|
| District Area, min. (acres) | 20 [1] |
| Floor Area Devoted to Residential Use, max. (% of total district floor area) | 25 |
| Floor Area Devoted to Retail Sales & Services Uses, max. (% of total district floor area) | 10 |

| Lot Standards | |
|---|---|
| Net Residential Density, max. (dwelling units/acre) [2] | To be established in PD Master Plan (See Section 3.8.B.1, *Planned Development Master Plan*) |
| Nonresidential Floor Area Ratio, max. (FAR) | |
| Lot Area, min. (sq ft) | |
| Lot Width, min. (sq ft) | |

| Building Standards | |
|---|---|
| Lot Coverage, max. (% of lot area) | To be established in PD Master Plan (See Section 3.8.B.1, *Planned Development Master Plan)* |
| Individual Building Size, max. (sq ft) | |
| Building Height, max. (ft) | |
| Setbacks, min. (ft) | |
| Setback from abutting residential zoning district or existing residential use (ft) | |

NOTES:
[1] May be waived by the City Council on finding that creative site planning is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development would result in more difficult or undesirable development.
[2] May not exceed 125 percent of the highest maximum net density standard for the base zoning district in place prior to designation as a planned development. This limitation does not apply to areas within the downtown.

### District Standards

The standards in Article 5: *Development Standards*, shall apply to all development in PD-C districts, but some of those standards may be modified as part of the PD Master Plan if consistent with the general purposes of the PD-C district and the procedures noted below.

| Development Standard | Means of Modifying[4] |
|---|---|
| Off-Street Parking & Loading | Specify in PD Master Plan |
| Landscaping [3] | Specify in PD Master Plan |
| Tree Protection | |
| Open Space Set-Aside | Specify in PD Master Plan |
| Fences and Walls | Specify in PD Master Plan |
| Exterior Lighting | Specify in PD Master Plan |
| Community Form | Specify in PD Master Plan |
| Commercial Building Design | |
| Multi-family Building Design | |
| Signage | Specify in PD Master Plan |

NOTES:
[3] Internal uses shall not be required to provide perimeter buffers.
[4] Deviations or modifications from required development standards must be specified in the planned development master plan or terms and conditions statement.

## E. Planned Development-Traditional Neighborhood (PD-T) District

# PD-T
## Planned Development-Traditional Neighborhood

### Purpose

The PD-T district is established and intended to provide landowner/developers with a flexible framework within which to develop a mixed-use, traditional neighborhood development as an alternative to conventional residential development. PD-T districts should be of sufficient size and design to ensure pedestrian activity focused on a neighborhood center and sub-centers. PD-T district standards are designed to encourage the development of compact residentially-oriented, mixed-use, small-lot, pedestrian-oriented communities where residents can meet some of their employment, shopping, and recreation needs within the same development.

### Dimensional Standards

| District Size | |
|---|---|
| District Area, min. (acres) | 10 [1] |
| Floor Area Devoted to Nonresidential Use, max. (% of total district floor area) | 15 [2] |
| Dwelling Units of any Single Housing Type, max, (% of total district dwelling units) | 60 [3] |

| Lot Standards | |
|---|---|
| Net Residential Density, max. (dwelling units/acre) | To be established in PD Master Plan (See Section 3.8.B.1, *Planned Development Master Plan*) |
| Nonresidential Floor Area Ratio, max. (FAR) | |
| Lot Area, min. (sq ft) | |
| Lot Width, min. (sq ft) | |

| Building Standards | |
|---|---|
| Lot Coverage, max. (% of lot area) | To be established in PD Master Plan (See Section 3.8.B.1, *Planned Development Master Plan)* |
| Individual Building Size, max. (sq ft) | |
| Building Height, max. (ft) | |
| Setbacks, min. (ft) | |
| Setback from abutting residential zoning district or existing residential use (ft) | |

NOTES:
[1] May be waived by the City Council on finding that creative site planning is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal.
[2] Unless an existing center exists within ¾ mile of the development boundary.
[3] May be exceeded only on demonstration that a less diverse mix of housing types is appropriate.

### District Standards

The standards in Article 5: *Development Standards*, shall apply to all development in PD-T districts, but some of those standards may be modified as part of the PD Master Plan if consistent with the general purposes of the PD-T district and the procedures noted below.

### Additional Standards

The standards in Section 3.8.E.1, *Additional District-Specific Standards for the PD-T District*, shall apply to all development within the PD-T District.

| Development Standard | Means of Modifying[4] |
|---|---|
| Off-Street Parking & Loading | Specify in PD Master Plan |
| Landscaping [3] | Specify in PD Master Plan |
| Tree Protection | |
| Open Space Set-Aside | Specify in PD Master Plan |
| Fences and Walls | Specify in PD Master Plan |
| Exterior Lighting | Specify in PD MasterPlan |
| Community Form | Specify in PD Master Plan |
| Commercial Building Design | |
| Multi-family Building Design | |
| Signage | Specify in PD Master Plan |

NOTES:
[4] Deviations or modifications from required development standards must be specified in the planned development master plan or terms and conditions statement.

### 1. Additional District-Specific Standards for the PD-T District

#### (a) Center and Subcenters

A PD-T District shall be designed with a neighborhood center, and may also be served by one or more sub-centers. A neighborhood center or sub-center shall consist of formal open space (such as a square, commons, green, or active recreation area) that is adjacent to nonresidential or civic uses (such as a school, religious institution, or other government building), and served by one or more

prominent street intersections. This requirement shall be exempted for all proposed developments when an existing center is located within ¾ of a mile from the development boundary.

### (b) Walking Distance

At least 80 percent of all residential dwelling units in a PD-T should be within a five minute walk (approximately 2,800 feet) of the neighborhood center or a sub-center.

### (c) Use Mixing

(1) A PD-T District shall be structured to provide a mix of uses, like residential, retail, employment, civic, and recreational uses. The integration of residential and nonresidential uses allows residents to meet more of their daily needs within the development. In addition, provision of a variety of housing options is required to allow greater diversity of residents within the neighborhood.

(2) Civic uses are encouraged, but not required, as part of the district's nonresidential uses.

(3) Mixing of residential and nonresidential uses within a single project or structure is encouraged within integrated or vertical mixed-use projects, in which uses are located on different floors of a single structure.

### (d) Open Space Set-Aside

(1) Open space set-asides in a PD-T District should be designed in a hierarchy of formal and informal spaces and used to enhance community activity, identity, and civic pride. Formal open spaces consist of squares, greens, common areas, or other park-like settings where residents of the neighborhood may gather. Such areas are bounded by streets and/or buildings, and are typically located in or near the geographic center of the neighborhood. Informal open spaces are typically located throughout the development, and take the form of meandering walking paths, greenways, pocket parks, passive recreation areas, and areas set aside for vegetation retention.

(2) Some portion of the open space provided within a PD-T shall be located to serve as a central open space or gathering area for the development.

### (e) Building Configuration

#### (1) Public Buildings and Uses

Public buildings and uses, including government facilities, community service uses, and educational facilities, serve as focal points and landmarks for the community within a PD-T district and should be located on prominent sites, such as terminal vistas at the end of streets and on prominent street corners. The PD Master Plan shall designate the general location of publicly or privately owned civic lots for civic buildings and uses, including public monuments or gateways into an ensuing space, as the terminus of street vistas for all major internal streets. In addition, public buildings and uses shall be located fronting on or adjacent to a square, plaza, or village green whenever possible.

#### (2) Location and Relationship between Buildings

In a PD-T district, buildings should be used to define the street edge and the distinction between the public domain of the street and the private space of individual lots. To this end, buildings should have a fairly consistent, narrow (less than 25 feet) setback alignment along the street frontage.

(3) **Relationship between Building Types**

Buildings in a PD-T district should be built on a human scale and designed with a common, harmonious architectural vocabulary and landscaping to lend an intimate and personal feel to the streetscape. The intent should not be to create a uniform appearance, but rather a distinct sense of place.

# 3.9 Overlay Districts

## A. General

### 1. Purpose

Overlay zoning districts are superimposed over portions of one or more underlying base zoning districts, conditional zoning districts, or planned development districts with the intent of supplementing generally applicable development regulations with additional development regulations that address special area-specific conditions, features, or plans while maintaining the character and purposes of the underlying zoning district.

### 2. Establishment of Overlay Zoning Districts

Table 3.9.1, *Overlay Zoning Districts Established*, sets out the overlay zoning districts established by this UDO. Except where specifically provided in this article, variances from the overlay zoning district standards shall not be granted.

**Table 3.9.1: Overlay Zoning Districts Established**

| District Abbreviation | Overlay District Name |
|---|---|
| ABO | Adult Business Overlay |
| BBO | Billboard Overlay |
| NCO | Neighborhood Conservation Overlay |
| HTO | Historic Overlay |
| FPO | Flight Path Overlay |

### 3. Classification of Overlay Zoning Districts

Land shall be classified into an overlay zoning district only in accordance with the procedures and standards set forth in Section 2.3.B, *Rezoning, Conditional Rezoning, Planned Development, or Text Amendment*.

### 4. Relationship to Other Zoning Districts

Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district, conditional zoning district, or planned development district. If the standards governing an overlay zoning district expressly conflict with those governing a base zoning district, conditional zoning district, or planned development district, the standards governing the overlay district shall control. Where land is classified into multiple overlay zoning districts and the standards governing one overlay zoning district expressly conflict with those governing another overlay district, the more restrictive standard shall apply.

## B. Adult Business Overlay (ABO)

### 1. Purpose

The Adult Business Overlay (ABO) District is established to provide an appropriate location for adult establishments as defined in Section 9.4, *Definitions*.

### 2. Incorporated by Reference

The ABO, as set forth on a map entitled *Adult Establishment Overlay Zone*, and dated March 17, 1998, as amended, is hereby adopted and incorporated by reference into this UDO and the official zoning map.

### 3. General Requirements

(a) All adult establishment development standards and all other associated site improvements, shall be located within the ABO.

(b) In addition to the standards for the ABO, all adult establishments shall be subject to the use-specific standards for such uses in Section 4.2.D.1.

## C. Billboard Overlay (BBO)

### 1. Purpose

(a) It is recognized that billboards provide the opportunity to advertise products, services, and ideas; however, because of their sheer size, location in proximity to buildings, and potential for storm damage, billboards can be aesthetically undesirable, create traffic hazards, and present dangers to adjoining lands. Due to their size and prominence upon the landscape, billboards constitute a separate and distinct land use subject to the standards in this section and Section 5.12.M, *Billboards*.

(b) The Billboard Overlay (BBO) District is established to provide an appropriate location for billboards as defined in Section 9.4, *Definitions*.

### 2. Incorporated by Reference

The BBO, as set forth on a map entitled *Billboard Overlay Zone*, as amended, is hereby adopted and incorporated by reference into this UDO and the official zoning map.

### 3. General Requirements

All billboards development standards and all other associated site improvements) shall be located within the BBO.

## D. Neighborhood Conservation Overlay (NCO)

### 1. Purpose

The Neighborhood Conservation Overlay (NCO) District is established and intended to protect and preserve the unique design features and character of established neighborhoods throughout the City, and to promote new construction that is compatible with the existing neighborhood character. The Neighborhood Conservation Overlay District is a flexible tool that may be applied to multiple neighborhoods, each of which will have its own unique architectural, natural, cultural, and historic attributes.

## 2. Establishment of Individual Neighborhood Conservation Districts

The City Council may establish individual Neighborhood Conservation Overlay Districts in accordance with this section and Section 2.3.B, *Rezoning, Conditional Rezoning, Planned Development, and Text Amendments*, after approving an area plan for the neighborhood specifying the development context in the district. Each district shall comply with the standards in Section 3.9.D.4, *General Development Standards for All NCO Districts*. In establishing a new NCO District, the City Council may also establish a unique set of development standards applicable to all development in the particular district (See Section 3.9.D.5, *District-Specific Development Standards*).

## 3. Minimum Standards for Designation of an NCO District

The City Council may approve an application for designation of a NCO District only if:

(a) At least 65 percent of the land area within the proposed NCO district, not including street and other rights-of-way, is developed;

(b) Development patterns in the district demonstrate an on-going effort to maintain or rehabilitate the character and physical features of existing buildings in the district;

(c) There is existing or potential pressure for new development or redevelopment and new infill development within the district;

(d) The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association:

(1) Scale, size, type of construction, or distinctive building materials;

(2) Lot layouts, setbacks, street layouts, alleys or sidewalks;

(3) Special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping;

(4) Land use patterns, including mixed or unique uses or activities; or

(5) Abuts or links to designated historic districts and/or landmarks.

(e) The development standards proposed to be applied to the district will encourage the retention of the general character and appearance of existing development in the district.

## 4. General Development Standards for All NCO Districts

### (a) Compliance with Underlying Zoning District Standards

These standards supplement and may supercede the applicable standards found in the underlying base zoning district, conditional zoning district, or planned development district.

### (b) Compliance with Approved Design and Development Standards

When an NCO district is established, no permit for any new construction or expansion of an existing structure resulting in an increase in building footprint area of 25 percent or more may be issued until the Development Services Director determines that the proposal complies with all design standards established for the NCO district where the land is located.

#### (c) Conflict with Other Standards

In the case of conflict between the NCO district standards and any other standards of this UDO, the NCO district development standards shall control.

### 5. District-Specific Development Standards

Each area designated as a Neighborhood Conservation Overlay (NCO) district shall identify, with specificity, the standards to be applied to all new construction and expansion of existing structures. Aspects of development that these standards may address, include, but are not be limited to:

(a) Lot size;

(b) Location of proposed buildings or additions;

(c) Setbacks or required yards

(d) Building height;

(e) Building size (for principal and accessory structures);

(f) Building orientation;

(g) Exterior building materials and colors;

(h) Building roof line and pitch;

(i) Building foundation treatment;

(j) Landscaping and screening;

(k) Impervious surface coverage;

(l) Paving requirements or limitations;

(m) Exterior lighting;

(n) Required features on a front façade;

(o) Uses;

(p) Views of or from specific locations;

(q) Riparian areas, wetland areas, or drainage patterns; and

(r) Demolition of structures.

### 6. Specific Neighborhood Conservation Overlay Districts

[Placeholder]

## E. Historic Overlay (HTO)

[placeholder]

## F. Flight Path Overlay (FPO)

### 1. Purpose

The main purpose of this overlay district is to ensure the compatibility between air operations associated with Marine Corps Base Camp Lejeune and Marine Corps Air Station New River and land uses on properties below military base flight paths. The intent is to eliminate potential interference with safe aircraft operations, potential threats from falling aircraft, and potential impacts of aircraft noise.

## 2. Establishment

The Flight Path Overlay District, as depicted on the official zoning map, is hereby established as a district that overlays land within and immediately adjacent to designated flight paths towards fixed-wing landing areas and around helicopter landing areas within Marine Corps Base Camp Lejeune and Marine Corps Air Station New River.

## 3. Application

All structures located in this overlay district shall meet the criteria outlined in this section, in addition to all other regulations.

## 4. Special Use Permits

To the extent that any of the following uses are permitted by the underlying zoning district, they shall be permitted in the Flight Path Overly District only with a Special Use Permit approved under Section 2.3.D and subject to the additional standards of this subparagraph:

(a) Sanitary landfills or other similar uses which potentially involves significant attraction of birds, shall be allowed only if its size, location, design, and operations are such that the potential impact of interference with overhead aircraft due to the flocks of birds attracted to the landfill is not substantial.

(b) Colleges, schools, day care center and nurseries with more than 30 children, hospitals, jails and penal institutions, nursing homes, rest homes, libraries, museums, churches, assembly halls and coliseums seating more than 150 people, spectator-oriented sports complexes or stadiums, fairgrounds, race tracks, theaters, auditoriums, hotels and motels with 3 or more stories, department and variety stores or retail establishments with more than 500,000 square feet of floor area, or other similar uses. These uses, which potentially involve high concentrations of people and/or activities particularly vulnerable to sensitive to noise, shall be allowed only if their size, location, design, and operations are such that the potential loss of life and injury due to falling aircraft and/or the potential adverse impacts on normal activities from noise created by overhead aircraft are not substantial.

(c) Mining and quarrying, fertilizer manufacturing and storage, concrete products production, asphalt products manufacturing, cement, lime, gypsum or plaster of Paris manufacture, fish fertilizer manufacture, or other similar uses. These uses, which potentially involve significant airborne emissions of dust, shall be allowed only if their size, location, design, and operations are such that the potential impairment of pilot visibility for overhead aircraft due to the emission of dust is not substantial.

(d) Chemical manufacturing, plastic products manufacturing, pharmaceuticals manufacturing, refineries, above ground bulk storage of oil and gasoline, petroleum bulk plants, rubber plan, tire recapping acid manufacture, gas manufacture, or other similar uses. These uses, which potentially involve use and/or storage of significant amounts of materials that are highly explosive, flammable, toxic, corrosive, or otherwise hazardous, shall be allowed only if their size, location, design, and operations are such that the potential loss of life and injury due to the impacts of falling aircraft is not substantial.

## 5. Prohibited Uses, Development, Activities

Any use, development, or activity is prohibited if it:

(a) Produces smoke, dust, or other airborne substances in such amounts as to impair pilot visibility or otherwise interfere with the safe operation of overhead aircraft;

(b) Produces light emissions - either direct or indirect (reflective) - of such intensity and directed in such directions as to impair pilot visibility or otherwise interfere with the safe operation of overhead aircraft; or

(c) Produces electronic emissions that interfere with navigation signals or radio communications between aircraft and landing control facilities or with the aircraft's navigational or communication equipment.

### 6. Height Limits

Irrespective of building height limits in the underlying zoning districts, no structure within the Flight Path Overlay District shall have a height of more than 100 feet.

### 7. Non-Conforming Structures

All nonconformities shall comply with all the requirements of this section in the manner described in Article 7: *Nonconformities*. Failure to comply shall render the business illegal and subject to zoning enforcement action. Nonconformities include any nonconforming use, structure, lot of record, site feature or sign.

# Article 4: Use Standards

# Article 4: Use Standards Table of Contents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# ARTICLE 4: Use Standards

## 4.1 Use Table

### A. Explanation of Use Table Structure

#### 1. General

(a) Table 4.1.1, *Use Table*, lists land uses and indicates whether they are permitted, permitted as a special use, permitted in a planned development zoning district, or prohibited in each base zoning district and planned development district. The use table also includes references to any additional requirements or regulations applicable to the specific use type.

(b) The status of a use in a conditional zoning district shall be the same as in the parallel base zoning district unless such status is restricted by conditions imposed as part of the Conditional Rezoning designating the conditional zoning district.

#### 2. Organization of Uses

The use table organizes allowable uses by use classifications, use categories, and use types. The use table and Section 9.3, *Use Classifications, Categories, and Use Types*, together provide a systematic basis for identifying and consolidating or distinguishing unidentified land uses to determine whether a particular land use is allowable in a particular zoning district and in addressing future land uses.

#### 3. Permitted Uses

A "P" in a cell of the use table indicates that the corresponding use category or use type is allowed by right in the corresponding base zoning district or parallel conditional zoning district, subject to compliance with the use-specific standards referenced in the final column of the use table (and conditions imposed as part of a Conditional Rezoning, if applicable). An "MP" is used in the columns for the planned development districts, and specifies the allowable use types in a particular planned development district provided the use type is set out in an approved master plan. Permitted uses are subject to all other applicable regulations of this UDO, including those set forth in Article 5: *Development Standards*, and Article 6: *Subdivision Standards*.

#### 4. Special Uses

An "S" in a cell of the use table indicates that the corresponding use category or use type is allowed in the corresponding base zoning district only upon approval of a Special Use Permit in accordance with Section 2.3.D, *Special Use Permit*, any use-specific standards referenced in the final column of the use table. Uses subject to a Special Use Permit are subject to all other applicable regulations of this UDO, including those set forth in Article 5: *Development Standards*, and Article 6: *Subdivision Standards*.

#### 5. Allowed Uses Subject to a Planned Development District Classification

An "MP" in a cell indicates that a use category or use type is allowed by right in a planned development district, subject to compliance with the use-specific regulations set forth in the final column of the table and provided the use is set out as a possible use type in an approved planned development master plan. Allowed uses are subject to other applicable regulations in this UDO, including those set forth in Section 3.8, *Planned Development*

*Districts*. Use types that are blank are not allowable in a particular planned development district, and shall not be included in a master plan.

### 6. Prohibited Uses

An "NA" in a cell indicates indicates that the use type is prohibited in the corresponding zoning district.

### 7. Uses in MR District

Table 4.1.1, *Use Table*, does not include a column for the MR District, and the only uses allowed shall be those solely and directly related to military purposes as determined by the federal government or its representatives.

### 8. Use-Specific Standards

When a particular use category or use type is permitted in a zoning district, there may be additional regulations that are applicable to a specific use. The existence of these use-specific standards is noted through a section reference in the last column of the use table titled "Additional Requirements." References refer to Section 4.2, *Use-Specific Standards*. These standards shall apply to a particular use regardless of the base zoning district where it is proposed unless otherwise specified.

### 9. Use Restricted or Prohibited by Overlay Zoning District

Regardless of whether the use table identifies a particular use type as a permitted use, or special use in a zoning district, or references additional requirements for the use type, the use type may be restricted or prohibited, or subject to more restrictive additional requirements, in accordance with applicable overlay district provisions in Section 3.9, *Overlay Zoning Districts*.

### 10. Unlisted Uses

The Development Services Director shall determine whether or not an unlisted use is part of an existing use category or use type defined in Section 9.3, *Use Classifications, Categories, and Types*, or is substantially similar to an already defined use type, using the standards in Section 9.3.A.4, *Interpretation of Unlisted Uses*.

## B. Use Table

**Table 4.1.1: Use Table**

P = Permitted Use S = Special Use MP = Allowed Subject to a PD Master Plan NA = Prohibited

| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF-LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-M | PD-T | |
| AGRICULTURAL USES | | | | | | | | | | | | | | | | | | |
| **Agriculture** | Livestock | S | S | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | |
| | Plant nursery | P | P | NA | NA | NA | NA | NA | NA | P | NA | NA | P | P | NA | MP | MP | |
| **Agricultural Support and Services** | Horse stable | P | P | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA NA | MP | NA | MP | A.1 |
| RESIDENTIAL USES | | | | | | | | | | | | | | | | | | |
| **Household Living** | Dwelling, duplex | NA | NA | NA | NA | NA | P | P | NA | NA | S | P | NA | NA | MP | MP | MP | B.1.a |
| | Dwelling, live/work | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | S | MP | MP | MP | B.1.b |
| | Dwelling, mansion apartment | NA | NA | NA | NA | S | S | S | S | S | S | S | NA | NA | MP | MP | MP | B.1.c |
| | Dwelling, mobile home | P | P | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | B.1.d |
| | Dwelling, modular | P | P | P | P | P | P | P | NA | NA | NA | NA | NA | NA | NA | NA | NA | B.1.e |
| | Dwelling, multi-family* | NA | NA | NA | NA | NA | NA | P | NA | NA | S | P | NA | NA | MP | MP | MP | B.1.f |
| | Dwelling, multi-family 350' or more from main roadway* | NA | NA | NA | NA | NA | NA | P | NA | NA | S | P | P | NA | MP | MP | MP | B.1.f |
| | Dwelling, single-family detached | P | P | P | P | P | P | NA | NA | NA | P | P | NA | NA | MP | MP | MP | B.1.g |
| | Dwelling, townhouse | NA | NA | NA | NA | NA | NA | P | NA | NA | S | P | NA | NA | MP | MP | MP | B.1.f |
| | Dwelling, upper story | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | S | MP | MP | MP | |
| | Mobile home park or subdivision | S | S | NA | NA | NA | S | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | B.1.i |
| **Group Living** | Family care home and Group home | NA | NA | NA | NA | NA | S | S | NA | NA | S | S | S | NA | MP | MP | MP | B.2.a |
| | Rooming or boarding house | NA | NA | NA | NA | NA | S | S | NA | NA | S | S | S | NA | MP | MP | MP | B.2.b |
| PUBLIC AND INSTITUTIONAL USES | | | | | | | | | | | | | | | | | | |
| **Community Services** | Community center* | S | S | S | S | S | S | S | P | S | S | P | P | NA | MP | MP | MP | |
| | Cultural facilities* | NA | NA | NA | NA | S | S | NA | P | P | S | P | NA | NA | MP | MP | MP | |
| | Library* | S | S | S | S | S | S | S | P | P | S | P | P | P | MP | MP | MP | |
| | Museum* | S | S | S | S | S | S | S | P | P | S | P | P | NA | MP | MP | MP | |

**Table 4.1.1: Use Table**

P = Permitted Use S = Special Use MP = Allowed Subject to a PD Master Plan NA = Prohibited

| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF-LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-M | PD-T | |
| | Senior center* | S | S | S | S | S | S | S | P | P | S | P | S | NA | MP | MP | MP | |
| **Day Care** | Adult day care* | S | S | S | S | S | S | S | P | P | S | P | P | NA | MP | MP | MP | C.2.a |
| | Child day care* | S | S | S | S | S | S | S | P | P | S | P | P | S | MP | MP | MP | C.2.b |
| **Educational Facilities** | College or university* | NA | NA | NA | NA | NA | NA | NA | P | NA | S | P | P | NA | NA | MP | MP | |
| | School, elementary* | P | P | P | P | P | P | P | P | NA | P | P | P | NA | MP | NA | MP | |
| | School, middle* | P | P | P | P | P | P | P | P | NA | P | P | P | NA | MP | NA | MP | |
| | School, high* | S | S | S | S | S | S | S | P | NA | P | P | P | NA | NA | MP | MP | |
| | Vocation or trade school* | NA | NA | NA | NA | NA | NA | NA | P | NA | S | P | P | P | NA | MP | MP | |
| **Governmental Facilities** | Government maintenance or distribution | NA | NA | NA | NA | NA | S | S | NA | NA | S | S | P | P | MP | MP | MP | |
| | Offices* | NA | NA | NA | NA | NA | NA | S | P | P | P | S | P | P | MP | MP | MP | |
| | Post office | NA | NA | NA | NA | NA | NA | S | P | P | NA | S | P | P | MP | MP | MP | |
| **Health Care Facilities** | BloodNAtissue collection facility | NA | NA | NA | NA | NA | NA | NA | P | NA | NA | P | P | NA | NA | MP | MP | |
| | Drug/Aalcohol treatment facility | NA | NA | NA | NA | NA | NA | NA | S | NA | NA | S | P | S | NA | MP | NA | |
| | Hospital* | NA | NA | NA | NA | NA | NA | NA | P | NA | NA | S | P | NA | NA | MP | MP | C.3.a |
| | Medical/dental clinic* | NA | NA | NA | NA | NA | NA | NA | P | P | S | P | P | NA | NA | MP | MP | |
| | Medical treatment facility* | NA | NA | NA | NA | NA | NA | NA | P | P | NA | P | P | NA | NA | MP | MP | C.3.b |
| **Institutions** | Assisted living facility* | S | S | S | NA | NA | S | P | P | P | S | P | P | NA | MP | MP | MP | |
| | Auditorium* | NA | NA | NA | NA | NA | NA | NA | P | NA | NA | P | P | NA | NA | MP | MP | |
| | Club or lodge* | S | S | S | S | S | S | S | P | S | S | P | P | S | MP | MP | MP | |
| | Convention center* | NA | NA | NA | NA | NA | NA | NA | S | NA | NA | P | P | S | NA | MP | NA | |
| | Halfway house | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | MP | MP | MP | C.3.A |
| | Homeless Shelters | NA | NA | NA | NA | NA | NA | NA | NA | NANA | NA | NA | S | P | NA | NA | NA | C.3.B |
| | Nursing home* | S | S | NA | NA | NA | NA | P | P | P | S | P | P | NA | MP | MP | MP | |
| | Religious institution* | S | S | S | S | S | S | P | P | P | S | P | P | S | MP | MP | MP | |
| **Parks and Open Areas** | Arboretum or garden | P | P | P | P | P | P | P | P | P | P | P | P | S | MP | MP | MP | |
| | Cemetery | S | S | NA | N | NA | N | NA | S | NA | S | P | NA | NA | MP | MP | NA | C.4.a |

**Table 4.1.1: Use Table**

P = Permitted Use S = Special Use MP = Allowed Subject to a PD Master Plan NA = Prohibited

| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF-LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-M | PD-T | |
| | | | | | A | | A | | | | | | | | | | | |
| | Community dock, major | S | S | S | S | S | S | S | NA | NA | S | S | P | P | MP | MP | MP | |
| | Community dock, minor | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | |
| | Community garden | P | P | P | P | P | P | P | P | P | P | P | P | S | MP | MP | MP | |
| | Marina | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | P | NA | NA | NA | NA | |
| | Park | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | |
| | Square or plaza | S | S | S | S | S | P | P | P | P | P | P | P | P | MP | MP | MP | |
| **Public Safety** | Correctional facility* | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | S | NA | NA | NA | C.5.a |
| | Fire or EMS facility | S | S | S | S | S | S | S | P | P | S | P | P | P | MP | MP | MP | |
| | Police station | S | S | S | S | S | S | S | P | P | S | P | P | P | MP | MP | MP | |
| **Trans-portation** | Airport | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | |
| | Helicopter landing facility | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | |
| | Passenger terminal* | NA | NA | NA | NA | NA | NA | NA | S | S | NA | P | P | P | MP | MP | MP | |
| | Private landing strip | S | S | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | |
| **Utilities** | Telecommunications antenna, collocation* | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | C.6 |
| | Telecommunications tower, freestanding* | S | S | S | S | S | S | S | S | S | S | S | S | P | MP | MP | MP | |
| | Utility, major | S | S | S | S | S | S | S | S | S | S | S | P | P | MP | MP | MP | C.7 |
| | Utility, minor | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | | |
| **Adult Establish-ments** | All | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | NA | NA | D.1 |
| **Animal Care** | | | | | | | | | | | | | | | | | | D.2 |
| | Kennel, indoor or outdoor | NA | NA | NA | NA | NA | NA | NA | P | P | NA | NA | P | P | MP | MP | MP | |
| | Veterinary clinic with outdoor kennel | NA | NA | NA | NA | NA | NA | S | P | S | NA | S | P | P | NA | MP | MP | |
| | Veterinary clinic without outdoor kennel | NA | NA | NA | NA | NA | NA | S | P | S | NA | P | P | P | NA | MP | MP | |
| **Billboards** | All | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | NA | NA | D.3 |

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| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
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| **Eating Establishments** | Restaurant, with indoor or outdoor seating | NA | NA | NA | NA | NA | NA | S | S | P | NA | P | P | P | MP | MP | MP | D.4.a |
| | Restaurant, with drive-through service | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | MP | MP | MP | D.4.b |
| | Specialty eating establishment, with or without drive-through service | NA | NA | NA | NA | NA | NA | S | P | P | NA | P | P | P | MP | MP | MP | |
| **Offices** | Business, financial, professional services* | NA | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | MP | MP | MP | |
| | | | | | | | | | | | | | | | | | | |
| **Parking** | Vehicular use area | NA | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | MP | MP | MP | D.5.a |
| | Parking structure | NA | NA | NA | NA | NA | NA | NA | P | P | S | S | P | P | MP | MP | MP | D.5.b |
| | Vehicle storage | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | P | NA | MP | NA | |
| **Personal Services Establishment** | Financial institution (without drive-through) | NA | NA | NA | NA | NA | NA | NA | P | P | NA | P | P | S | MP | MP | MP | D.6.b |
| | Financial institution (with drive-through) | NA | NA | NA | NA | NA | NA | NA | S | S | NA | NA | P | P | NA | MP | MP | |
| | Funeral home | NA | NA | NA | NA | NA | NA | NA | P | NA | S | P | P | P | NA | MP | MP | D.6.a |
| | Laundromat | NA | NA | NA | NA | NA | NA | S | P | P | NA | P | P | P | MP | MP | MP | |
| | Pawn shop/Lending institution | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | S | NA | MP | MP | |
| | Repair establishment | NA | NA | NA | NA | NA | NA | NA | P | P | NA | P | P | P | NA | MP | MP | |
| | Tattoo parlor/piercing establishment | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | MP | |
| | Personal services establishment | NA | NA | NA | NA | NA | NA | NA | S | P | NA | P | P | S | MP | MP | MP | |
| **Recreation and Entertainment** | Arcade | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | P | P | NA | NA | MP | MP | |
| | Arcade, Adult | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Arena, stadium, or coliseum* | S | S | NA | NA | NA | NA | NA | P | NA | NA | P | P | P | NA | MP | MP | D.7.a |
| | Athletic field or court* | P | P | P | P | P | P | P | P | NA | S | P | NA | NA | MP | MP | MP | D.7.c |
| | Golf course | P | P | P | P | P | P | P | NA | NA | S | S | S | NA | MP | MP | MP | |

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| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF-LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-M | PD-T | |
| | Indoor commercial recreation* | NA | NA | NA | NA | NA | NA | NA | S | P | S | P | P | P | MP | MP | MP | |
| | Outdoor commercial recreation* | S | S | NA | NA | NA | NA | NA | S | P | S | P | P | S | MP | MP | MP | |
| | Sweepstakes Establishment | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | |
| | Swimming pool | S | S | S | S | S | S | S | P | P | P | P | P | S | MP | MP | MP | D.7.b |
| | Theatre, Indoor* | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | MP | MP | |
| **Retail Sales** | Bar, nightclub, lounge, brown-bagging or tavern* | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | S | S | S | NA | MP | MP | |
| | BilliardNApool hall (with alcohol sales) | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | P | S | S | NA | MP | MP | |
| | BilliardNApool hall (without alcohol sales) | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | P | P | P | NA | MP | MP | |
| | Convenience store (without gas sales) | NA | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | MP | MP | MP | D.8.a |
| | Convenience store (with gas sales) | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | S | P | P | MP | MP | MP | |
| | Drug store (without drive-through) | NA | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | MP | MP | MP | D.8.b |
| | Drug store (with drive-through) | NA | NA | NA | NA | NA | NA | NA | P | S | NA | NA | P | P | NA | MP | MP | |
| | Flea market | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | S | NA | MP | MP | |
| | Gasoline sales | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | P | NA | MP | MP | D.8.c |
| | General | NA | NA | NA | NA | NA | NA | NA | NA | S | S | P | P | P | NA | MP | MP | |
| | Grocery store* | NA | NA | NA | NA | NA | NA | NA | S | S | P | P | P | S | MP | MP | MP | |
| | Hookah lounge | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | S | S | NA | MP | MP | |
| | Liquor store | NA | NA | NA | NA | NA | NA | NA | S | S | NA | P | P | P | NA | MP | MP | |
| | Outdoor Sales (as a principal use) | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | NA | |
| | Shopping center* | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | NA | MP | MP | |
| **Self-Service Storage** | All | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | MP | D.9 |
| **Vehicles Sales and Services** | Automotive sales or rentals | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | MP | D.10.d |
| | Automotive painting/body shop | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | | D.10.a |
| | Automotive | NA | NA | NA | N | NA | N | NA | N | S | N | S | P | P | NA | MP | MP | D.10.b |

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| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF-LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-M | PD-T | |
| | parts/installation | | | | A | | A | | A | | A | | | | | | | |
| | Automotive repair and servicing (without paintingNAbodywork) | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | S | P | P | NA | MP | MP | D.10.c |
| | Automotive wrecker service | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | D.10.e |
| | Boat and marine rental/sales | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | S | P | P | NA | MP | NA | |
| | Boat repair and servicing | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | NA | NA | |
| | Recreational vehicle rental/sales | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | NA | |
| | Taxicab operation | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | P | MP | MP | MP | |
| | Truck and trailer rental/sales | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| **Visitor Accom-modations** | Bed & breakfast | NA | NA | NA | NA | S | P | P | P | P | P | P | P | NA | MP | MP | MP | 110.a |
| | Hotel/motel* | NA | NA | NA | NA | NA | NA | NA | S | S | NA | P | P | NA | NA | MP | MP | 11.b |
| INDUSTRIAL USES | | | | | | | | | | | | | | | | | | |
| **Extractive Industry** | All | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | E.1 |
| **Industrial Services** | Building, heating, plumbing, or electrical contractor | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Concrete / asphalt plant | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | MP | NA | |
| | Electric motor repair | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | MP | E.2.a |
| | Fuel oil/bottled gas distributor | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | MP | NA | |
| | Flex space | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | NA | |
| | Heavy equipment sales, rental, or storage | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Heavy equipment servicing and repair | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | E.2.b |
| | Laundry, dry cleaning, and carpet cleaning plants | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | E.2.c |
| | Machine shop | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Repair of scientific or professional | NA | NA | NA | NA | NA | NA | NA | S | S | NA | S | P | P | NA | MP | MP | |

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| Use Category | Use Type | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Standards 4.2. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF-LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-M | PD-T | |
| | instruments | | | | | | | | | | | | | | | | | |
| | Research and development | NA | NA | NA | NA | NA | NA | NA | P | NA | NA | P | P | P | NA | MP | MP | |
| | Tool repair | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | MP | |
| **Manu-facturing and Production** | Manufacturing, heavy | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | MP | NA | E.3.a |
| | Manufacturing, light | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| **Warehouse and Freight Movement** | Cold storage plant | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Outdoor storage (as a principal use) | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | E.4.a |
| | Parcel services | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | P | NA | MP | MP | E.4.b |
| | Truck or freight terminal | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Warehouse (distribution) | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | |
| | Warehouse (storage) | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | P | NA | MP | MP | |
| **Waste-Related Services** | Incinerator | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | |
| | Land application of wastes | S | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | |
| | Landfill, construction debris | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | NA | NA | E.5.b |
| | Landfill, land clearing and inert debris | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | |
| | Landfill, sanitary | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | E.5.c |
| | Recycling and salvage center | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | NA | MP | NA | E.5.d |
| | Recycling drop-off center | S | S | S | S | S | S | S | S | P | S | S | P | P | MP | MP | MP | E.5.e |
| | Salvage and junkyard | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | NA | MP | NA | E.5.f |
| | Tire disposal or recycling | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | MP | NA | |
| | Waste composting | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | MP | NA | |
| **Wholesale Sales** | All | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | S | P | P | NA | MP | MP | E.6 |

*Subject to Flight Path Overlay (See Section 3.9.F)

# 4.2 USE-SPECIFIC STANDARDS

Use-specific standards are the requirements applied to individual use types regardless of the zoning district in which they are located or the review procedure by which they are approved. This section is intended to identify the use-specific standards for all principal uses identified in Table 4.1.1, *Use Table*, as subject to "additional standards." These standards may be modified by other applicable requirements in this UDO.

## A. Agricultural Uses

### 1. Agricultural Support

#### Horse Stable

Horse stables shall comply with the following requirements:

(1) **Minimum Site Size**

Horse stables shall have a minimum pasture area of at least 2 acres for each of the first two horses and an additional 1 acre of pasture for each additional horse after four.

**Table 4.3.1: Minimum pasture Size**

| # of Horses | Minimum Pasture Size (Acres) |
|---|---|
| 1 | 2 |
| 2 | 4 |
| 3 | 5 |
| 4 | 6 |
| For each additional horse over 4, 1 acre of additional pasture area shall be provided | |

(2) **Minimum Stall Size**

Each horse stall shall be at least 120 square feet in size.

(3) **Minimum Area for Feed, Supplies and Manure/Bedding Storage**

Horse stables with 10 horses or less shall provide 144 square feet of storage space for feed and supplies. Horse stables with more than 10 horses shall provide 144 square feet of storage space for feed and supplies, plus both a separate hay storage and separate grain bin large enough to accommodate hay and grain needed to feed 10 horses for 7 days.

Manure storage for all stables shall be designed to accommodate either 7 cubic yards of material per horse that is properly disposed of monthly or storage for 20 cubic yards of material per horse that shall be properly disposed of at least once per year.

(4) **Setbacks**

Horse stables shall comply with the following setbacks:

**Table 4.3.2: Horse Stable Setbacks**

| Feature | Setback from Closest Adjoining Dwelling (feet) | Setback from Lot Lines (feet) |
|---|---|---|
| Pasture | 100 | 20 |
| Stalls | 200 | 50 |
| Manure and Feed Storage | 400 | 100 |

## B. Residential Uses

### 1. Household Living

#### (a) Dwelling, Duplex

(1) Duplex dwellings are subject to the design standards for single-family homes in Section 5.11, *Single-Family Design Standards*.

#### (b) Dwellings, Live/Work

Live/work dwellings shall comply with the following standards:

(1) The nonresidential portion of the building shall be located on the ground floor, and shall have direct access to the outside.

(2) The nonresidential portion of the building shall comply with all applicable nonresidential building code requirements.

(3) Drive-through facilities are prohibited.

(4) The use shall comply with the parking, landscaping, and open space standards for mixed uses in Article 5: *Development Standards*.

#### (c) Dwelling, Mansion Apartment

Mansion apartments shall comply with the standards for two- to four-family homes in Section 4.2.B.1.f, except that more than one dwelling entrance may be located on any single building façade.

#### (d) Dwelling, Mobile Home

All mobile homes located on their own individual platted lot shall comply with the following standards:

(1) The home shall be oriented with its longer side parallel to the adjacent street, to the maximum extent practicable.

(2) All transport lights, tongue, and moving hitch shall be removed before occupancy of the home.

(3) The roof of the mobile home shall be finished with a type of shingle typically used in stick-built construction or other material as determined appropriate by the Development Services Director.

(4) The exterior siding of the home shall consist predominately of wood,

hardboard, vinyl, or aluminum horizontal lap siding not exceeding the reflectivity of gloss white paint, and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in site-built residential construction.

(5) The home shall be located on a poured foundation or on a continuously-dug and poured concrete footing around the perimeter of the home. The home shall include a continuous and permanent brick, stone, or masonry foundation or curtain wall from the frame to the ground, unpierced except for required ventilation and access.

### (e) Dwelling, Modular

Modular dwellings are subject to the same requirements and procedures as single-family dwellings.

### (f) Dwelling, Multi-family

All multi-family dwellings and townhouses shall comply with the design standards for multi-family uses in Section 5.10, *Multi-family Design Standards*.

### (g) Dwelling, Single-Family Detached

All single-family detached dwellings shall comply with the design standards for single-family uses in Section 5.11, *Single-Family Design Standards*. Rentals for a period less than 90 days is prohibited.

### (h) Mobile Home Park

Mobile home parks shall comply with the following standards:

#### (1) Manufactured Home Subdivisions Distinguished

Manufactured home subdivisions where each manufactured home is located on its own lot shall be subject to all applicable district provisions in Article 3: *Zoning Districts*, development standards in Article 5: *Development Standards*, and subdivision standards in Article 6: *Subdivision Standards*. Manufactured home subdivisions shall be exempt from these mobile home park standards.

#### (2) Generally

i. The mobile home park shall be at least ten acres in size.

ii. The operator of a mobile home park shall maintain an accurate record of all mobile home spaces and homes in the park, including the name and address of the home owner, the names and address of home occupants, the date homes were located in the park, and the date homes were removed from the park. The operator shall make the record available at all times for inspection by City staff.

iii. Each home within a park shall bear a valid seal indicating conformance with the 1976 National Manufactured Housing Construction and Safety Standards Act.

iv. Mobile home spaces created within a mobile home park shall not be sold or conveyed as individual lots.

#### (3) Design

i. There shall be no more than one mobile home per home space.

ii. Each mobile home park space shall be at least 35 feet in width and be at least 4,000 square feet in area.

iii. The park shall have a Type A buffer between it and any abutting property or public right-of-way, in accordance with Section 5.2.F, *Bufferyards*.

iv. The park and facilities within it shall be maintained in a clean, orderly, and sanitary condition. No trash, debris, or other material shall be allowed to accumulate on the park site. Nor shall any other condition that makes the park unsightly or unsanitary be allowed.

v. Each mobile home park shall have a central garbage and vegetation collection point. The Development Services Director may allow and/or require additional collection points based on the size of the park.

(4) **Setbacks**

Mobile homes shall comply with the following setbacks:

i. 10 feet from the boundary of any home space;

ii. 20 feet from any internal street serving the park; and

iii. 25 feet from the right-of-way of any public street outside the park.

(5) **Interior Park Driveways and Parking**

i. The park shall abut and have vehicular access from a public street. Multiple access points may be required to ensure adequate public safety.

ii. Interior park driveways shall include a private right-of-way that is at least 30 feet wide, with at least 22 feet that is graded, drained, and paved with at least 1.5 inches of asphalt.

iii. All interior drives and walkways within the park shall be lighted in accordance with the street lighting specifications in the City regulations.

iv. Cul-de-sacs shall maintain a minimum turning radius in accordance with the City of Jacksonville's *Manual of Specifications Standards and Design (MSSD)*.

(6) **Utilities**

i. Each mobile home space shall be provided with public potable water and wastewater facilities in accordance with City policies and standards and all applicable plumbing standards in the State Building Code.

ii. The park shall be designed and graded in accordance with City engineering standards to allow for the adequate run-off of stormwater.

iii. The park owner or operator shall be responsible for provision of refuse disposal.

### 2. Group Living

#### (a) Family Care Home and Group Homes

A family care home and group home See Section 9.4 *Definitions* shall meet the following minimum conditions.

(1) The activity shall not be inconsistent with the use of the premises as a dwelling;

(2) Family care homes and group homes must be licensed by the appropriate North Carolina licensing department and must meet all applicable Code requirements;

(3) There shall be no exterior evidence from a public right-of-way of a family care home or group home except a sign as permitted by Part C below;

(4) A family care home or group home shall not be permitted within the ½ mile radius of another family care home or group home. Spacing shall be measured from the center of the parcel on which the group home is located;

(5) No family care home or group home shall result in garbage disposal exceeding standard residential use;

(6) An indirectly lighted name plate or professional sign not over one square foot in area and attached flat against the building shall be permitted in connection with an incidental family care home or group home;

(7) An inspector shall have the right at any time, upon reasonable request, to enter and inspect the premises for safety and compliance purposes, with the consent of the property owner; and

(8) Existing facilities that cannot meet the requirements of this ordinance but were licensed by the NC Division of Facility Services and obtained home occupation permits from the City after October 17, 2007 will be deemed nonconforming uses. All others shall cease operations

#### (b) Rooming or Boarding House

A rooming or boarding house shall comply with the following standards:

(1) No more than five rooms shall be available for rent;

(2) The owner shall maintain the house as a primary residence;

(3) Sleeping rooms in a rooming house shall:

i. Not include individual kitchen facilities; and

ii. Be accessed by a common room or hallway, and shall not have individual access to the outside (except for emergency exits).

## C. Public and Institutional Uses

### 1. Day Care

#### (a) Adult Day Care Centers

Adult day care centers shall be licensed by the state, comply with all state regulations for adult care centers, and the following standards:

(1) **Location**

If not located in a stand-alone building, an adult day care center shall be located on the first floor of a principal structure, and be segregated (including the restrooms) from the remaining portion of the building in which it is located.

(2) **Separation**

Adult day care centers shall be located at least 500 linear feet from any adult establishment.

### (b) Child Day Care Centers

Child day care centers, including pre-schools, shall be licensed as a child care center by the state and comply with all state regulations for child care centers and the following standards:

(1) **Location**

If not located in a stand-alone building, a child day care center shall be located on the first floor of a principal structure, and be segregated (including the restrooms) from the remaining portion of the building in which it is located.

(2) **Separation**

Child day care centers shall be located at least 500 linear feet from any adult establishment.

(3) **Outdoor Play Areas**

Outdoor play areas shall be provided, and shall:

i. Be completely enclosed by a fence that meets any/all state requirements;

ii. Not be operated for outdoor play activities after 8:00 P.M.

(4) **Parking Area**

The design of the parking areas and vehicular circulation for the child day care center shall be approved by the City.

## 2. Health Care Facilities

### (a) Hospitals

A hospital shall:

(1) Be located on a site or parcel with an area of at least five acres.

(2) Be located on a parcel that fronts or has direct access to an arterial or collector street, to the maximum extent practicable.

(3) Be served by a public water and wastewater system.

(4) Principal structures shall be located at least 100 feet from any lot line.

### (b) Medical Treatment Facilities; Outpatient Facilities

A medical treatment facility or outpatient facility shall:

(1) Be small-scale (have a gross floor area not exceeding 5,000 square feet) in the NC district; and

(2) Design visitor and patient facilities associated with the use so as to be compatible with surrounding uses.

## 3. Institutions

### (a) Halfway House

A halfway house shall be located a minimum of 1,000 feet from:

(1) Another Facility;

(2) Pre-school, daycare or similar facility; and

(3) Residential Zoning Districts

### (b) Homeless Shelters

A homeless shelter shall be located a minimum of 1,000 feet from:

(1) Another Facility;

(2) Pre-school, daycare or similar facility; and

(3) Residential Zoning Districts

## 4. Parks and Open Areas

### (a) Cemeteries

(1) Cemeteries existing prior to the effective date of the UDO are exempt from these standards, and may continue in accordance with all applicable state laws.

(2) Except as otherwise noted, new cemeteries and the expansion of existing cemeteries shall comply with the following standards:

i. New cemeteries shall be located on a site or parcel with an area of at least 20 acres. (This standard shall not apply to existing cemeteries or the expansion of existing cemeteries.)

ii. New cemeteries shall be located on a site or parcel that fronts an arterial or collector street. (This standard shall not apply to existing cemeteries or the expansion of existing cemeteries.)

iii. Cemeteries shall include adequate space for the parking and maneuvering of funeral processions.

iv. Gravesites shall be set back at least 50 feet from any exterior lot line and comply with all requirements of the North Carolina General Statutes.

## 5. Public Safety Facilities

### (a) Correctional Facilities

Correctional facilities shall be located at least 1,500 feet from any residential single-family (RSF) zoning districts.

## 6. Telecommunications Facilities

### (a) Purpose

This section is intended to establish general standards for the siting of telecommunications towers and antennas that will:

(1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;

(2) Encourage the location of towers in nonresidential areas;

(3) Minimize the total number of new towers throughout the City;

(4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

(5) Encourage the location of towers and antennas in areas where the adverse impact on the community is minimal;

(6) Encourage towers and antennas to be carefully sited, designed, and screened to minimize their adverse visual impact;

(7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

(8) Consider the public health and safety concerns of communication towers and antennas; and

(9) Encourage the use of engineering and careful siting of tower structures to avoid potential damage to adjacent properties from tower failure.

(10) Protect the flight paths of the military facilities established by the flight path overlay.

### (b) Applicability

All new telecommunications facilities, whether a principal or accessory use, shall be subject to these standards unless specifically exempted in Section 4.2.C.6.C, *Exemptions*.

### (c) Exemptions

#### (1) Antennas and Telecommunication Towers

The following types of telecommunications facilities shall be exempt from the standards in Section 4.2.C.6.d.2 related to height (unless they are within the flight path overlay), monopole configuration, separation from other towers, collocation and replacement of existing towers, but shall be required to obtain approval as a Type I site plan prior to development:

i. Emergency communication towers owned by the City.

ii. Freestanding towers on City-owned property.

iii. Other public agency towers, that are used wholly or in part for public safety or emergency communications purposes.

iv. Antennas and antenna supporting structures operated by a public utility regulated by a Public Utility Commission.

v. Any antenna or communication tower attached to, or located on, an existing building, water tower, power transmission line tower or

other structure, which is located on City-owned property, provided such antenna or communication towers are no taller than 30 feet or 30 percent of the height of the existing structure, whichever is less.

(2) **Other Facilities**

The following shall be exempt from the standards of this section (but shall be required to comply with other relevant standards within this Ordinance):

i. Satellite dish antennas.

ii. Receive-only television or radio antennas for noncommercial use.

iii. Antennas legally operated by FCC-licensed amateur radio operators.

## (d) Freestanding Towers

Freestanding telecommunications towers, whether as a principal or accessory use, shall comply with the following standards:

(1) **Safety**

Before obtaining a building permit, the applicant shall submit engineering drawings to the Development Services Director, sealed by a licensed engineer, that include a statement that the tower will meet all applicable local, state, and federal building codes and structural standards.

(2) **Height**

i. The height of a telecommunications tower, including any building or structure atop which they tower is located, shall not exceed 199 feet unless approved as a Special Use Permit (see Section 2.3.D).

ii. In no instance shall a tower exceed 300 feet in height.

(3) **Aesthetics**

i. Towers shall either maintain a galvanized steel finish or be painted.

ii. Towers shall be camouflaged with the surrounding area, through paint, incorporation into architectural design/structure, or other means, to the maximum extent practicable.

iii. The exterior appearance of ground-based accessory structures located within a residential zoning district shall be designed to look like a residential structure typical of the district (e.g., with a pitched roof and frame or brick siding).

iv. All telecommunication towers shall be of the monopole variety, and shall be self-supporting without any additional supporting wires or guy anchors, unless another design is approved as a Special Use Permit (see Section 2.3.D).

(4) **Lighting**

If lighting is required by the Federal Aviation Administration (FAA), it shall comply with FAA standards. To the extent allowed by the FAA, strobe lights shall not be used for nighttime lighting and lighting shall be oriented so as not to project directly onto any surrounding residentially-zoned

property. Documentation from the FAA that the lighting is the minimum lighting it requires shall be submitted to the Development Services Director before issuance of any Building Permit for the tower.

(5) **Setbacks**

i. Telecommunications towers shall be set back from abutting property lines the distance equal to or exceeding that in Table 4.2.C.6.d.5, *Freestanding Telecommunications Tower Setback Standards*.

**Table 4.2.C.6.d.5: Freestanding Telecommunications Tower Setback Standards**

| Zoning District | Minimum Setback |
|---|---|
| CC and IND | Greater of: ½ tower height or equal to the fall zone/distance of the tower as certified by a licensed and certified structural engineer, but in any event no less than 50 feet |
| All other districts | Tower height |

ii. Buildings associated with a telecommunications facility shall meet the minimum setback requirements for the zoning district where located.

(6) **Separation from other Freestanding Telecommunication Towers**

New telecommunication towers shall not be located within 1,500 feet of an existing freestanding telecommunications tower. This standard shall not apply to a telecommunications tower placed out of view in a building or other structure.

(7) **Collocation**

i. No freestanding telecommunications tower shall be allowed unless it is demonstrated that no suitable existing tower, building, or other structure within the coverage area is available for the collocation of antennas.

ii. New freestanding telecommunications towers shall be designed to accommodate the present and future needs of the owner and at least two comparable users. Unused space on an existing telecommunications tower shall be made available to other users at a fair market rental unless mechanical, structural, or regulatory factors prevent collocation. In determining fair market rental, the rent paid by a current collocator under a swapping agreement need not be considered.

(8) **Buffer and Screening**

A type "A" buffer (see Section 5.2.F, *Bufferyards*), shall be provided around the perimeter of a freestanding telecommunications tower facility (including equipment structures and supports).

(9) **Security Fencing**

Towers, supports, and ground-based equipment buildings shall be enclosed by security fencing not less than eight feet in height. Security fencing may be green or black vinyl coated chain link; however, it shall be fully screened from view by adjacent streets with landscaping materials.

(10) **Interference**

No telecommunications tower, antenna, or supporting equipment shall disturb or diminish radio or television or similar reception on adjoining residentially zoned land.

(11) **Use of Associated Buildings**

Building and structures associated with a telecommunications tower shall not be used as an employment center for any worker. This does not prevent the periodic maintenance, inspection, and monitoring of equipment and instruments, or renovation of the facility.

(12) **No Outdoor Storage**

No outdoor storage shall be allowed on a telecommunications tower site.

(13) **Compliance with State or Federal Laws and Regulations**

Towers and antennas shall meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the state or federal government that regulates telecommunications towers and antennas.

(14) **Replacement of Existing Towers**

Existing freestanding towers may be replaced with a new tower that increases the number of collocation opportunities, subject to the following standards:

i. The height of the replacement tower shall not exceed 110 percent of the height of the replaced tower, but in no instance shall the height of the replacement tower exceed 199 feet unless approved as a special use permit (see Section 2.3.D). In no instance shall a tower exceed 300 feet.

ii. The replacement tower shall be located within 100 feet of the replaced tower, unless the Development Services Director determines that a farther distance furthers the purpose and intent of this UDO.

iii. The replacement tower shall comply with all the standards of this sub-section.

iv. All communication towers shall be of the monopole variety, and shall be self-supporting without any additional supporting wires or guy anchors, unless another design is approved as a special use permit (see Section 2.3.D).

(15) **Site Plan**

Before any new or replacement tower can be permitted, a site plan shall be submitted in accordance with Section 2.3.C Site Plans and/or Section 2.3.D Special Use Permit.

(16) **Discontinued Use**

If a telecommunications tower is not used for a period of six consecutive months, the Development Services Director may send the tower owner notice indicating that the tower must be removed within 90 days from the date of notice.

(e) **Collocation of Antennas on Existing Towers**

Antennas may be collocated on existing towers if they comply with the following standards:

(1) It is demonstrated the tower can accept the additional structural loading created by the collocation.

(2) Any modification of an existing tower to accommodate the collocation of additional antenna shall comply with the height limit established for freestanding telecommunications towers in Section 4.2.C.6.d.2, *Height*.

(3) Antennas and associated equipment shall comply with the safety, lighting, interference, and regulatory compliance standards for telecommunications towers included within this subsection.

(f) **Placement of Antennas on an Existing Buildings**

An antenna may be attached to any business or multi-family residential building in accordance with the following standards:

(1) **Height**

The antenna shall not extend above a height 20 percent higher than the highest point of the building or structure.

(2) **Other Standards**

Antennas and associated equipment shall comply with the safety, lighting, interference, and regulatory compliance standards for telecommunications towers included within this sub-section.

(3) **Screening**

i. Antennas visible from the street shall be omni-directional, be screened, or be camouflaged to the maximum extent practicable to minimize their appearance.

ii. All other equipment shall be located within the building or screened in some other fashion to prevent off-site views.

7. **Utility, Major**

An electrical power generation facility, substation, or transmission station shall be set back at least 100 feet from all lot lines.

## D. Commercial Uses

1. **Adult Establishments**

(a) All adult establishments are subject to the Adult Business Overlay District (See Section 3.9.B)

(b) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be

viewed from the sidewalk or the street in front of the building.

(c) No graphic or textual sign that is customarily construed as promoting the public's prurient interest may be directly or indirectly displayed referencing any of the following:

(1) Any nude or semi-nude activity occurring at the adult establishment,

(2) Any portion of the human anatomy or reference to any "specified anatomical parts", and

(3) Any other paraphernalia intended for use in "specified sexual activities."

(4) No flashing signs or lights may be used either on ground sign, wall sign or on any other portion of the building facade or site.

(d) All adult establishments shall be located a minimum of 500 feet in any direction from all of the following:

(1) Any residential use or zone;

(2) A church, synagogue, mosque, temple or any other structure used as a recognized place of worship;

(3) Any public or private school,

(4) A state licensed day care; and

(5) All public playgrounds, public swimming pools, or public parks.

(e) Furnish a site plan meeting all applicable City standards which includes the location of all land uses within 1,500 feet from the proposed use;

(f) All measurements shall be taken from the exterior walls of the building(s) containing the adult use to the residential zone boundary or the lot line of the lot on which the building containing the above uses are located;

(g) All adult establishments shall be located a minimum of 1,500 feet in any direction from any other adult establishment;

(h) All windows, doors, openings, entrances, etc., shall be located, covered, screened, or otherwise treated so the views into the interior of the establishment are not possible from any public or semi-public area, street, or way;

(i) All adult establishments shall not exceed a floor area reation (FAR) of .25 and a lot coverage requirement of 20 percent.

### 2. Animal Care Uses

Animal shelters, kennels (indoor and outdoor), and veterinary clinics shall comply with the following standards:

(a) The animal care use shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.

(b) Any open runs or pens used to house animals shall be located at least 30 feet from any lot line.

(c) Accessory uses to an indoor kennel may include retail sales and grooming services, as long as the accessory uses do not occupy more than 25 percent

of the total gross floor area.

(d) Incinerators may be included as an accessory use to an animal care use.

## 3. Eating Establishments

### (a) Restaurants with Indoor or Outdoor Seating

Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

(1) The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district.

(2) The outdoor portions of the restaurant shall not operate after 2:00 AM.

(3) The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.

(4) No music or entertainment outside of the establishment after 10 p.m. if within 1,000 feet of a residential zoning district.

### (b) Restaurants with Drive-Through Service

Restaurants having drive-through service shall comply with the following standards:

(1) Restaurants with drive-through facilities shall be located at least 100 feet from any residential zoning district and shall be arranged so the magnified ordering station is directed to reduce the impact of sound to the adjacent residential property.

(2) Drive-through facilities shall be designed so as not to obstruct the movement of pedestrians.

(3) Restaurants shall comply with the stacking space requirements in Section 5.1.L.7, *Stacking Spaces for Drive Through and Related Uses*.

## 4. Parking

### (a) Vehicular Use Areas

A commercial vehicular use area shall comply with the following standards:

(1) Parking shall be the principal use of the vehicular use area. Parking spaces may be rented for parking, or otherwise used in accordance with an approved Temporary Use Permit or other permit from the City, but no other business of any kind shall be conducted on the lot, including repair service, washing, display, or storage of vehicles or other goods.

(2) Commercial vehicular use areas shall not be located contiguous to a single-family residential zoning district.

### (b) Parking Structures

Parking structures shall comply with the following standards:

i. The ground-level of a parking structure shall be wrapped by retail, office, or some other active use along the primary façade, to the maximum extent practible.

ii. Architectural design for parking structures shall be approved at the time of the approval of a special use permit.

iii. Parking structure facades facing pedestrian-oriented streets shall be treated with high-quality materials and given vertical articulation and emphasis compatible to the principal structure. The façade shall be designed to visually screen cars. In no instance shall rails or cabling alone be sufficient to meet this screening requirement.

iv. Pedestrian entries shall be clearly visible from the street. Vertical circulation should not be located in the center of the structure or in a location that makes pedestrian access dangerous or inconvenient.

v. In the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building façade, they shall be an integral part of the overall building design and configured to minimize the visibility of parked cars.

vi. Short or long term storage of vehicles in a parking structure requires approval of a Special Use Permit (2.3.D).

vii. Requirede parking spaces may not be rented.

viii. No repair service, washing of vehicles, display, or storage of vehicles or other goods may occur within the parking structure.

## 5. Personal Service Establishments

### (a) In the OI and NC Districts

Personal service establishments in the OI and NC zoning districts shall comply with the following standards:

(1) An individual establishment shall have no more than 2,500 square feet of gross floor area.

(2) The business activities of the establishment shall be conducted within an enclosed building, with no more than 20 percent of the gross floor area devoted to storage.

(3) The establishment shall only sell products at retail.

### (b) Financial Institution, with Drive-Through Service

The drive-through facility shall be located to the side or rear of the primary building, where practicable.

## 6. Recreation/Entertainment

### (a) Arenas, Amphitheaters, and Stadiums

Arenas, amphitheaters, and stadiums shall comply with the following standards:

(1) Arenas and stadiums shall be located at least 500 feet from residential zoning districts.

(2) Arenas and stadiums shall be located on a site or parcel with an area of at least five acres.

(3) Arenas and stadiums shall be located on a site or parcel that, at the

primary point of access, has at least 200 feet of frontage on an arterial street.

(4) Arenas and stadiums shall locate access points to minimize traffic to and through local streets in residential neighborhoods.

(5) Arenas and stadiums shall provide safety fences, up to the height of eight feet, as necessary to protect the general health, safety, and welfare.

### (b) Swimming Pools

Swimming pools that are a principal use of a lot shall comply with the following standards. Swimming pools that are accessory uses shall comply with Section 4.3.C.15 *Swimming Pools, Spas, and Hot Tubs*.

(1) A swimming pool shall be set back a minimum of 10 feet from all sides and rear lot lines.

(2) The area containing the pool shall be enclosed per state standards.

(3) Pools with a capacity of 2,000 gallons or more shall have filtering and purification, or automatic water exchange equipment that changes the pool water every 24 hours.

(4) Any pump and filtering equipment and any appurtenant structures shall be located at least 10 feet from any lot line, shall be buffered for noise unless exempted by the Development Services Director.

(5) Lighting of the pool area shall comply with the exterior lighting standards in Section 5.5, *Exterior Lighting*.

(6) There shall be no commercial sales that are not an integral part of the pool use, nor shall any commercial displays be visible from the street or other property.

### (c) Tennis Courts

(1) All lighted tennis courts shall be located at least 50 feet from any adjacent residential use on a different lot.

(2) Lighted tennis courts open to the public shall be screened from any existing or proposed residential zoning district with a Type A buffer, in accordance with Section 5.2.F, *Bufferyard*.

## 7. Retail Sales and Services

Any retail establishment meeting the definition of a large retail establishment shall be subject to the standards for large retail establishments in Section 5.9, *Large Non Residential Design Standards*.

### (a) Convenience Stores

(1) Convenience stores shall be limited to a maximum square footage of 2,500 square feet in the DTR district.

(2) Convenience stores shall be limited to a maximum square footage of 4,000 square feet in NC district and the DTB district.

(3) Convenience stores larger than 4,000 square feet in size shall be considered grocery stores.

(4) Convenience stores with gasoline sales shall comply with the standards for gas sales uses in Section 4.2.D.7.c, *Gasoline Sal*es.

### (b) Drug Stores or Pharmacies, with Drive-Through Service

The drive-through facility shall be located to the side or rear of the primary building, where practicable.

### (c) Gasoline Sales

Uses that include the retail sales of gasoline and other automotive fuels shall comply with the following standards:

(1) Gasoline pumps, canopies, and associated service areas are prohibited in any required front yard in property zoned Neighborhood Commercial (NC) where said front yard is on a collector or arterial street. Additionally, these are prohibited in the DTR and DTB districts when placed in the front yard setback on a collector or arterial street.

(2) The gasoline sales use shall be limited to one vehicular access point per street. The access shall be located a minimum of 75 feet from any intersecting street right-of-way and at least 15 feet from any any lot line. If the parcel has more than 200 feet of frontage then a seoncd access may be established as part of a site plan approval process.

(3) Vehicular access points shall be no more than 36 feet wide.

(4) The gasoline sales use shall be designed to ensure safe and adequate vehicle stacking, circulation, and turning movements.

(5) Drive-through facilities and associated stacking lanes and circulation shall be prohibited in the front of the building or in a side yard abutting a street.

## 8. Self-Service Storage

Self-service storage uses shall comply with the following standards:

(a) The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site. The rental of moving trucks and trailers is permitted as an accessory use at a self-service storage facility. These trucks/trailers shall be kept/stored behind the front wall of the principal building.

(b) The minimum lot area shall be least two and one half acres.

(c) No more than one security or caretaker quarters may be developed on the site, and shall be integrated into the building's design.

(d) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

(e) Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

(f) Garage doors serving individual storage units shall be screened so as to not be visible from adjacent public streets.

(g) Open storage of recreational vehicles, travel trailers, and dry storage of boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:

(1) The storage shall occur only within a designated area, which shall be clearly delineated;

(2) The size of the storage area shall not exceed 25 percent of the buildable area of the site;

(3) Outdoor storage areas shall be located to the rear of the principal structure and be screened with on opaque fence or masonry wall at least eight feet high;

(4) Storage shall not occur within the areas set aside for minimum building setbacks;

(5) No dry stacking of boats shall be permitted on-site; and

(6) Vehicles shall be operable, and allowed on the premises for storage only.

(h) If separate buildings are constructed, there shall be a minimum separation of 20 feet between buildings.

(i) With the exception of a structure used as a security guard or caretaker quarters, or the redevelopment of an existing structure, the maximum height of a self-service storage facility shall be 24 feet.

(j) Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be 20 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.

(k) The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist at a minimum of standard directional signage and painted lane markings with arrows.

(l) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

(m) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with Section 5.5, *Exterior Lighting*.

(n) Hours of public access to a self-storage use abutting a residential zoning district or existing residential use shall be restricted to from 6:00 A.M. to 10:00 P.M.

(o) The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco, and painting of surfaces. The colors selected shall be compatible with the character of the surrounding area. Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

## 9. Vehicle Sales and Services

### (a) Automotive Painting/Body Shop

Automobile painting/body shop uses shall comply with the following standards:

(1) Vehicles shall not be parked or stored as a source of parts or for the purpose of sale or lease/rent.

(2) Repair and storage of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 20 percent of the of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 5.4, *Fences and Walls*.

(3) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

### (b) Automotive Parts Sales and Installation

Automobile parts sales and installation uses shall comply with the following standards:

(1) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle and parts storage may be allowed in an outdoor storage area that is no larger than 20 percent of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 5.4, *Fences and Walls*.

(2) The use shall provide adequate, enclosed trash storage facilities on the site.

### (c) Automotive Repair and Service (Without Painting or Bodywork)

Automotive repair and service uses not involving painting or bodywork service shall comply with the following standards:

(1) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(2) Repair of all vehicles shall occur within an enclosed building. Temporary outdoor vehicle storage may be allowed in an outdoor storage area that is no larger than 20 percent of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 5.4, *Fences and Walls*.

(3) If gasoline is sold on-site, the use shall also comply with the standards for a gasoline sales use in Section 4.2.D.7.c.

(4) Vehicles shall be not parked or stored as a source of parts.

(5) Vehicles may not be maintained on-site for the purpose of sale or lease/rent.

(6) Vehicles that are repaired and are awaiting removal shall not be stored or parked for more than 30 consecutive days. In cases where a vehicle is abandoned by its lawful owner before or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment demonstrates steps have been taken to remove the vehicle from the premises using the appropriate legal means.

### (d) Automotive Sales or Rentals

Uses primarily involving the sales or rental of automobiles, trucks, recreational vehicles or travel trailers, or boats shall comply with the following standards:

(1) No vehicle or equipment displays shall be located within a required street lawn or buffer.

(2) The use shall not have more than one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade level.

(3) No vehicles or other similar items shall be displayed on the top of a building.

(4) No lighting shall be directed towards any residential district or existing residential use and shall comply with Section 5.5 Exterior Lighting;

(5) No other materials for sale shall be displayed between the principal structure and the street.

### (e) Automotive Wrecker Service

Automotive wrecker service uses shall comply with the following standards:

(1) Only one wrecker business per lot;

(2) Limited to the storage of 9 cars per lot;

(3) Vechicle storage area shall not be visible from a public or private right of way;

(4) Shall be setback at least 1,000 feet from another similar business;

(5) Vechicle storage area shall be setback at least 50 feet from all property lines;

(6) Vechicle storage area shall be screened by a type A buffer in accordance with Section 5.2.F Bufferyard;

(7) Use would not result in significant adverse impacts on the surrounding properties.

### (f) Boat and Marine Rental/Sales

Servicing or repair of boats or marine equipment is allowed as an accessory use only.

## 10. Visitor Accommodations

### Bed and Breakfast Inns

Bed and breakfast inn uses shall comply with the following standards:

(1) Single-family homes used as a bed and breakfast inn shall not subdivide existing rooms into individual sleeping rooms smaller than 120 square feet in size.

(2) A bed and breakfast inn shall be lived in and operated by the owner-or caretaker.

(3) All guest parking shall be to the side or rear of the home, and shall include at least one off-street parking space per sleeping room.

(4) The number of sleeping rooms shall be limited to a maximum of six.

(5) There shall only be one kitchen facility, and all meals served on the premises shall be for overnight guests.

# E. Industrial Uses

## 1. Extractive Industry

Extractive industry uses shall comply with the following standards:

(a) Extractive Industry uses shall be located at least 1,000 feet from any residential district, community center, child day care center, or educational facility.

(b) Extractive Industry uses shall be surrounded by a solid fence that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

## 2. Industrial Services

### (a) Electrical Motor Repair; Machine Shop; Tool Repair

Repair of all machines shall occur within an enclosed building. Temporary outdoor storage may be allowed in an outdoor storage area that is no larger than 25 percent of the buildable area of the lot, located behind or to the side of the principal structure, and screened with a wooden fence or masonry wall in accordance with Section 5.4, *Fences and Walls* or by utilizing other materials deemed acceptable by the Development Services Director. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

### (b) Heavy Equipment Sales, Rental, or Storage

Uses primarily involving the sales, rental, or storage of heavy equipment shall comply with the following standards:

(1) The use shall be located at least 250 feet from any residential district, school, or day care center.

(2) No heavy equipment displays shall be located within a required setback or perimeter buffer.

(3) The use shall not have more than one heavy equipment display pad for every 100 feet of street frontage.

(4) No heavy equipment shall be displayed on the top of a building.

(5) No lighting shall be directed towards a residential district or existing residential use.

#### (c) Laundry, Dry Cleaning, and Carpet Cleaning Facilities

Laundry, dry cleaning, and carpet cleaning facilities shall be within an enclosed building and shall use nonflammable liquids in the cleaning processes that emit no odor, fumes, or steam detectable to normal senses from off the premises.

### 3. Manufacturing and Production

#### (a) Manufacturing, Heavy

Heavy Manufacturing uses shall comply with the following standards:

(1) The use shall be located at least 500 feet from any residential district, school, or day care center.

(2) The use shall locate outdoor storage areas to the rear of the principal structure and be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 5.4, *Fences and Walls*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

(3) The use shall be designed to ensure proper functioning of the on-site transportation circulation system.

### 4. Warehouse and Freight Movement

#### (a) Outdoor Storage (as a Principal Use)

(1) Lots used for outdoor storage shall be fully enclosed by a fence or masonry wall no less than eight feet in height and configured in accordance with Section 5.4, Fences and Walls. The height of equipment or materials (except bulk stockpiles) shall not exceed the height of the screening fence or wall.

(2) Customers and vehicles shall be allowed to circulate through the area used for outdoor storage.

#### (b) Parcel Services; Truck or Freight Terminal; Warehouse (Distribution or Storage)

Parcel services, truck or freight terminals, or warehouses (distribution or storage) shall comply with the following standards:

(1) The use shall be located at least 500 feet from any residential district, school, or day care center.

(2) The use shall not locate storage areas within a required setback or perimeter buffer.

(3) The use shall locate outdoor storage areas to the rear of the principal structure and screen them with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 5.4, *Fences and Walls*.

(4) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

## 5. Waste-Related Services

### (a) Incinerator; Land Application of Wastes; Waste Composting

Incinerators, land application of wastes, and waste composting uses shall comply with the following standards:

(1) The use shall be located at least 1,000 feet from any existing residential use, educational facility, or day care use.

(2) The use shall be surrounded by a solid fence that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

### (b) Landfills (LCID and CD)

Land clearing and inert debris (LCID) landfills and construction debris (CD) landfills shall comply with the following standards:

(1) LCID and CD landfills shall be set back at least 300 feet from any existing residential use, school, or day care use, and shall provide a Type A landscape buffer around its perimeter (See Section 5.2.F, *Bufferyard*).

(2) Access to a landfill shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping.

(3) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(4) No filling associated with a landfill shall take place within in any flood hazard area, drainage ways, or utility easements.

### (c) Landfills, Sanitary

Sanitary landfills shall comply with the following standards:

(1) Sanitary landfills shall maintain liners and leachate collection systems to protect ground water quality, and active deposition areas shall be covered with soil on a daily basis.

(2) Sanitary landfills shall be set back at least 1,000 feet from any existing residential use, school, or day care use, and shall provide a Type A buffer around its perimeter (see Section 5.2.F, *Bufferyard*).

(3) Access to a landfill shall be controlled through the use of a fence, wall, gate, or other suitable device to prevent unregulated dumping.

(4) All unpaved areas shall be maintained in a manner which prevents dust from adversely impacting adjacent properties.

(5) No filling associated with a landfill shall take place within in any flood hazard area, drainage ways, or utility easements.

### (d) Recycling and Salvage Center

A recycling and salvage center shall comply with the following standards:

(1) The center shall be on a parcel with an area of at least five acres.

(2) The center shall be located at least 250 feet from any residential district,

educational facilities, or day care centers.

(3) Except for a freestanding office, no part of the center shall be located within 50 feet of any property line.

(4) All outside storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of recyclable or recovered materials, or non-recyclable residue stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater.

(5) All outdoor storage areas shall be surrounded by a solid fence that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(6) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground.

(7) Only limited sorting, separation, or other processing of deposited materials shall occur on the site.

(8) There shall be no collection or storage of hazardous or biodegradable wastes on the site.

### (e) Recycling Drop-Off Centers

A recycling drop-off center shall comply with the following standards:

(1) The collection bin shall be located in or adjacent to an off-street parking area, and shall not occupy more than five percent of the total on-site parking spaces. The mobility of the collection bin shall be retained.

(2) The bin and adjacent area shall be maintained in good appearance and free from trash.

(3) All bins shall be at least 10 feet from any lot line.

(4) There shall be no collection or storage of hazardous or biodegradable wastes on the site.

(5) The facility shall be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 5.4, *Fences and Walls*. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

### (f) Salvage and Junkyard; Tire Disposal or Recycling

A salvage and junkyard or tire disposal or recycling facility shall comply with the following standards:

(1) The facility shall be located on a parcel of at least ten acres; however, recycling facilities limited to tire recycling may be located on a site with a minimum size of 3 acres.

(2) The facility shall be not located within 50 feet of any property line (except for a freestanding office).

(3) The facility shall be screened with a wooden fence or masonry wall no less than eight feet in height in accordance with Section 5.4, *Fences and Walls*.

The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

#### 6. Wholesale Sales

Any outdoor storage component of a wholesale sales use shall comply with the standards in Section 4.3.C.10, *Outdoor Storage as an Accessory Use in Non-Residential Zones*.

## 4.3 ACCESSORY USE STANDARDS

### A. Purpose

This section authorizes and regulates accessory uses that are incidental and customarily subordinate to principal uses. The purpose of this section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding lands.

### B. General Standards and Limitations

#### 1. Compliance with UDO Requirements

All accessory uses and accessory structures shall conform to the applicable requirements of this UDO, including the district standards in Article 3: *Zoning Districts*, and the use regulations in Article 4: *Use Standards*, and the development standards in Article 5: *Development Standards*. The provisions of this section establish additional standards and restrictions for particular accessory uses and structures.

#### 2. General Standards

All accessory uses and accessory structures shall meet the following standards:

(a) Directly serve the principal use or structure;

(b) Be customarily accessory and clearly compatible, incidental, subordinate and in harmony with the principal use and structure;

(c) Be subordinate in area, extent, and purpose to the principal use or structure;

(d) Be owned or operated by the same person occupying the principal use or structure;

(e) Be located on the same lot as the principal use or structure;

(f) Together with the principal use or structure, not violate the bulk, density, parking, landscaping, or open space standards of this UDO;

(g) Not be constructed or established prior to the time the principal use or structure is constructed or established;

(h) Not constitute a combination use, which is the combination of two principal uses (combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use); and

(i) Storage of vehicles, boats, trailers, goods, and other materials in unoccupied land and/or structures is not an accessory use and shall be subject to primary use standards contain within Article 4.

### 3. Approval of Accessory Uses and Structures

Unless otherwise specified in this section, accessory uses or structures shall be treated as an allowed land use in the zoning district in which it is located, provided it is established after the principal use or structure on the property.

### 4. Table of Permitted Accessory Uses

#### (a) Table as Guide

Table 4.3.1, *Table of Permitted Accessory Uses*, is established as a guide to identify the appropriateness of the more common accessory uses in each zoning district.

#### (b) Listed Accessory Uses

Table 4.3.1, *Table of Permitted Accessory Uses*, lists what types of accessory uses, structures, and activities are allowed in each of the zoning districts. If a specific accessory use is allowed in a zoning district, the column underneath the zoning district is marked with a "P." If the accessory use or structure is not allowed in a zoning district, the column contains a backslash. In the case of planned development districts, if an accessory use is allowable, it is marked with an "MP", and the accessory use must be set out in the approved master plan. If there is a reference contained in the column entitled "Additional Requirements," refer to the cited section(s) for additional standards that apply to the specific accessory use.

#### (c) Interpretation of Unidentified Accessory Uses

The Development Services Director shall rule on potential accessory uses that are not identified in Table 4.3.1, *Table of Permitted Accessory Uses*, on a case-by-case basis, as a ruling (see Section 2.3.K). In making the ruling, the Development Services Director shall apply the following standards.

(1) The definition of "accessory use" (See Article 9: *Definitions*.), and the general accessory use standards established in Section 4.3.B, *General Standards and Limitations*.

(2) The additional regulations for specific accessory uses established in Section 4.3.C, *Specific Standards for Certain Accessory Uses*.

(3) The purpose and intent of the zoning district in which the accessory use is located (see Article 3: *Zoning Districts*).

(4) Any potential adverse impacts the accessory use may have on other lands in the area, compared with other accessory uses permitted in the zoning district.

(5) The compatibility of the accessory use, including the structure in which it is housed, with other principal and accessory uses permitted in the zoning district.

### 5. Table of Permitted Accessory Uses

Table 4.3.1, *Table of Permitted Accessory Uses*, specifies types of accessory use and the zoning district where each type may be permitted.

**Table 4.3.1: Table of Permitted Accessory Uses**
P = Permitted Use MP = Allowed Subject to a PD Master Plan NA = Prohibited

| Accessory Use | Residential | | | | | | | Nonresidential/ Mixed-Use | | | | | | Planned Development | | | Additional Requirements |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RSF-40 | RSF-20 | RSF-10 | RSF-7 | RSF-5 | RMF - LD | RMF-HD | OI | NC | DTR | DTB | CC | IND | PD-R | PD-C | PD-T | |
| Amateur Ham Radio/TV Antenna | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | 4.3.C.1 |
| Automated Teller Machine, walk-up | NA | NA | NA | NA | NA | NA | P | P | P | NA | P | P | P | MP | MP | MP | 4.3.C.2 |
| Canopies | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | P | MP | MP | MP | 4.3.C.3 |
| Family Care home | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | 4.3.C.4 |
| Family Day Care, In-home | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | 4.3.C.5 |
| Food Vendor (from cart) | NA | NA | NA | NA | NA | NA | NA | NA | P | NA | P | P | P | MP | MP | MP | 4.3.C.6 |
| Garage, detached | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | |
| Group Home | NA | NA | NA | NA | NA | NA | NA | S | P | NA | S | P | P | MP | MP | MP | 4.3.C.5 |
| Home Occupation | P | P | P | P | P | P | P | P | P | P | P | P | NA | MP | MP | MP | 4.3.C.7 |
| Ice House | NA | NA | NA | NA | NA | NA | NA | P | P | NA | P | P | P | NA | MP | MP | 4.3.C.8 |
| Livestock | P | P | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | |
| Outdoor Display/Sales | NA | NA | NA | NA | NA | NA | NA | P | P | NA | P | P | P | NA | MP | MP | 4.3.C.9 |
| Outdoor Storage | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | NA | 4.3.C.10 |
| Parking Structure | NA | NA | NA | NA | NA | NA | NA | P | P | P | P | P | P | MP | MP | MP | |
| Produce Stand | P | P | NA | NA | NA | NA | NA | NA | P | NA | P | P | NA | MP | MP | MP | 4.3.C.11 |
| Recycling Drop-Off Stations | NA | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | 4.3.C.12 |
| Satellite Dish | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | 4.3.C.13 |
| Storage or Parking of Heavy Trucks, or Trailers | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | P | P | NA | MP | NA | |
| Storage or Parking of Major Recreational Equipment | P | P | P | P | P | P | P | NA | NA | P | P | NA | NA | NA | NA | NA | 4.3.C.14 |
| Swimming Pool/Hot Tub | P | P | P | P | P | P | P | P | P | P | P | P | NA | MP | MP | MP | 4.3.C.15 |
| Utility | P | P | P | P | P | P | P | P | P | P | P | P | P | MP | MP | MP | |
| Workshop | P | P | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | NA | MP | MP | NA | 4.3.C.16 |

6. **Location of Accessory Uses or Structures**

(a) Except for permitted fences or walls erected on a property line or an ornamental pond, no accessory use, structure, or activity shall occupy or take place in a required front, side, or corner side yard or setback.

(b) Except for fences and walls, all accessory structures shall comply with the

minimum setback and spacing standards applicable to accessory structures in the zoning district where the structure is located (see Article 3: *Zoning Districts*) and located behind the front wall of the primary structure.

(c) No accessory structure shall be located within any platted or recorded easement or over any known utility.

### 7. Maximum Height

All accessory structures shall comply with the maximum height standards applicable to principal structures in the zoning district where the structure is located (see Article 3: *Zoning Districts*).

### 8. Lot Coverage

The total area occupied by all accessory structures shall not exceed the maximum lot coverage standard applicable to accessory structures in the zoning district where the structure is located (see Article 3: *Zoning Districts*).

## C. Specific Standards for Certain Accessory Uses

### 1. Amateur Ham Radio & Television Antennas

(a) Towers associated with a ham radio operator or private television antenna shall not exceed 90 feet above grade.

(b) Towers or antennas attached to a principal structure shall be located on a side or rear elevation.

(c) Freestanding towers or antennas shall be located behind the principal structure.

### 2. Automated Teller Machines, Walkup

(a) Structures accommodating stand-alone walk-up automated teller machines that are not inside or attached to a principal structure shall utilize a similar design and appearance to the other structures in the development.

(b) Exterior lighting shall be shielded so to limit the visibility of the source of illumination from off-site views, also see Section 5.5 Exterior Lighting.

### 3. Canopies

(a) Canopies covering a drive-through shall use a similarroof form, pitch, and materials to appear as an extension of the roof covering the principal structure. Differing architectural design may be allowed with approval by the Develoment Services Director.

(b) Canopies shall have a maximum height of 16 feet measured from the finished grade to the underside of the canopy.

(c) The design of the non-residential canopies, including any columns, shall match the design and exterior building materials of the principal building.

(d) Canopies covering fuel pumps may include logos or trademarks of the principal use, but shall not include any other signage or advertising. Such logos or trademarks are limited to 15% per façade.

(e) Canopies must be located to the side or rear of development in the DTR and

DTB districts, and are prohibited within the corner side yard areas in the DTR and DTB districts.

(f) Canopies intended to cover parked vehicles may not be closer to the primary street than the front wall of the principal structure.

(g) In addition to meeting the standards in Section 5.5, *Exterior Lighting*, canopies shall not be internally illuminated, and any exterior lighting associated with a canopy shall be shielded so that the source of illumination is not visible from off-site areas.

### 4. Family Care Homes & Group Homes

Family care homes and Group Homes shall comply with the following requirements:

(a) Family care homes and group homes must be licensed by the appropriate North Carolina licensing department and must meet all applicable Code requirements.

(b) There shall be no exterior evidence from a public right-of-way of a family care home or group home except a sign as permitted by this section.

(c) A family care home or group home shall not be permitted within the ½ mile radius of another family care home or group home.

(d) No family care home or group home shall result in garbage disposal exceeding standard residential use.

### 5. Family Day Care, In-Home

In-home family day care shall comply with the following requirements:

(a) Family day cares must be licensed by the North Carolina Division of Child Development and must meet all applicable state requirements.

(b) Family day care uses shall not take place within a duplex or multi-family dwelling unit.

(c) No family day care shall be permitted within 150 feet of another family day care unless separated by a public right-of-way.

(d) Only residents of the dwelling may be employees of the family day care use.

(e) There shall be no exterior evidence from a public right-of-way of a family day care except that a non-illuminated wall sign with a maximum area of one-square-foot is permitted.

(f) A family day care shall be conducted within the primary structure except any required outdoor play area, which shall be located within the rear yard.

### 6. Food Vendor (from cart)

Food vendors from carts shall comply with the following standards:

(a) Food vendors shall be located within the footprint of an existing building'

(b) There shall be a maximum of one food vendor per lot;

(c) Any food vendor must be at least 500 feet from any other authorized food vendor.

(d) Permanent alterations to the site are prohibited;

(e) Food vending is prohibited within the public way, on public sidewalks, within required parking or landscape areas, except in accordance with a City-sponsored or other special event;

(f) Food carts shall not obstruct pedestrian or vehicular travel ways;

(g) Operation of food carts shall be limited to the hours of 6:00 AM to 8:00 PM or the hours of principal use, if less;

(h) The food cart area shall be swept and cleaned daily;

(i) Each vendor shall provide trash receptacles of sufficient size to meet the needs of the business;

(j) Food vendor uses shall not include any source of exterior lighting for the purposes of advertising the use;

(k) Food carts and food vendors shall comply with North Carolina Health Department Standards;

(l) Food vendor carts may only be placed on private property with written approval of the property owner; and

(m) Food cart siganage is prohbited

### 7. Home Occupations

This subsection authorizes the establishment of home occupations that are incidental and customarily subordinate to principal uses. The City of Jacksonville recognizes the desire and/or need for some citizens to use their residence for limited occupational purposes. The City believes that the need to protect the integrity of residential areas is of paramount concern and therefore any use of a residential structure for occupational purposes must be found to be compatible, incidental, and in harmony with the residential neighborhood. A "home occupation", should therefore protect the residential areas from any adverse impacts which could result from the utilization of the residence for occupational purposes by the occupant of the residence. Because a home occupation is a form of limited commercial activity typically occurring within an area zoned residential, these regulations are established to clearly protect the residential neighborhood and ensure that the proposed occupational activity within the residence is in keeping with the primary use of the neighborhood for residential purposes. In order for a home occupation permit to be issued by the City, the following conditions shall be met. These conditions are the minimum conditions the City shall impose. The Development Services Director or his/her designee is authorized to add additional conditions that are deemed necessary in order to protect the residential character and use of the neighborhood:

(a) No home occupation will be permitted on property that was previously denied for rezoning to a commercial district within the previous twelve (12) months;

(b) Occupational activities shall be clearly secondary and incidental to the primary use of the property as a residence and does not change the character or outside appearance of the residence;

(c) Shall be requested by a person that currently occupies the structure as their primary residence;

(d) The property contains no outdoor display or storage of goods, equipment (excludes motor vehicles and/or enclosed trailers), or services that are associated with the home occupation;

(e) No person(s) other than the resident(s) of the dwelling shall be employed on-site or report to work at the site in the conduct of the home occupation. This prohibition also applies to independent contractors;

(f) There shall be no exterior evidence of the conduct of a home occupation;

(g) Home occupations shall be conducted in a fully enclosed area. The total square footage of the home occupation(s) shall not occupy over twenty five percent (25%) or 500 square feet, whichever is less of the total combined floor space. No portion of a home occupation shall be conducted outside;

(h) The home occupation does not create noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;

(i) On-site sales shall be limited to products related to the services provided by the home occupation;

(j) A home occupation shall not create a measureable increase in traffic within the neighborhood as determined by the Development Services Director or his/her designee;

(k) All vehicles used in connection with the home occupation shall be no larger than the size of a vehicle customarily found at a single family residence, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood. The home occupation shall not result in the increase in any parking areas either paved or unpaved whether on the property or on the right of way;

(l) No home occupation shall result in an increase of garbage being disposed of beyond the volume normally disposed of for the residential use;

(m) A permit for a home occupation is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination of the applicant's residency, the home occupation permit shall become null and void;

(n) The home occupation shall not be constructed or established prior to the time the principal structure is constructed or established;

(o) On-site training and sales promotions regardless of fees are specifically prohibited. This shall include social gatherings to promote the home occupation;

(p) No signs shall be permitted; and

(q) The City reserves the right to enter into the premises with the owner's consent from time to time to document that the home occupation is being operated within the guidelines established by this code. The City also has the right to enter the premises and inspect the premises for safety and compliance purposes with the consent of the owner. Failure of the owner to consent to an investigation/inspection of the property could result in the suspension of the home occupation license and eventual termination thereof.

### 8. Ice House

These regulations are intended for the development of Ice Houses as principle or accessory uses within designated zoning districts. This will be achieved by ensuring proper location, screening and access to proposed Ice Houses. Ice houses shall comply with the following standards:

(a) Ice houses shall be located at least 100 linear feet from any public street or right-of-way and 25 feet from side/rear property lines.

(b) The ice house shall be surrounded with a four-foot-wide planting pit on all sides (excluding any areas necessary for dispensing or servicing). Plantings shall be at least 36 inches in height at the time of planting and form an opaque screen within two years of planting.

(c) The ice house shall be placed on a permanent foundation, or provided with masonry or wooden skirting around the entire perimeter.

(d) Ice houses shall be served by a semi-circular paved (asphalt or concrete) parking and vehicular access area that removes the need for backing. In cases where the ice house is located within an established surface parking area, access ways shall be painted or otherwise designated.

(e) Signage shall be limited to a maximum of 8 square feet (maximum).

(f) All roof-top mechanical equipment shall be screened and also serve as a canopy around the entire building.

(g) Roofs and awnings and the like must have a pitch of between 30- 45 degrees with eaves overhanging the entirety of the building at a minimum depth of 12 inches.

(h) The exterior façade shall use earth tone as approved by City staff.

(i) A litter/bag receptacle shall be provided, and shall be maintained in a sanitary condition.

(j) If an ice house is not used for a period of 60 days, the ice house shall be removed.

### 9. Outdoor Display/Sales

Outdoor display or sales may be allowed as an accessory use for all retail sales uses and wholesale sales uses. It is the intent of this UDO to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. The outdoor display/sales of goods shall comply with the following standards:

(a) Outdoor display/sales areas shall be depicted upon a site plan if one required (see Section 2.3.C, *Site Plan*).

(b) All outdoor display of goods shall be located immediately adjacent to the storefront, or building sides, and not in drive aisles, loading zones, fire lanes, or required parking spaces.

(c) Outdoor display areas shall not occur within 100 feet of the right-of-way.

(d) In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center facade, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50 percent of the aggregate store front of the total shopping center.

(e) The area of outdoor display or sales shall not encompass the width of the entrance doors to the establishment as projected straight out from the facility. (For example, if the width of the entrance doors is ten feet, there shall be at least a ten-foot clearance from the doors as projected straight out and away from the facility.)

(f) No goods shall be attached to a building's wall surface.

(g) The height of the outdoor display shall not exceed six feet, except in the case of live or recently cut trees or similar vegetation.

(h) The outdoor display area shall take place on an improved surface but may not be located on the sidewalk, except in the DTR and DTB districts.

(i) Outdoor display areas shall take place on an improved surface but may not be located on the sidewalk except in the DTR and DTB districts. When occurring on sidewalks within these districts, a minimum of 4 feet of clear sidewalk must be maintained at all times. For sidewalks in the DTR and DTB districts that are less than 8 feet in width, sidewalk sales shall be prohibited.

### 10. Outdoor Storage as an Accessory Use within Non-Residential Zones

Outdoor storage may be allowed as an accessory use in accordance with the following standards:

(a) Each outdoor storage area shall be incorporated into the overall design of the principal structure on the site and shall be shown on a site plan if one is required.

(b) Accessory outdoor storage areas shall be located to the side or rear of the principal structure.

(c) Goods stored in an outdoor storage area intended for sale or resale shall be limited to those sold on the premises as part of an associated, additional

principal use.

(d) Each outdoor storage area within 200 feet of a public right-of-way shall be fully-screened from view from all lot lines and adjacent rights-of-way by a fence or wall meeting the standards of Section 5.4, *Fences and Walls*.

(e) Except for live plants or stock-piled bulk materials, materials may not be stored higher than the height of the screening fence or wall.

(f) If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

(g) No materials may be stored in areas necessary for vehicular or pedestrian circulation.

### 11. Produce Stands

A produce stand shall:

(a) Be located on the same lot as a principal use;

(b) Be limited to the retail sale of agriculture and horticulture products;

(c) Be located to minimize the visual impact of the structure from adjacent public streets;

(d) Not remain in the same location for more than six months;

(e) Not exceed 750 square feet in area;

(f) Provide adequate ingress, egress, and off-street parking areas; and

(g) Be subject to the sign standards in Section 5.12, *Signage*.

### 12. Recycling Drop-Off Stations

Recycling drop-off stations shall comply with the following standards.

#### (a) General

All drop-off containers and storage bins Containers and bins shall be a neutral or earth tone color, not be visible from a public street, and be located within the interior of the development.

#### (b) Litter and Debris

The station shall be kept free of litter, debris, and residue.

#### (c) Signage

Each station shall be allowed one on-premise freestanding sign no more than 48 inches high and 16 square feet in area (including all sides of the sign combined). The sign shall include the name and telephone number of a party responsible for management and maintenance of the station.

#### (d) Setbacks

Drop-off containers and storage bins shall be located no closer than 10 feet from all lot lines and 50 feet from an existing residential use.

#### (e) Size

Drop-off containers and storage bins shall occupy no more than 500 square feet.

#### (f) Blocking Access

The station shall not occupy or block access to parking spaces or aisles.

### 13. Satellite Dishes

Satellite dishes are subject to the following standards to the maximum extent feasible, but only where there is no impairment of acceptable signal quality. These standards are not intended to impose unreasonable delays or costs on the installation, maintenance, or use of satellite dishes, and shall not be interpreted or enforced in any manner contrary to federal or state law.

#### (a) Location in District Setbacks

(1) Satellite dishes in zoning districts shall not be located within the front or corner side yard unless the lot owner can demonstrate that there is no possibility to avoid location in the front setback and still have an obstruction-free reception window to the satellite dish.

#### (b) Location on Roof

Satellite dishes 24 inches or less in diameter may be located on the roof of a principal structure provided they do not extend more than 3 feet above a flat roof nor extend any additional height above a sloped roof.

### 14. Commercial Vehicle/Major Recreational Equipment Storage or Parking

#### (a) Intent

It is the intent of this subsection to prohibit the customary or continual parking of certain vehicles and equipment on streets and within yards adjacent to streets in residential neighborhoods since the presence of such vehicles runs contrary to the intended residential character of such neighborhoods. It is not the intent of these standards to prevent the occasional or temporary parking of such vehicles or equipment as necessary for the purposes of loading, unloading, or cleaning; however, the continual or customary overnight parking of such vehicles or equipment for a portion of the day followed by removal the following day is prohibited.

#### (b) Applicability

The standards in this subsection apply to heavy trucks with more than two axles or that exceed 20,000 pounds of gross vehicle weight, trailers with more than one axle, or major recreational equipment, including, but not limited to, boats, campers, recreational vehicles, motor homes, and travel trailers proposed for parking or storage within a residential zoning district.

#### (c) Standards

(1) Heavy trucks, boats, campers, trailers, or major recreational equipment shall not be parked or stored on public rights-of-way in a residential zoning district.

(2) No heavy truck, boat, camper, trailer, other major recreational equipment

shall be parked or stored in any front yard or side right-of-way yard setback.

(3) Boats, campers, and recreational vehicles shall be parked or stored only to the side or rear of the dwelling they are associated with.

(4) Recreational vehicles may not be used as sleeping quarters, offices, material storage, or other activities.

### 15. Swimming Pools, Spas, and Hot Tubs

Swimming pools, spas, and hot tubs that are accessory uses shall comply with the following standards:

(a) Accessory swimming pools shall comply with the standards for swimming pools in Section 4.2.D.7.b, *Swimming Pools*.

(b) The area containing a pool, spa or hot tub shall be completely enclosed per the North Carolina Building Codes.

### 16. Workshop

Workshops, provided as an accessory use, shall comply with the following standards:

(1) A type A buffer shall be located between a workshop and any lot line (see Section 5.2.F, *Bufferyards*).

(2) The workshop may not be closer to the primary street than the principal dwelling.

(3) The workshop shall not exceed a maximum of 50% of the floor area of the principal structure on the property.

(4) Any outdoor storage must be fully screened from all off-site views.

(5) An accessory workshop may not be used to employ persons other than residents of the principal structure.

# 4.4 TEMPORARY USE STANDARDS

## A. Purpose

This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent land, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

## B. Table of Permitted Temporary Uses And Structures

Table 4.4.1, *Permitted Temporary Uses and Structures*, summarizes the temporary uses and structures that are allowed within the City and any general or specific standards that apply. Temporary uses or structures not listed in Table 4.4.1, *Permitted Temporary Uses and Structures*, are not allowed by this UDO.

**Table 4.4.1: Permitted temporary Uses and Structures**

| Temporary Use or Structure | Specific Regulations |
|---|---|
| **Temporary Structures** | |
| Expansion or replacement of existing facilities (including temporary offices for construction or security personnel) | Permit required; See Section 4.4.F.1 |
| Real estate sales office/Model sales home | Permit required; See Section 4.4.F.2 |
| Construction-related activities for new construction | No permit required; See Section 4.4.F.3 |
| Relocatable classrooms | Permit required; See Section 4.4.F.4 |
| Temporary storage in a portable shipping containers or similar devices in Residential Districts | Permit required; See Section 4.4.F.5 |
| Temporary storage in a portable shipping containers or similar devices in Non-Residential Districts | Permit required; See Section 4.4.F.6 |
| Temporary Telecommunicaiton Towers | Permit required; See Section 4.4.F.7 |
| **Temporary Sales** | |
| Sale/display of goods other than agricultural products | Permit required; See Section 4.4.F.8 |
| Seasonal agricultural sales | No permit required; See Section 4.4.F.9 |
| Sidewalk and vehicular use area sales | No permit required; See Section 4.4.F.10 |
| Tent Sale | No permit required; See Section 4.4.F.11 |
| Garage or yard sales | No permit required |
| **Special Events** | |
| Special events | Permit required; See Section 4.4.G |

## C. Prohibited Temporary Uses

Without limiting the standards of this UDO, the following activities are prohibited in all districts:

### 1. Retail or Display of Goods, Products, or Services in Public Right-of-Way

Retail sales or display of goods, products, or services within the public right-of-way except as part of an authorized not-for-profit, special, or City-recognized event.

#### 2. Retail Sales or Display of Goods From Vehicles

Except as part of a permitted seasonal sale, retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.

## D. Building or Zoning Permit Required

All temporary uses and structures required to obtain a permit in accordance with Table 4.4.1, *Permitted Temporary Uses and Structures*, shall obtain a Zoning and/or Building Permit in accordance with *Section 2.3.G, Zoning Permit and/*or Section 2.3.H, *Building Permit*. A building permit for a temporary use, structure, or special event shall be reviewed, approved, or revoked only in accordance with the standards of this section.

## E. General Standards for Temporary Uses and Structures

All temporary uses, structures, or special events shall comply with the following general standards, unless otherwise specified in this UDO:

1. Obtain the appropriate permit from the City (if required);
2. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
3. Be compatible with the principal uses taking place on the site;
4. Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
5. Not include permanent alterations to the site;
6. Meet all the setbacks of the underlying base and overlay zoning districts;
7. Comply with the maximum signage size for temporary signs in Section 5.12, *Signage*;
8. Not maintain temporary signs associated with the use or structure after the activity ends;
9. Not violate the applicable conditions of approval that apply to a site or use on the site;
10. Not interfere with the normal operations of any permanent use located on the property; and
11. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.)

## F. Specific Regulations for Certain Temporary Uses and Structures

### 1. Expansion or Replacement of Existing Facilities

#### (a) Purpose and Scope

Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy (except for minor unpacking and connection to utilities), and designed for relocation to other sites, may be placed on land to serve as the following:

##### (1) Temporary Expansion Space for Religious Institutions, Heath Care Facilities, and Government Offices

Expansion space for existing religious institutions, health care facilities, and government offices, provided plans for the permanent expansion of the existing facilities have been submitted to and been approved by the City.

(2) **Temporary Offices**

Temporary offices for construction and security personnel during the construction of a development provided the City has issued a Building Permit and it remains active.

(3) **Temporary Quarters for Other Nonresidential Uses**

Temporary quarters for other nonresidential uses when the permanent building has been destroyed by a fire or other physical catastrophe, provided a Building Permit for the permanent facility is obtained within four months after approval of the temporary quarters. The Development Services Director may approve a written request for an extension of an additional 90 days for good cause shown. Failure to obtain a Building Permit for the permanent structure within the time frame allowed will revoke approval for the temporary quarters.

(4) **Temporary Office**

One temporary office per site is allowed. It may include but not be limited to the following uses: hiring, membership solicitation, multifamily development office/leasing, and other general office uses. The temporary office may be made up of modular buildings provided they are designed into one central building with one primary access point. Such modular buildings shall not be placed on the property prior to the issuance of a Building Permit.

(5) **Temporary Residence**

A temporary residence used for housing occupants of an on-site existing principal dwelling unit subject to casualty damage.

(b) **Standards**

In addition to meeting the general standards of Section 4.4.E, *General Standards for All Temporary Uses and Structures*, all temporary structures approved in accordance with this section shall meet the following standards:

(1) The structure may be located anywhere on the site except within the following areas:

i. Existing required landscaping or perimeter buffer areas; and

ii. Other areas designated for required open space, or ingress/egress.

(2) The temporary structure shall be factory-fabricated and transportable;

(3) In addition to any other off-street parking required on the site in accordance with Section 5.1, *Off-Street Parking, Loading, and Circulation,* adequate off-street parking shall be provided for the temporary use;

(4) All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure; and

(5) The temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.

### (c) Duration

#### (1) General

Temporary structures under this subsection may remain on the site for no more than 12 months. This period may be renewed for two twelve-month periods, for good cause shown, upon approval of a written request for such extension, submitted to the Development Services Director, 30 days prior to the expiration of the temporary use permit. Except for temporary classrooms, in no event, shall the extension allow the temporary structure to remain on the site for more than three years.

## 2. Real Estate Sales Office and Model Sales Home

### (a) General Standards

One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or nonresidential development, provided that:

(1) The use is located on a lot approved by the City as part of a development.

(2) Signage complies with the standards of Section 5.12, *Signage*.

(3) The temporary use is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.

(4) The temporary use complies with the minimum yard and setback standards of the zoning district in which it is located.

(5) Off-street parking provided for the temporary use complies with the standards of Section 5.1, *Off-Street Parking, Loading, and Circulation*.

(6) Upon termination of the temporary real estate sales office or model sales home, the structure shall be converted into, or removed and replaced with, a permanent use.

(7) In approving or renewing approval of a real estate sales office, the Development Services Director may impose other conditions as is deemed necessary to avoid adverse impacts that the use as a sales office may have on adjacent properties or the community as a whole.

(8) All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.

### (b) Duration

#### (1) Temporary Real Estate Sales Office

Temporary real estate sales offices may be approved for a period of up to one year. This period may be renewed for two additional twelve-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the Development Services Director, 30 days prior to the expiration of the permit. In no event shall the extension allow the temporary structure to remain on the site for more than three years.

#### (2) Model Sales Home

Model sales homes may be approved for a period of up to three years. This period may be renewed for additional six-month periods, for good cause shown, upon approval of a written request for such an extension submitted to the Development Services Director, 30 days prior to the expiration of the permit. There is no time limit on the use of model sales units for rental housing.

### 3. Construction-Related Activities for New Construction

#### (a) General

Temporary construction-related activities for new construction, including construction offices, storage buildings, outdoor storage, and employee parking areas, may occur on the same site as the construction activity.

#### (b) Duration

Such uses shall be removed prior to the issuance of a Certificate of Occupancy unless located on an adjacent or nearby site. Those located offsite shall be removed within 30 days after issuance of a final Certificate of Occupancy, and the site restored to its previous condition.

### 4. Relocatable Classrooms

#### (a) General Standards

Temporary classrooms may be allowed to augment an existing public educational facility, provided that:

(1) No other viable alternative is available for the housing and instruction of students;

(2) No more than 6 temporary classrooms are allowed at any given school;

(3) The use is located on a lot approved by the City as part of a development;

(4) Temporary classrooms shall be placed behind the front and side walls of principal facades, to the maximum extent practicable;

(5) Relocatable classrooms shall conform with the architecture of the permanent facilities, to the maximum extent practicable;

(6) Rooftop/wall mounted equipment shall not be visible from public rights-of-way, to the maximum extent practicable.

(7) Off-street parking provided for the temporary use complies with the standards of Section 5.1, *Off-Street Parking, Loading, and Circulation*.

#### (b) Duration

Temporary classrooms & associated covered (not enclosed) walkways may be approved for a period of up to three years by the Development Services Director. This period may be renewed for up to 2 additional years by action of City Council provided that: 1) There are definitive plans for their removal and replacement with permanent construction; 2) The funding request shall be included in the next available Onslow County Board of Education budget request to Onslow County Commissioners. Any subsequent extensions beyond the 5 year period are at the discretion of the City Council. Upon termination of the temporary

classroom(s) and/or at the end of the duration, the structure(s) shall be removed within 60 days.

### 5. Temporary Storage in a Portable Shipping Container or similar device for Residential Districts

#### (a) General Standards

A Temporary storage device is subject to the following standards:

(1) Temporary;

(2) Shall be located on a lot with a principal use, and may not be placed on a vacant lot;

(3) Shall be located outside of rights-of-ways;

(4) No more than one device is allowed per lot;

(5) Maximum height = 8 feet;

(6) Maximum width = 8 feet;

(7) Maximum length = 20 feet;

(8) Shall be maintained in good condition, free from structural damage, rust, and deterioration;

(9) Shall be a solid earth tone; and

(10) Shall not be used primarily as an advertising device (e.g. sign); however, a 32 sq. ft. identifier (Company name, telephone number, and/or web address) is permissible on two sides.

(11) Placement on Property

a) A temporary storage device within the front or side yard shall be placed in a driveway for a single family dwelling or a designated parking space for attached single/family dwellings; and

b) A temporary storage device may be placed in the rear yard provided the device is not:

1) Within any easements; and/or

2) Within any side or rear setbacks.

#### (b) Duration

(1) Front or Side Yards

A temporary storage device is allowed in the for a period not to exceed 90 days, unless an extension has been authorized by Development Services Director. In no case may the Development Services Director authorize more than 2, 30 day extensions. Subsequent extensions can be authorized by the City Manager.

(2) Rear Yards

Unlimited duration

## 6. Temporary Storage in a Portable Shipping Container or similar device for Non-Residential Districts

### (a) General Standards

A temporary storage device(s) are subject to the following standards:

(1) Temporary storage devices shall be located on a lot with a principal use, and may not be placed on a vacant lot, unless zoned Industrial;

(2) Shall be located outside of rights-of-ways;

(3) Temporary storage devices shall not be stacked;

(4) Maximum height = 10 feet;

(5) Shall be maintained in good condition, free from structural damage, rust, and deterioration;

(6) Shall be a solid earth tone; and

(7) Shall not be used primarily as an advertising device (e.g. sign); however, a 32 sq. ft. identifier (Company name, telephone number, and/or web address) is permissible on two sides.

(8) Placement on Property

a) Temporary storage device(s) within the front or side yard shall be placed in a designated parking area unless an alternative area is approved by the Development Services Director. Containers within an Industrial Zone are Exempt from this requirement.; and

b) A temporary storage device(s) may be placed in the rear yard provided that:

1) Within any easements;

2) Within any side or rear setbacks; and/or

3) The container is not within any required fire lane, parking, and landscaping, buffering or other similar required site feature.

### (b) Duration

(1) Front or Side Yards

A temporary storage device(s) within the front or side yard(s) is allowed for a period not to exceed 90 days, unless an extension has been authorized by Development Services Director. In no case may the Development Services Director authorize more than 2, 30 day extensions. Subsequent extensions can be authorized by the City Manager. Containers within an Industrial Zone are Exempt from this requirement.

(2) Rear Yards

Unlimited duration

## 7. Standards for Tempoary Telecommunication Towers

### (a) General Standards

Temporary telecommunication towers shall comply with the following standards:

(1) Output power levels from the tower and /or associated antennas shall not exceed the current federally approved levels for exposure to electromagnetic radiation.

(2) Radio, television, or other electromagnetic transmission(s) or reception on other lands will not be disturbed or diminished.

(3) The tower shall have no lighting except that which is required by the Federal Aviation Administration (FAA). The lighting shall be oriented so as not to project directly onto surrounding residential land. The owner shall submit documentation from the FAA that the lighting is the minimum required by the FAA.

(4) Temporary telecommunication towers are exempt from Section 5.2, *Landscaping*, except that the Development Services Director may require temporary telecommunication towers to provide some landscaping or screening that seek to accomplish the spirit of the standards in a temporary and effective manner.

(5) Temporary telecommunication towers shall comply with following minimum setbacks:

i. 75 feet from any residentially-zoned land or right-of-way; and

ii. 35 feet from any lot line bordering a nonresidential zoning district.

(6) No temporary telecommunication towers may be placed in front of a primary structure or between such primary structure(s) and any street right of way, unless approved by the Development Services Director.

(7) All temporary telecommunication towers may be required to place a sign at least 18 by 24 inches but smaller than 36 by 48 inches which identifies the owner or operator and all applicable permit numbers. Such sign shall designate the permission text for temporary use and the expiration date for such temporary use.

(8) Temporary telecommunication towers (including, if applicable, all guy anchors) shall be secured by a chain link fence of no less than six feet in height.

(9) No temporary telecommunication tower shall exceed 150 feet in height (measured from the ground to the highest point of the temporary structure).

### (b) Duration

Temporary telecommunication towers may be permitted following approval of a Zoning Permit (see Section 2.3.F) for a period of up to 180 days per site. Once granted, a zoning permit for a temporary telecommunication tower may be extended for up to 180 days by City Council upon presentation of the evidence of need by the applicant. No facility shall be allowed for a period of greater than one-year.

## 8. Sale or Display of Goods Other Than Agricultural Products

### (a) Applicability

Merchants in non-residential districts may display and/or sell goods in the City on a temporary basis without establishing a permanent place of business, subject to the standards of this section.

### (b) Location

(1) The outdoor display and/or sale of goods consistent with the provisions of Section 4.3.C.9, Outdoor Display and Sales, is considered an accessory use and does not require a Building Permit.

(2) All other sales/displays of goods (other than agricultural products) require a Building Permit for a temporary use in accordance with this subsection.

### (c) Standards

A temporary use for the temporary display and/or sale of products shall comply with the following standards:

(1) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

(2) The display or sale of goods, products, and/or services shall not occur in the public right-of-way or within 200 feet of an existing residential use.

(3) The display or sale of products, goods and/or services shall be limited in scope to similar or complementary products, goods, and/or services to those offered by the existing principal use located on 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.

(4) Tents and other temporary structures shall be located so as not to interfere with the normal operations of any permanent use located on the property.

(5) Tents and other temporary structures shall be located on an improved surface such as asphalt, gravel, or other improved surface.

(6) Off-street parking shall be provided at a rate of 1 off-street parking space per every 1,000 square feet of display/sales area. Off-street parking spaces shall not be permanent.

(7) The temporary display or sale of products shall not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided.

(8) The hours of operation of the temporary sale of products shall be from no earlier than 7:00 A.M. to no later than 10:00 P.M., or the same as the hours of operation of the principal use.

#### (d) 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 2 consecutive days and no more than one event per quarter.

(2) The number of temporary sales of products per site per calendar year shall not exceed three.

### 9. Seasonal Agricultural Sales

Seasonal agricultural sales, including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards:

#### (a) Location

(1) The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking-space availability.

(2) The sale of goods shall not occur within the public right-of-way, or within 200 feet of an existing residential use.

(3) A minimum pedestrian walkway of at least five feet in width along the front of the display is maintained.

#### (b) Range of Goods Limited

The range of goods or products available for sale shall be limited to 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 pinestraw; bees and beekeeping products; seafood; and dairy products. For the purposes of this subsection, processed or prepared food products of any kind shall not be considered to be agricultural products.

#### (c) Hours of Operation

The hours of operation of the seasonal sale of agricultural products shall be from no earlier than 7:00 A.M. to no later than 10:00 P.M., or the same hours of operation as a principal use on the same lot.

#### (d) Duration

Seasonal sales shall be allowed on an individual lot for no more than 30 days per calendar year.

### 10. Sidewalk and Parking Lot Sales

Sidewalk and parking lot sales, located on the same site as the merchant's permanent place of business, may be permitted in accordance with the standards in Section 4.4.F.6, *Sale/Display of Goods Other Than Agricultural Products,* for a maximum of 30 days per calendar year. There shall be no more than three temporary sidewalk or parking lot sales of goods per site per calendar year.

### 11. Tent Sales

Sale of commercial goods may be conducted within a tent located on a lot with a legally established commercial or mixed-use principal use provided the following criteria are met:

(a) The tent is located in an area outside the normal flow of traffic or areas of ingress and egress;

(b) The tent is located on an improved surface such as asphalt, gravel, or other improved surface and is not within areas devoted to required landscaping, tree protection, or open space;

(c) The tent is located in such a way as to ensure the minimum number of required parking spaces for the principal use are maintained over the duration of the tent sale;

(d) The tent sale does not include any signage other than that allowable as temporary signage;

(e) The tents is not illuminated past the hour of 10:00 PM;

(f) The total number of tent sale occurrences per site is limited to a maximum of three per calendar year; and

(g) Tent sales are limited to a maximum of 30 days per site per calendar year.

## G. Special Events

### 1. Applicability

#### (a) General

The procedures and standards of this subsection shall apply to all special events (including but not limited to cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses, and communal camping) held on private property within the City, unless exempted in accordance with Section 4.4.G.2, *Exemptions*.

#### (b) Special Event Permit Required

All special events subject to this subsection shall have a Building Permit, special event permit, zoning permit or other applicable permit(s) from the City reviewed and approved or approved with conditions by the Development Services Director in accordance with Section 2.3.H, *Building Permit*, before conducting the special event.

### 2. Exemptions

The following events or activities are exempt from the standards of this subsection (i.e., may occur without a Building Permit for a special event). Such activities are subject to all other applicable procedures and standards of this UDO and the City Code of Ordinances.

#### (a) On Grounds of Private Residence

Special events or activities occurring within, or on the grounds of, a private residence or on the common areas of a single-family attached, townhouse, two- to four-family, or multi-family residential development.

#### (b) Event Sponsored by City or State

Any event sponsored in whole or in part by the City or State.

#### (c) Event or Activity at Site Intended for Such Event or Activity

Any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of such exempt activities include, but are not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; fairs and carnivals at fairgrounds; wedding services conducted at reception halls, or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at religious institutions.

### 3. Standards

In addition to the standards in Section 4.4.E, *General Standards for Temporary Uses and Structures*, an application for a Building Permit, special event permit, zoning permit, or other applicable City permit for a special event shall comply with the following standards:

#### (a) Unreasonable Risk

The City must make a finding that the special event will not create an unreasonable risk regarding the items listed below. Based upon such finding, the City shall either issue or deny the special event permit:

(1) Damage to public or private property, beyond normal wear and tear;

(2) Injury to persons;

(3) Public or private disturbances or nuisances;

(4) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;

(5) Additional and impracticable or unduly burdensome police, fire, trash removal, maintenance, wastewater, potable water, or other public services demands; and

(6) Other adverse effects upon the public health, safety, or welfare.

#### (b) Location Cannot be Accommodated

The special event shall not be of such a nature, size, or duration that the particular location requested cannot reasonably accommodate the event.

#### (c) Time Permitted or Reserved for Other Activities

The special event shall not be at a time and location that has already been permitted or reserved for other activities.

### 4. Conditions

In approving the special event permit, the Development Services Director is authorized to impose such conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed special event. The Development Services Director is authorized, where appropriate, to require:

(a) Provision of temporary parking facilities, including vehicular access and egress.

(b) Control of nuisance factors, such as but not limited to, the prevention of

glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat.

(c) Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.

(d) Provision of sanitary and medical facilities.

(e) Provision of solid waste collection and disposal.

(f) Provision of security and safety measures.

(g) Use of an alternative location or date for the proposed special event.

(h) Modification or elimination of certain proposed activities.

(i) Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested or specified in this subsection.

(j) Submission of a performance guarantee to ensure that any temporary facilities or structures used for such proposed special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

### 5. Duration of Permit

A permit for a special event authorized in accordance with this subsection shall be limited to a maximum duration of 14 days per site per calendar year, unless otherwise specifically authorized by the Development Services Director.

# Article 5: Development Standards

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# ARTICLE 5: Development Standards

## 5.1 Off-Street Parking, Loading, and Circulation

### A. Purpose and Intent

The purpose of this section is to establish the off-street parking, loading, and circulation facility standards for development. The standards in this section are intended to allow the flexibility needed to accommodate alternative solutions and achieve City policies of supporting new development, the development and revitalization of aging commercial corridors and the downtown area, accommodating appropriate infill development and redevelopment, encouraging pedestrian-oriented development, avoiding excessive paved surface areas, supporting alternative modes of transportation, and safeguarding natural and historic resources.

### B. Applicability

#### 1. General

The off-street parking, loading, and circulation standards of this section shall apply to all development in the City.

#### 2. Existing Development

##### (a) Change in Use

Any change in use within an existing development (but no corresponding increase in building size or outdoor use area size) shall provide any additional off-street parking and loading facilities required to comply with the minimum off-street parking, loading, and circulation standards, to the maximum extent practicable based on the land area available for parking, loading, or circulation features. Nothing in this subsection shall prevent the use of an alternative parking plan (see Section 5.1.I, *Alternative Parking Plan*) to comply with these standards.

##### (b) Expansion

Any expansion or enlargement of an existing building that will increase the number of units, or square footage upon which the applicable parking or loading standard is based, shall provide all additional off-street parking, loading, and circulation facilities as required by these standards. Nothing in this subsection shall prevent the use of an alternative parking plan (see Section 5.1.I, *Alternative Parking Plan*) to comply with these standards

##### (c) Nonconforming Sites

Any remodeling, expansion, or enlargement of an existing use or structure on a nonconforming site shall comply with the requirements of Section 7.5, *Correction of Nonconforming Site Features*.

### C. General Standards for Off-Street Parking, Stacking, and Loading Areas

#### 1. Use of Parking Area, Stacking Area, Circulation Area, or Loading Space

All vehicular parking areas, stacking areas, circulation areas, and loading spaces required by this section shall be used only for those purposes. Any other use—including, but not limited to, vehicular storage, vehicle sales, vehicular repair work, vehicle service, or display of any kind—shall constitute a separate use of the space.

### 2. Identified as to Purpose and Location

Except for parking areas serving single-family detached, duplex, mobile home, and two-to four-family dwellings, off-street parking areas of three or more spaces and off-street loading areas shall include painted lines, bumper stops, or other methods of identifying individual parking spaces and loading areas and distinguishing such spaces from aisles.

### 3. Surfacing

All required off-street parking, loading, and vehicular use areas shall be surfaced with an appropriate material, in accordance with the following standards:

#### (a) Parking Areas 1,000 sq.ft. or greater

Off-street parking areas (and associated loading and circulation areas) that are 1,000 sq. ft. in area and larger, and parking areas serving a use with a drive-through shall be surfaced with asphalt, concrete, brick, stone, pavers, or an equivalent material. These materials shall be maintained in a smooth, well-graded condition.

#### (b) Parking Areas with Less than 1,000 sq.ft.

Off-street parking areas (and associated loading and circulation areas) less than 1,000 sq. ft. in area may be surfaced with crushed stone, gravel, or other stable material, provided that such areas are served by a driveway or accessway that is paved with asphalt, concrete, brick, stone, pavers, or an equivalent material within 15 feet of the edge of the street pavement.

#### (c) Containment

Any parking areas using crushed stone or any other similar loose material shall include a permanent border of sufficient size and strength to contain and demarcate parking areas from other areas.

### 4. Arrangement

#### (a) Convenient Access

(1) All off-street parking and loading areas shall be arranged for convenient access and safety of pedestrians and vehicles.

(2) Off-street parking areas with three or more spaces shall be arranged so that:

i. No parking or maneuvering incidental to parking shall occur on a public street or sidewalk, and so that an automobile may be parked and un-parked without moving another automobile (except as provided in Section 5.1.I.7, *Valet and Tandem Parking*); and

ii. Sanitation, emergency, and other public service vehicles can service the development without the necessity of backing 100 or more feet or making hazardous turning movements.

#### (b) Channelization

Off-street surface vehicular use areas of 30 or more spaces shall include landscaping islands or other physical features designed to channel traffic within the lot into designated aisles or travelways so as to prevent unsafe diagonal movement of vehicles across empty bays of parking spaces.

#### (c) Backing onto Public Streets Prohibited

Except for parking areas serving single-family detached, duplex, mobile home, and two-to four-family dwellings, all off-street parking areas shall be arranged so that no vehicle is required to back from such areas directly onto a public street.

### 5. Drainage

All off-street parking and loading areas shall be properly drained so as not to cause any nuisance on adjacent land.

### 6. Exterior Lighting

When lighted, off-street parking and loading areas shall avoid creating glare or excessive light on adjacent land, and unless exempted, shall comply with the standards of Section 5.5, *Exterior Lighting*.

### 7. Landscaping

Except for those specifically exempted, all off-street parking and loading areas shall be landscaped to soften their visual impact on adjacent areas, and unless exempted, shall comply with the standards of Section 5.2.D, *Landscaping Requirements*.

### 8. Curbs and Motor Vehicle Stops

All off-street parking and loading areas shall provide curbs, motor vehicle stops, or other similar device (as approved by the Development Services Director) so as to prevent vehicles from overhanging a public right-of-way, sidewalk, walkway, landscape area, or adjacent property.

### 9. Driveway Aprons

All driveways serving off-street parking areas shall incorporate a driveway apron, configured in accordance with NCDOT and Jacksonville's *Manual of Standard Specifications and Design (MSSD).*

### 10. Maintained in Good Repair

#### (a) Maintained at All Times

All off-street parking, access isles and loading areas shall be maintained in good repair and in safe condition at all times so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding land.

#### (b) Periodically Restored

All off-street parking and loading areas shall be periodically painted or otherwise restored to maintain a clear identification of separate parking stalls or loading areas. In no instance shall an off-street parking or loading area be reconfigured without the prior approval of the Development Services Director to ensure the standards of this section are met or ensure a nonconforming situation is not exacerbated.

### 11. Responsibility for Provision

The responsibility for providing the off-street parking, loading, and circulation areas required by this section shall be that of the developer and/or property owner, the land requiring parking, loading, and circulation areas. Review for compliance with the standards of this section shall occur during review of an application for a Planned

Development (see Section 2.3.B), Site Plan (see Section 2.3.C), Building Permit (see Section 2.3.G), or Zoning Permit (see Section 2.3.F), whichever occurs first.

### 12. Construction of Off-street Parking and Loading Areas

All off-street parking, loading, and circulation areas shall be completed prior to the issuance of a Certificate of Occupancy for the use or uses they serve. In the case of phased development, off-street parking, loading, and circulation areas shall only be provided for the portions of the development for which a Site Plan, Building Permit, or Zoning Permit is approved.

## D. Off-Street Parking Standards

### 1. Parking Plan Required

Except for single-family detached, duplex, mobile home, or other uses with two or fewer required off-street parking spaces, a parking plan shall be submitted with every application for a Planned Development (see Section 2.3.B), Site Plan (see Section 2.3.C), Building Permit (see Section 2.3.G), or Zoning Permit (see Section 2.3.F) as determined by Development Services Director. The plan shall accurately designate the required parking spaces, access aisles, circulation areas, and driveways, and the relation of the off-street parking facilities to the uses or structures such facilities are designed to serve.

### 2. Minimum Number of Spaces Required

Unless otherwise expressly stated in this section, the minimum number of off-street parking spaces shall be provided in accordance with Table 5.1.1, *Minimum Off-Street Parking Standards*:

**Table 5.1.1: Minimum Off-Street Parking Standards**

| Use Category | Use Type | Minimum Number of Parking Spaces |
|---|---|---|
| Agricultural Use Classification | | |
| Agriculture | Livestock | 1 per every 200 sf |
| | Plant nursery | 1 per every 300 sf + 1 per every 1,000 sf outdoor nursery lot |
| | All other agriculture | 1 per every 1,500 sf |
| Agricultural Support and Services | Horse stable | 1 per stall |
| | All other agricultural support and services | See Section 5.1.D.3 |
| Residential Use Classification | | |
| Household Living | Dwelling, duplex | 1 per bedroom + 1 per DU |
| | Dwelling, live/work | 1 per DU |
| | Dwelling, mansion apartment | 1.2 per DU |
| | Dwelling, mobile home | 2 per DU |
| | Dwelling, modular home | |
| | Dwelling, multi-family | 1.25 per bedroom; 1 per DU when unit dedicated for senior housing |
| | Dwelling, single-family detached | 2 per DU + 1 per rented room |
| | Dwelling, townhouse | 2.5 per DU |
| | Dwelling, two- to four-family | 1 per bedroom + 1 per DU |
| | Dwelling, upper story | 0.5 per DU |
| | Mobile home park | 2 per DU |

**Table 5.1.1: Minimum Off-Street Parking Standards**

| Use Category | Use Type | Minimum Number of Parking Spaces |
|---|---|---|
| Group Living | Group home | 1 per bedroom |
| | Rooming or boarding house | 1 per bedroom |
| Public and Institutional Use Classification | | |
| Community Services | Community center | 1 per every 300 sf |
| | Cultural facilities | 1 per every 300 sf |
| | Library | 1 per every 250 sf |
| | Museum | 1 per every 300 sf for the first 5,000 sf, then 1 per every 1,000 sf |
| | Senior center | 1 per every 300 sf |
| Day Care | Adult day care | 1 per every 300 sf |
| | Child day care | 1 per every 300 sf |
| Educational Facilities | College or university | 1 per every 200 sf |
| | School, elementary | 1.5 per classroom |
| | School, middle | |
| | School, high | 5 per classroom |
| | Vocational or trade school | 1 per every 150 sf |
| Government Facilities | Government maintenance or distribution facility | 1 per every 1000 sf |
| | Offices | 1 per every 250 sf |
| | Post office | 1 per every 250 sf |
| Health Care Facilities | Blood/tissue collection facility | See Section 5.1.D.3 |
| | Drug/alcohol treatment facility | 1 per every 300 sf |
| | Hospital | 1 per every 200 sf |
| | Medical/dental clinic | 1 per every 300 sf |
| | Medical treatment facility | 1 per every 300 sf |
| Institutions | Assisted living facility | 1 per every resident unit |
| | Auditorium | 1 per every 400 sf |
| | Club or lodge | 1 per every 300 sf |
| | Convention center | See Section 5.1.D.3 |
| | Halfway house | 1 per bedroom |
| | Nursing home | 1 per every 300 sf |
| | Religious institution | 1 per every 75 sf |
| Parks and Open Areas | Arboretum or garden | See Section 5.1.D.3 |
| | Cemetery | 1 per every 200 sf of building area |
| | Community dock, major | None |
| | Community dock, minor | |
| | Community garden | 2 + 1 per every 0.5 acre |
| | Marina | 1 per every 4 dry slips + 1 per every 2 wet slips |
| | Park | See Section 5.1.D.3 |
| | Square or plaza | |
| Public Safety | Correctional facility | See Section 5.1.D.3 |
| | Fire or EMS facility | 1 per every 250 sf, excluding apparatus bays |
| | Police station | |

## Table 5.1.1: Minimum Off-Street Parking Standards

| Use Category | Use Type | Minimum Number of Parking Spaces |
|---|---|---|
| Transportation | Airport | See Section 5.1.D.3 |
| | Helicopter landing facility | See Section 5.1.D.3 |
| | Passenger terminal | 1 per every 500 sf |
| | Private landing strip | See Section 5.1.D.3 |
| Utilities | Telecommunications antenna, collocation | None |
| | Telecommunications tower, freestanding | 1 per provider |
| | Utility, major | 1 per every 1,500 sf |
| | Utility, minor | None |
| **Commercial Use Classification**<br>Uses in the commercial use classification shall not provide more than 125 percent of the minimum number of spaces required except through an approved alternative parking plan (See Section 5.1.H) | | |
| Adult Establishments | All | 1 per every 150 sf |
| Animal Care | All other uses | 1 per every 250 sf excluding kennel areas and interior runs |
| | Kennel, indoor or outdoor | |
| | Veterinary clinic | |
| Eating Establishment | Restaurant, with indoor or outdoor seating | 1 per every 150 sf (including outdoor waiting, seating, & dining areas) |
| | Restaurant, with drive-through service | |
| | Specialty eating establishment | 1 per every 200 sf |
| Offices | All others | 1 per every 250 sf |
| | Business, financial, professional services | |
| Personal Services | Financial institution (without drive-through) | 1 per every 200 sf |
| | Financial institution (with drive through) | 1 per every 250 sf + required stacking spaces |
| | Funeral home | 1 per every 100 sf |
| | Laundromat | 1 per every 300 sf |
| | Pawn shop/ Lending institution | 1 per every 250 sf |
| | Repair establishment | 1 per every 300 sf |
| | Tattoo parlor/ piercing establishment | 1 per every 300 sf |
| | Personal services establishment | 1 per every 300 sf |
| Recreation/ Entertainment | Arcade | 1 per every 250 sf of building floor area |
| | Arena, stadium, or coliseum | See Section 5.1.D.3 |
| | Athletic field and clubhouse | 1 per every 250 sf of building floor area + 1 per every 5,000 sf of outdoor use area |
| | Golf course | 1 per tee + 1 per every 250 sf of building floor area |
| | Indoor commercial recreation | 1 per every 300 sf |
| | Outdoor commercial recreation | 1 per every 250 sf of building floor area + 1 per every 5,000 sf of outdoor use area |
| | Swimming pool | See Section 5.1.D.3 |
| | Theater | 1 per every 150 sf |
| Retail Sales | Bar, nightclub, lounge, brown-bagging, or tavern | 1 per every 100 sf |
| | Billiard/ pool hall (with or without alcohol sales) | 1 per every 150 sf |
| | Convenience store (without gas sales) | 1 per every 200 sf |

**Table 5.1.1: Minimum Off-Street Parking Standards**

| Use Category | Use Type | Minimum Number of Parking Spaces |
|---|---|---|
| | Convenience store (with gas sales) | |
| | Drug store (without drive-through) | |
| | Drug store (with drive-through) | 1 per every 200 sf + required stacking spaces |
| | Flea market | 1 per every 250 sf of building floor area + 1 per every 1,000 sf of outdoor area |
| | Gasoline sales | 1 per every 300 sf |
| | Grocery store | 1 per every 200 sf |
| | Hookah lounge | 1 per every 150 sf |
| | Liquor store | 1 per every 250 sf |
| | Outdoor sales | 1 per every 5,000 sf of outdoor display area |
| | Retail sales establishment | 1 per every 200 sf |
| | Retail sales establishment, large | 1 per every 600 sf |
| | Shopping center | < 50,000 sf: 1 per every 200 sf<br>50,000 sf – 150,000 sf: 1 per every 300 sf<br>> 150,000 sf: 1 per every 400 sf |
| Self–Service Storage | All | See Section 5.1.D.3 |
| Vehicle Sales and Services | Automotive rentals/ sales | 1 per every 600 sf |
| | Automotive painting/ body shop | 1 per every 250 sf |
| | Automotive parts/ installation | |
| | Automobile repair and servicing (without painting/bodywork) | |
| | Automotive wrecker service | 1 per every 500 sf |
| | Boat and marine rental/ sales | 1 per every 400 sf |
| | Boat repair and servicing | |
| | Recreational vehicle rental/ sales | |
| | Taxicab operation | 1 per every 400 sf |
| | Truck and trailer rental/ sales | 1 per every 400 sf |
| Visitor Accommodations | Bed and breakfast | 1 per guest bedroom |
| | Hotel/ motel | 1 per guest bedroom + 5 |
| **Industrial Use Classification**<br>Uses in the Industrial use classification shall not provide more than 125 percent of the minimum number of spaces required except through an approved alternative parking plan (See Section 5.1.H) | | |
| Extractive Industry | All | 1 per every 1,000 sf of building area |
| Industrial Services | Building, heating, plumbing, or electrical contractor | 1 per every 1,000 sf |
| | Concrete/ asphalt plant | 1 per every 1,000 sf |
| | Electric motor repair | 1 per every 1,000 sf |
| | Fuel oil/ bottled gas distributor | |
| | Flex space | 1 per every 500 sf |
| | Heavy equipment sales, rental, or storage | 1 per 400 sf + 1 per 5,000 sf outdoor display area |
| | Heavy equipment servicing and repair | |
| | Laundry, dry cleaning, and carpet cleaning plants | 1 per every 1,000 sf |
| | Machine shop | 1 per every 400 sf |
| | Repair of scientific or professional instruments | |
| | Research and development | 1 per every 800 sf |
| | Tool repair | 1 per every 400 sf |

**Table 5.1.1: Minimum Off-Street Parking Standards**

| Use Category | Use Type | Minimum Number of Parking Spaces |
|---|---|---|
| Manufacturing and Production | Manufacturing, heavy | 1 per 1,000 sf |
| | Manufacturing, light | |
| Warehouse and Freight Movement | Cold storage plant | 1 per every 1,000 sf |
| | Outdoor storage (as a principal use) | |
| | Parcel services | |
| | Truck or freight terminal | |
| | Warehouse (distribution) | |
| | Warehouse (storage) | |
| Waste-Related Services | Incinerator | See Section 5.1.D.3 |
| | Land application of wastes | None |
| | Landfill, land clearing and inert debris | See Section 5.1.D.3 |
| | Landfill, construction debris | |
| | Landfill, sanitary | |
| | Recycling and salvage center | 1 per 1,000 sf |
| | Recycling drop-off center | |
| | Salvage and junkyard | |
| | Tire disposal or recycling | |
| | Waste composting | |
| Wholesale sales | All uses | 1 per 1,000 sf |
| NOTE: DU = dwelling unit; sf = square feet (of floor area unless otherwise noted) | | |

### 3. Uses with Variable Parking Demand Characteristics

Uses that reference this subsection in Table 5.1.1, *Minimum Off-Street Parking Standards*, have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading standard. Upon receiving a development application for a use subject to this subsection, the Development Services Director shall apply the off-street parking and loading standard specified for the listed use that is deemed most similar to the proposed use or establish minimum off-street parking standards on the basis of a parking and loading study prepared by the applicant. Such a study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE) or other acceptable estimates as approved by the Development Services Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

### 4. Mixed Uses

Unless otherwise approved, lots containing more than one use shall provide parking spaces in an amount equal to the total of the standards for all individual uses. This provision shall not limit the ability to submit an alternative parking plan (see Section 5.1.I) to reduce the minimum number of required off-street parking spaces in recognition of different operating hours or peak business periods.

### 5. Maximum Number of Spaces Permitted

#### (a) Provision Limited to 125 Percent of Minimum

(1) For any use listed under the commercial or industrial use classification in Table 5.1.1, *Minimum Off-Street Parking Standards*, the number of off-street parking spaces shall not exceed 125 percent of the minimum number of parking spaces required in Table 5.1.1, *Minimum Off-Street Parking Standards*, except that additional parking spaces may be allowed through approval of an alternative parking plan in accordance with Section 5.1.I.1, *Provision over the Maximum Allowed*.

(2) Additional off-street parking spaces provided in excess of 125 percent of the minimum, and approved as part of an alternative parking plan, shall be surfaced with pervious materials or constructed in accordance with low impact development techniques.

#### (b) Mixed-Use Development Exempt

Mixed-use development composed of commercial use types and one or more different residential use types within the same building shall be exempted from the maximum number of spaces requirements in this subsection.

#### (c) Additional Requirements

Any off-street parking spaces provided in excess of the maximum number of off-street parking spaces required in Table 5.1.1, *Minimum Off-Street Parking Standards*, shall comply with the standards of Section 5.1.I.1, *Provision over the Maximum Allowed*.

### 6. Compact Spaces

Surface parking areas with ten or more spaces may provide up to 25 percent of the minimum number of required off-street parking spaces required in Table 5.1.1, *Minimum Off-Street Parking Standards*, as compact car spaces, provided all compact car spaces are designated by signage and/or pavement marking.

### 7. Motorcycle Spaces

In addition to parking spaces for automobiles and bicycles, multi-family and commercial uses of 10,000 square feet in floor area or more shall provide off-street motorcycle parking spaces in accordance with the following standards:

#### (a) Number Required

Motorcycle spaces shall be provided at a rate of one motorcycle space for every 30 automobile spaces.

#### (b) Location

Motorcycle spaces shall be striped or otherwise demarcated, and located proximate to a building primary entrance.

### 8. Placement

The location or placement of off-street parking areas on a development site shall be limited in accordance with the placement standards of Section 5.7, *Community Form Standard*s, Section 5.8, *Commercial Design Standards*, Section 5.9, *Large Retail Design Standards*, and 5.10 *Multi-Family Design Standards*.

## 9. Single-Family Residential Development

Off-street parking serving single-family detached, duplex, or two- to four-family dwellings and located within front yard and/or corner side yard areas shall comply with the following standards:

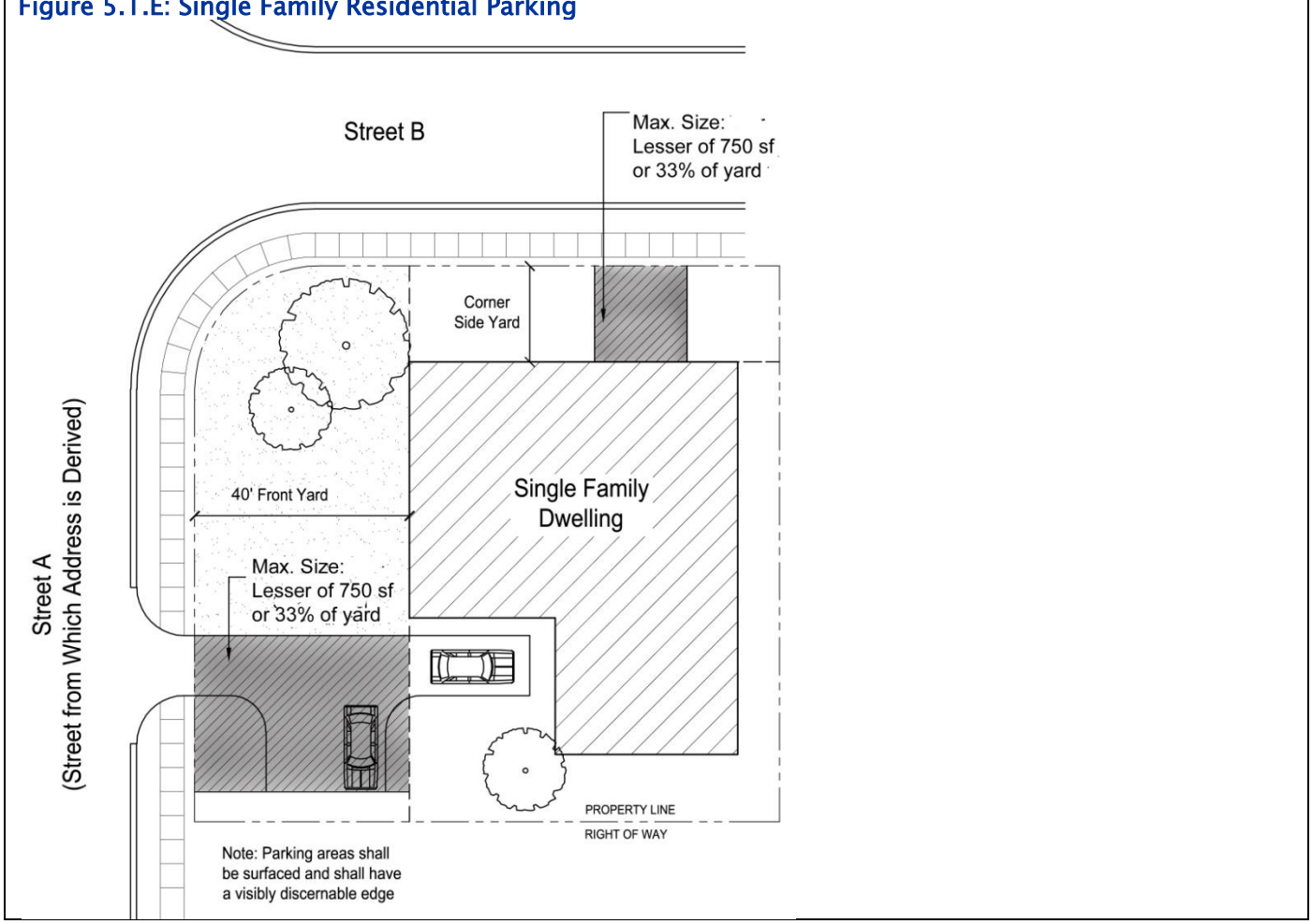
### (a) Parking in Vehicular Use Area Required

Vehicles, whether parked or stored, shall be located in a vehicular use area. For the purposes of this subsection, "vehicles" shall include, but not be limited to, passenger vehicles, all trucks under 20,000 pounds of gross vehicle weight, vans, golf carts, or other similar vehicles, whether operable or otherwise.

### (b) Maximum Area Available for Vehicular Use

Vehicular use areas located within the first 40 feet of the front or corner side yard (as measured from the edge of the street right-of-way) shall be limited to the lesser of 33 percent of the entire front and/or corner side yard area, or 750 square feet (see Figure 5.1.E, *Single-Family Residential Parking*). Nothing in this subsection shall be construed to limit the size of the vehicular use area located beyond the first 40 feet of a front or corner side yard area.

Figure 5.1.E: Single Family Residential Parking



# E. Off-Street Parking Standards in the DTR and DTB Districts

## 1. On-Street Parking

On-street parking is encouraged on all streets in the in the DTR and DTB districts except those designated as no parking zones by the City.

## 2. Provision

Development within the DTR and DTB district shall be exempt from the minimum parking requirements in Table 5.1.1, *Minimum Off-Street Parking Requirements*. However, if off-street parking is provided, it shall comply with the other applicable standards in Section 5.1, *Off-Street Parking, Loading, and Circulation*.

## 3. Location of Off-Street Parking Areas[1]

(a) Except for off-street parking serving single-family detached and duplex dwellings, all off-street surface parking in the DTR and DTB districts shall be located to the side or rear of the primary building façade. Off-street surface parking in front of a primary building façade lawfully established before *July 1, 2014* may be maintained or repaired, but not increased in capacity.

(b) Parking areas and garages serving single-family detached and duplex buildings on lots of 60 feet in width or less shall be located to the side or rear of the structure they serve, and accessed from a rear-loaded secondary street or alley, to the maximum extent practicable.

(c) Applicants may request an alternative off-street parking configuration via an Alternative Parking Plan (see Section 5.1.I).

(d) In no instance shall a townhouse or multi-family use include off-street parking between the primary building façade and the street.

## 4. Parking Lot Screening

Off-street parking lots shall be screened by one or more of the following methods:

(a) Landscaping in accordance with Section 5.2.D, *Landscaping Requirements*;

(b) A fence or wall with a maximum height of 36 inches and minimum total transparency of 40 percent along any single lot frontage; or

(c) Building walls located between the parking and off-site areas.

## 5. Access to Parking Areas

(a) Pedestrian entrances to all parking lots and parking structures shall be directly from a sidewalk or pedestrian way. Only underground parking structures may be entered by pedestrians directly from a principal building.

(b) The vehicular entrance of a parking lot or garage on a front or corner side frontage shall be no wider than 36 feet.

[1] This section replaces the parking layer concept in the draft Downtown Code.

### 6. Large Retail Development

Lots containing a large retail building in the DTR or DTB districts shall be limited to a maximum of a two single-loaded rows and an associated drive aisle between the primary building façade and the street it fronts, regardless of the street type the lot fronts.

## F. Computation of Required Off-Street Parking Spaces

### 1. Fractions

When computation of the number of required parking spaces results in a fraction, fractions of less than one-half of a whole number shall be rounded down to the whole number, and fractions of one-half or more of a whole number shall be rounded upward to the next highest whole number.

### 2. Different Use Areas

Except as otherwise provided for in this section, parking shall be calculated separately for each area in a building or on a site that is devoted to a different use, including all accessory uses.

### 3. Combinations of Uses

If the Development Services Director determines that a proposed use represents a combination of uses listed in Table 5.1.1, *Minimum Off-Street Parking Standards*, the minimum and maximum parking space standards shall be the sum of those that would apply if the uses were developed separately, unless the Development Services Director determines that a lower standard would be adequate because of differences in peak operating hours.

### 4. Parking Based on Floor Area

Except as otherwise provided in this section, where the minimum number of off-street parking spaces required in Table 5.1.1, *Minimum Off-Street Parking Standards*, is based on square feet of floor area, all computations shall be based on gross floor area.

### 5. On-Street Parking

Except as otherwise provided in this Ordinance, on-street parking on public or private streets, driveways, or drives shall not be used to satisfy the off-street parking standards of this section.

### 6. Driveways Used to Satisfy Requirements

For single-family detached, duplex, mobile home, townhouse, and two-to four-family dwellings, driveways may be used to satisfy minimum off-street parking standards, provided sufficient space is available to satisfy the standards.

### 7. Determination by Development Services Director

The minimum number of parking spaces required for uses not specifically listed in Table 5.1.1, *Minimum Off-Street Parking Standards*, shall be determined by the Development Services Director based on the standards for the closest comparable use or by reference to standard parking resources published by the National Parking Association or the American Planning Association. Alternatively, the Development Services Director may require the applicant to submit a parking demand study that justifies estimates of parking demand based on the recommendations of the Institute of Traffic Engineers (ITE), and includes relevant data collected from uses or combinations of uses that are the same or comparable to the proposed use in terms of density, scale, bulk, area, type of activity, and location.

## G. Accessible Parking Spaces for Physically Disabled Persons

A portion of the total number of required off-street parking spaces in each off-street parking area shall be specifically designated, located, and reserved for use by persons with physical disabilities, in accordance with the latest edition of the North Carolina Building Code and the ANSI Standards.

## H. Dimensional Standards for Parking Spaces and Aisles

### 1. General

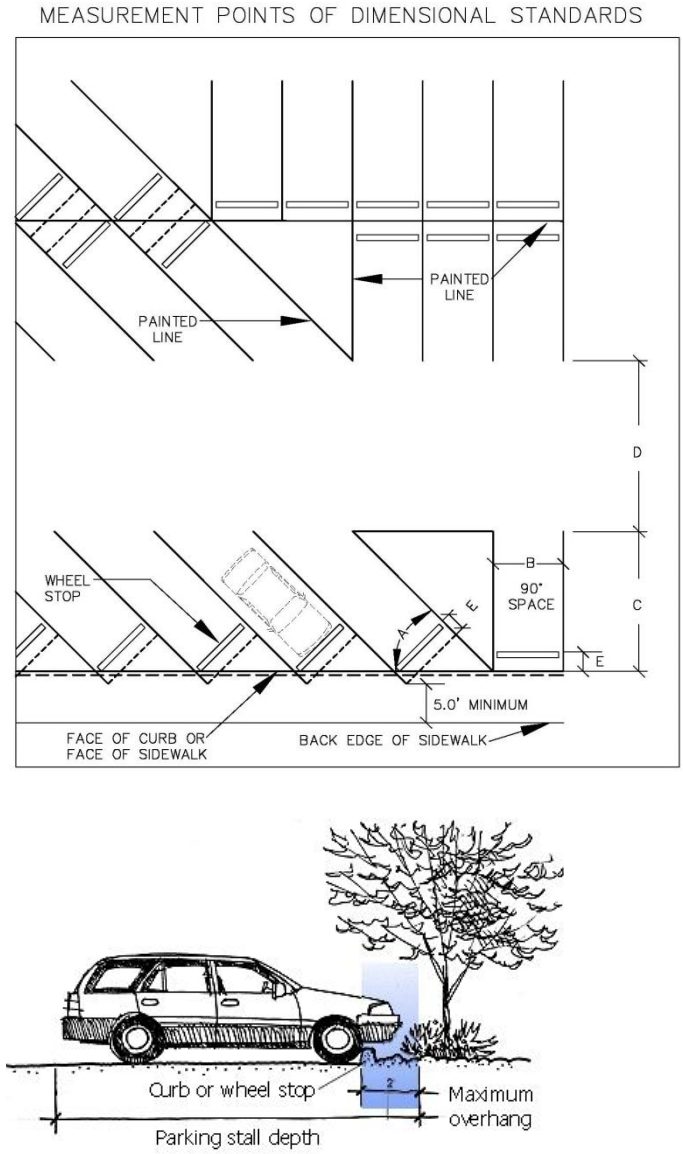
Vehicular parking spaces and aisles shall comply with the minimum dimensional standards established in Table 5.1.2, *Dimensional Standards for Parking Spaces and* Aisles, and in Figure 5.1.H*, Parking Spaces and Aisles*:

**Table 5.1.2: Dimensional standards for Parking Spaces and Aisles**

| A. Parking Angle [1] | B. Minimum Stall Width (feet) [2] | C. Minimum Stall Depth (feet) [2] | D. Minimum Aisle Width for One-Way Traffic (feet) | E. Minimum Aisle Width for Two-Way Traffic (feet) |
|---|---|---|---|---|
| Parallel | 8 | 22 | 11 | 22 |
| 45 degrees | 9 | 18 | 11 | 22 |
| 60 degrees | | | 11 | 22 |
| 90 degrees | | | 24 | 24 |
| Motorcycle [3] | 4½ | 8 | | |

NOTES:
[1] Angles less than 45 degrees may be allowed with approval of the Development Services Director
[2] Compact car spaces shall have a minimum width of 8 feet and a minimum depth of 16 feet.
[3] Motorcycle spaces shall maintain a minimum area of 36 square feet.

**Figure 5.1.H: Parking Spaces and Aisles**




2. **Wheel Stops**

The face of a wheel stop shall be located two-and-one-half feet from the front, or head of the parking place.

3. **Dimensional Adjustments**

Parking structures may be subject to dimensional adjustments based on utilization, but in no case shall the standard parking space width be less than eight feet. Reduction in other design standards shall be subject to approval by the Development Services Director.

4. **Medians in Driveway Entrances**

Medians may be provided within driveway entrances provided the minimum aisle width is maintained for each travel and turning lane.

## I. Alternative Parking Plan

Applicants may request, and the Development Services Director shall be authorized to approve, an alternative parking plan that proposes alternatives to providing the number of required off-street parking spaces required by Table 5.1.1, *Minimum Off-Street Parking Standards*, in accordance with the standards listed below. Alternative parking plans may be submitted with an application for a Site Plan (see Section 2.3.C), Planned Development Master Plan (see Section 2.3.B), or Zoning Permit (see Section 2.3.F). Nothing in this subsection shall limit the utilization of one or more of the following off-street parking alternatives by a single use.

1. **Provision over the Maximum Allowed**

Except for mixed-use development including commercial and residential use types within a single building, requests to provide more than the maximum number of off-street parking

spaces required by Section 5.1.D.5, *Maximum Number of Spaces Permitted*, shall comply with the following:

(a) **Parking Demand Study**

Requests for exceeding the maximum number of required off-street parking spaces shall be accompanied by a parking demand study demonstrating how the maximum number of parking spaces specified by Section 5.1.D.5, *Maximum Number of Spaces Permitted*, is insufficient for the proposed development.

2. **Provision Under the Minimum Allowed**

Requests to provide less than the minimum number of off-street parking spaces required in Table 5.1.1, *Minimum Off-Street Parking Standards*, shall comply with the following:

(a) **Parking Demand Study**

Requests for providing fewer than the minimum number of required off-street parking spaces shall be accompanied by a parking demand study demonstrating how the parking demands for the proposed use can be met with fewer spaces than required by Table 5.1.1, *Minimum Off-Street Parking Standards*.

(b) **Large Retail Development**

Reductions in the minimum amount of required off-street parking for large retail development shall not exceed 20 percent of the minimum required in Table 5.1.1, *Minimum Off-Street Parking Standards*.

3. **Shared Parking**

Requests for shared parking shall comply with all of the following standards:

(a) **Location within 400 Feet**

(1) Except for shared parking located within a parking structure, or served by a parking shuttle bus, shared parking shall be located within a 400-foot walking distance of the primary entrance of all uses served.

(2) Shared parking located within a parking structure and employee parking shall be located within 1,000 feet of the primary entrance of uses served.

(3) Shared parking spaces shall not be separated from the use they serve by an arterial or collector street unless the shared parking area is served by an improved pedestrian crossing.

(b) **Safe Pedestrian Access**

Adequate and safe pedestrian access shall be provided from and to the shared parking areas in the form of improved pedestrian ways such as sidewalks, improved trails, or walkways designated for use only by pedestrians or bicyclists.

(c) **Maximum Shared Spaces**

The maximum reduction in the number of parking spaces required for all uses sharing the parking area shall be 50 percent, unless otherwise approved by the Development Services Director.

(d) **Directional Signage**

Directional signage that complies with the standards of this Ordinance shall be provided to direct the public to the shared parking spaces.

### (e) Shared Parking Plan and Agreement Required

#### (1) Justification

Those requesting to use shared parking as a means of satisfying the off-street parking standards shall submit a shared parking plan that justifies the feasibility of shared parking. Justification shall include information on the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

#### (2) Recorded Agreement

The shared parking plan portion of an alternative parking plan shall be enforced through written agreement among all owners of record and the City of Jacksonville. An attested copy of the agreement between the owners of record must be recorded at the Onslow County Register of Deeds. Recordation of the agreement shall take place prior to issuance of a Certificate of Occupancy for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all parties agree, and all uses can meet the off-street parking requirements in this Ordinance.

#### (3) Duration

A shared parking agreement shall remain in effect until one or more of the uses subject to the agreement changes, or the owners of record agree to revoke or invalidate the agreement.

## 4. Off-Site Parking for Nonresidential Uses

All off-street parking areas for a nonresidential use shall be provided on the same parcel of land as the use it serves. An off-street parking area for nonresidential development may be located on another parcel of land, however, if there are practical difficulties in locating the parking area on-site or the public's safety or convenience is better served by off-site parking. When provided, off-site parking for nonresidential uses shall comply with the following standards:

### (a) Pedestrian Way Required

Except within the DTR and DTB districts, a pedestrian way, not more than 600 feet in length, shall be provided from the parking area to the use it serves. (A pedestrian way from an off-site parking area is not required in the DTR and DTB districts, and if provided, may be more than 600 feet away.)

### (b) No Undue Hazard

The off-site parking area shall be convenient to the use it serves without causing unreasonable:

(1) Hazard to pedestrians;

(2) Hazard to vehicular traffic;

(3) Traffic congestion;

(4) Interference with commercial activity or convenient access to other parking areas in the vicinity;

(5) Detriment to the appropriate use of business lands in the vicinity; or

(6) Detriment to any abutting residential neighborhood.

### (c) Recorded Agreement

In cases where off-site parking occurs on a lot under separate ownership, an off-site parking agreement shall be established between all owners of record. An attested copy of the agreement shall be recorded. Recordation of the agreement shall take place prior to issuance of a Certificate of Occupancy for any use to be served by the off-site parking area. A parking agreement may be revoked only if all required off-street parking spaces will be provided in accordance with the requirements of Table 5.1.1, *Minimum Off-Street Parking Standards*.

## 5. Deferred Parking

An applicant may submit a request to defer the construction of up to 30 percent of the number of parking spaces required in Table 5.1.1, *Minimum Off-Street Parking Standards*, if the request complies with the following standards:

### (a) Fewer Spaces Needed

The applicant demonstrates that because of the location, nature, or mix of uses, there is a reasonable probability the number of parking spaces actually needed to serve the development is less than the minimum required by Table 5.1.1, *Minimum Off-Street Parking Standards*; and

### (b) Reserve Parking Plan

The request is accompanied by a reserve parking plan identifying:

(1) The amount of off-street parking being deferred;

(2) The location of the area to be reserved for future parking, if future parking is needed; and

### (c) Parking Demand Study

The applicant provides assurance that a parking demand study evaluating the adequacy of the existing parking spaces in meeting the parking demand generated by the development will be submitted to the Development Services Director within 16 months after the initial Certificate of Occupancy. If the study indicates that the existing parking is adequate, then construction of the remaining number of parking spaces shall not be required. If the study indicates a need for additional parking, it shall be provided consistent with the reserve parking plan and the standards of this section.

### (d) Limitations on Reserve Areas

Areas reserved for future parking shall not be used for permanent buildings, storage, loading, display, or other purposes.

### (e) Landscaping Required

Areas reserved for future parking shall be landscaped with an appropriate ground cover, and shall comply with all relevant landscaping standards of this Ordinance when ultimately developed as parking spaces.

### 6. Parking Structures

The off-street parking required by this section may be located in a parking structure, whether on the same or a different lot than the uses it serves, but in no instance shall credit be given for shared parking spaces in a parking structure farther than 1,000 linear feet from the lot line of the uses served. Ground floor parking provided in a parking structure shall be screened, insofar as practicable, from surrounding uses and from public view as required by Section 5.2.D, *Landscaping Requirements*. In addition, for uses located on the same lot as the structure, the standards required for shared parking shall apply. For uses located on a different lot as the structure, the standards required for off-site parking shall apply.

### 7. Valet and Tandem Parking

An off-street parking program utilizing limited tandem parking may be allowed for uses listed under the commercial or industrial use classification in Table 5.1.1, *Minimum Off-Street Parking Standards*, in accordance with the following standards:

(a) The development served shall provide 75 or more parking spaces;

(b) No more than 30 percent of the total number of spaces shall be designated as tandem; and

(c) A valet parking attendant must be on duty during hours of operation.

### 8. Alternative Materials for Overflow Parking Areas

The use of pervious or semi-pervious parking area surfacing materials—including, but not limited to, grass, seashells, crushed masonry, cinders, "grass-crete," "turfstone", pervious pavement, pavers, or recycled glass or rubber, shall be approved for the required off-street parking spaces on a site, provided such areas are properly maintained. Where possible, such materials should be used in areas proximate to and in combination with on-site stormwater control devices.

## J. Bicycle Parking

### 1. Credit Towards Off-Street Vehicular Parking Space Requirements

(a) Bicycle parking spaces shall be provided and will be credited towards the minimum off-street parking requirements in Table 5.1.1, *Minimum Off-Street Parking Standards*, at a rate of one vehicular parking space for every five bicycle parking spaces provided in accordance with this section.

(b) In no instance shall more than 10 percent of the required off-street vehicular parking spaces be provided as bicycle parking spaces.

### 2. Location

(a) Bicycle parking facilities shall be conveniently located no farther than 50 feet from the primary building entrance unless the Development Services Director determines an alternative location provides a safer, more convenient, or more appropriate access to bicyclists.

(b) Long term bicycle parking, (such as bike lockers or designated rooms for bicycles) may be located farther than 50 feet from the primary building entrance.

### 3. Bicycle Rack Requirements

When bicycle parking is provided in lieu of off-street vehicular parking spaces, the rack shall be approved by the Development Services Director.

## K. Off-Street Loading Spaces

### 1. Applicability

These off-street loading space standards shall apply to all nonresidential uses where normal operation requires goods, merchandise, or equipment be routinely delivered or shipped to or from the use in vehicles with more than two axles

### 2. Configuration

Off-street loading spaces may be configured as designated loading berths or as loading zones. The Development Services Director shall determine the appropriate off-street loading space configuration based upon the frequency of delivery and the size of goods being shipped.

### 3. Number of Required Off-street Loading Berths/Zones

On-site loading berths or zones shall be provided in accordance with Table 5.1.4, *Required Off-Street Loading Berths/Zones*, depending on the use's gross square footage. The developer shall determine if the use requires a greater number of spaces than those required by this section.

**Table 5.1.4: Required Off-Street Loading Berths/Zones [1]**

| Gross Square Footage | Minimum Number of Loading Berths/Zones |
|---|---|
| 1,000 - 19,999 | 1 |
| 20,000 – 79,999 | 2 |
| 80,000 – 127,999 | 3 |
| 128,000 – 191,999 | 4 |
| 192,000 – 255,999 | 5 |
| 256,000 – 319,999 | 6 |
| 320,000 – 391,999 | 7 |
| 392,000 + | 7 + 1 per every additional 72,000 sf |

### 4. Standards

#### (a) Minimum Dimensions

Each loading berth or zone required by this subsection shall be sized to accommodate the vehicles that will be making deliveries (minimum of 12 feet wide by 25 feet long (or deep), with at least 14 feet of overhead clearance).

#### (b) Location

Loading areas shall be located to the rear of the use they serve. In addition, the loading area shall be located adjacent to the buildings loading doors, in an area that promotes their practical use. Practical use does not include the blocking of parking spaces, drive thru aisles or any other required site features.

### (c) Large Vehicle Accommodation

Each off-street loading space shall have adequate, unobstructed means for the ingress and egress of vehicles with 3 or more axels.

### (d) Loading Zone Designation and Delineation

(1) Loading zones shall be accompanied by signage and/or striping that prohibits use of the loading zone for parking during normal delivery hours.

(2) Loading zones may be used to accommodate off-street parking outside normal delivery hours, such spaces can be credited towards satisfying the minimum parking requirements in this Ordinance.

### (e) Access to a Street

Every loading space shall be provided with safe and convenient access to a street, but in no case shall the loading space extend into the required aisle of a vehicular use area.

### (f) Paving

The ground surface of loading spaces shall be paved with a durable, dust free, and hard material, such as surface and seal treatment, bituminous hot mix, Portland cement, concrete, or some comparable material. Such paving shall be maintained for safe and convenient use at all times.

### (g) Landscaping

Loading spaces shall be landscaped in accordance with Section 5.2.F, Bufferyard.

### (h) Exterior Lighting

Exterior lighting for loading areas shall comply with the standards in Section 5.5, *Exterior Lighting*.

## L. Off-Street Circulation

### 1. Fire Lanes

Where streets or rights-of-way provide insufficient access for firefighting, unobstructed fire lanes with a minimum width of 20 feet shall be provided adjacent to a structure's primary entrance in accordance with the Fire Code. In no instance shall this standard waive the requirement for primary drive aisles constructed in accordance with Section 5.1.L.6, *Primary Drive Aisles*, when these drive aisles are required by this Ordinance.

### 2. Driveway Width

Except for driveways serving single-family detached, duplex, mobile home, two- to four-family dwellings, and individual townhouse units, all driveways shall comply with the following minimum width requirements:

(a) One-way driveways shall have a minimum width of at least ten feet as measured from the back-of-curb, or edge of paving; and

(b) Two-way driveways shall have a minimum width of at least 18 feet and a maximum width of 36 feet, unless waived by the NCDOT.

### 3. Driveway Spacing on Lots in Nonresidential Districts

Except in the Downtown Business (DTB) and Downtown Residential (DTR), driveways serving lots in a nonresidential district shall comply with the following standards:

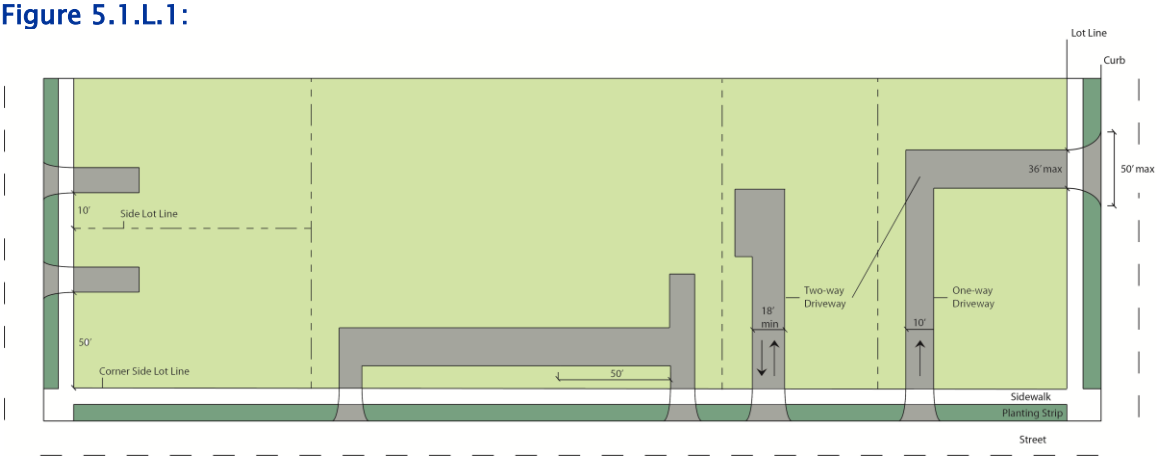
(a) Except for shared driveways serving two or more lots, no driveway shall be located within ten feet of a side lot line unless the Development Services Director determines this requirement is not practical due to lot topography, lot location, or proximity to an intersection.

(b) No driveway edge shall be within 50 feet of a street intersection unless no other lot access is available.

(c) In cases where two driveways serving a single lot enter from the same street, the closest non-radius edges shall be spaced at least 50 feet apart (see Figure 5.1.L, Driveway Spacing).

(d) In cases where three driveways serve a single lot from the same street, the closest non-radius edges shall be spaced at least 150 feet apart (see Figure 5.1.L.1, Driveway Spacing).

**Figure 5.1.L.1:**




**Driveway Spacing**

(e) In no instance shall four or more driveways enter the same lot from the same street, nor shall the total width of all driveways exceed 50 percent of the lot's total street frontage.

### 4. Stacking Lanes for Vehicular Use Area Entrances

Except in the Downtown Business (DTB) and Downtown Residential (DTR) districts, nonresidential uses served by surface vehicular use areas of seven or more parking spaces shall provide stacking lanes between the edge of the street right-of-way and entrances into off-street parking areas in accordance with the minimum stacking lane distance established in Table 5.1.5, *Stacking Lanes for Vehicular Use Areas*:

**Table 5.1.5: Stacking Lanes for Vehicular use areas**

| Number of Off-Street Parking Spaces (#) [1] | Minimum Stacking Lane Distance (feet) [2] [3] |
|---|---|

**Table 5.1.5: Stacking Lanes for Vehicular use areas**

| Number of Off-Street Parking Spaces (#) [1] | Minimum Stacking Lane Distance (feet) [2] [3] |
|---|---|
| 1 - 49 | 50 |
| 50 – 299 | 75 |
| 300 or more | 100 |

NOTES:
[1] Entrances into parking structures may be credited towards the stacking lane distance requirement, provided the parking structure entrance is accessed from a development driveway and not a primary drive aisle.
[2] Stacking lane distance is measured from the edge of the driveway apron adjacent to the street right-of-way along the centerline of the stacking lane to its intersection with the centerline of the primary drive aisle through the parking area.
[3] NCDOT requirements may differ from those in this table; in these instances, the development shall comply with the more stringent standard.

### 5. Medians in Driveway Entrances

Medians may be provided within driveway entrances provided:

(a) The median is surrounded by valley or other mountable curbing;

(b) No signage is located within the area between two and six feet above grade (to preserve visibility);

(c) Planted material within the median is limited to understory trees, shrubs, and ground cover; and

(d) The minimum driveway width is maintained for each travel and turning lane.

### 6. Primary Drive Aisles

Primary drive aisles within off-street surface vehicular use areas with 300 or more spaces shall be designed to appear as an extension of the public street network (as described in the City's *Manual of Specifications, Standards, and Design*) (see Figure 5.1.L.2, Primary Drive Aisles). Primary drive aisles shall extend from the public right-of-way along the full length of the primary facades of structures being served by the drive, or perpendicular to the primary facades of structures being served, and shall meet the following standards:

(a) Primary drive aisles shall have a maximum cross section of 42 feet to serve two travel lanes and accommodate parallel parking spaces along both sides of the drive aisle in areas not needed for turning movements;

(b) The primary drive aisle shall include sidewalks along both sides of the primary drive aisle;

(c) Primary drive aisles shall be striped or otherwise configured to designate parallel parking spaces, where appropriate, but in no case shall parallel parking spaces be designated within 60 feet of the primary building entrance(s) in order to maintain fire access; and

(d) Street trees shall be provided along both sides of the primary drive aisle in accordance with Section 5.7.H, *Street Trees*, although understory trees may be used adjacent to the building façade within 40 feet of building entrances.

Figure 5.1.l.2: Primary Drive Aisles

7. **Stacking Spaces for Drive-Through and Related Uses**

(a) **General**

In addition to meeting the off-street parking standards in Table 5.1.1, *Minimum Off-Street Parking Standards*, uses with drive-through facilities and other auto-oriented uses where vehicles queue up to access a service facility shall provide the minimum number of stacking/standing spaces established in Table 5.1.7, *Required Stacking/Standing Spaces*:

**Table 5.1.7: Required Stacking/Standing Spaces**

| Use or Activity [1] | Minimum Number of Stacking/Standing Spaces | Measured From |
|---|---|---|
| Automated teller machine | 3 | Teller machine |
| Automobile repair and service (all types) | 2 per bay | Bay entrance |
| Car wash, automatic | 2 | Bay entrance |
| Car wash, full service | 5 | Bay entrance |
| Car wash, self-service | 2 per bay | Bay entrance |
| Convenience store, with gas sales | 1 per island | Each end of the outermost gas |

**Table 5.1.7: Required Stacking/Standing Spaces**

| Use or Activity [1] | Minimum Number of Stacking/Standing Spaces | Measured From |
|---|---|---|
| | | pump island |
| Drug store or pharmacy, with drive-through service | 4 per lane | Agent window |
| Financial institution, with drive-through service | 4 per lane | Teller window |
| Gasoline sales | 1 per island | Each end of the outermost gas pump island |
| Nursing home | 3 | Building entrance |
| Personal services with drive-through (e.g., laundry/dry-cleaning establishment,) | 4 per lane | Agent window |
| Restaurant, with drive-though service [2] | 8 | Order box/window |
| Unlisted | Standards for uses not specifically listed shall be determined by the Development Services Director based on the standards for comparable uses and on the particular characteristics of the use, or alternatively, on a parking demand study submitted by the applicant. | |

NOTES:
[1] See Table 4.1.1, *Use Table*.
[2] Restaurants with drive-through service shall provide at least four stacking spaces between the order box and the pick-up window.

8. **Configuration**

(a) Any/all stacking spaces shall be configured so as to not block required or excess off-street parking spaces.

(b) The stacking spaces shall maintain a minimum turning radius of ten feet.

(c) Stacking areas shall be designed as to not allow traffic to merge into the area without following proper traffic circulation. Pavement markings (paint or similar method) will only be allowed in those instances where improper movements are not possible.

9. **Pedestrian Pathways**

Off-street surface vehicular use areas with 500 or more spaces shall provide fully separated, improved pedestrian pathways that:

(a) Are located within planted landscaping strips located a minimum of every six parking rows;

(b) Include, to the maximum extent practicable, a pathway aligned with and perpendicular to the primary entrance into the building served by the vehicular use area;

(c) Connect store entrances with nearby transit facilities, to the maximum extent practicable;

(d) Are paved with asphalt, cement, or other comparable material;

(e) Are of contrasting color or materials when crossing drive aisles;

(f) Are at least four feet wide;

(g) Terminate at drive aisle edges;

(h) Are positively drained; and

(i) Provide safe and efficient pedestrian access to the use they serve.

# 5.2 Landscaping Standards

## A. Purpose and Intent

1. The purpose of this section is to regulate and provide guidelines for landscaping of certain types of development in the City of Jacksonville. The Jacksonville City Council finds that the lack of adequate landscaping results in:

    (a) Increased storm water run-off from parking lots with little or no plant cover;

    (b) Deteriorating community appearance and property values;

    (c) Discouraging pedestrian traffic due to emphasis on vehicle accommodation areas with unsafe pedestrian access to the buildings on the lot;

    (d) Increases air pollution, particularly carbon dioxide;

    (e) A lack of street definition which in turn exposes citizens to long uninterrupted views of signs, utilities, lights, and parking;

2. The Jacksonville City Council also finds that:

    (a) Plantings are proven producers of oxygen, a necessary element for human survival;

    (b) Plantings transpire considerable amounts of water each day and thereby purify the air;

    (c) Plantings have an important role in filtering water passing through the ground from the surface to ground water tables and lower aquifers;

    (d) Plantings, through their root systems, stabilize the ground water tables, and play an important and effective part in soil conservation, erosion control, and flood control;

    (e) Plantings are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of urban developments on the land, particularly parking areas; and

    (f) For the reasons stated above, landscaping has an important impact on the desirability of land and therefore has a significant impact on property values.

## B. Landscaping Required

Based upon the findings set forth in Part A above Council declares that it is not only desirable but essential to the health, safety, and welfare of all persons living and working within the City's planning jurisdiction to provide for adequate landscaping as specified by this section for certain types of development projects.

## C. Applicability

### 1. Exemptions

Landscaping requirements shall not apply to:

(a) Single-family and multi-family residences (not more than four dwelling units per lot) on their own lots;

(b) Lots in the Downtown Zoning Districts that do not provide off-street parking; and

(c) Automobile sales – the vehicle display areas are exempt from having to install the required trees within these identified areas. Instead the required trees shall be planted elsewhere on site and are encouraged to be planted as street trees in the street lawn and/or the perimeter lawn.

(d) Temporary uses (Fairgrounds or farmers markets or a similar use which cater to various temporary uses throughout the calendar year are not exempt)

(e) The Development Services Director finds any of the following circumstances exist on the proposed building site, or surrounding properties (Modifications should be made in writing and shall be applied equally to all similarly situation properties):

(1) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent of this section.

(2) Innovative landscaping or architectural design is employed on the building site which would achieve an equivalent shading, aesthetic, and buffering effects.

(3) The required landscaping would be ineffective at maturity due to the proposed topography of the site, and/or the location of the improvements on the site.

(4) Where the Development Service Director finds that it would interfere with safety.

### 2. Application

Landscaping requirements shall apply to any new principal building(s) or open uses of land constructed, reconstructed, or established after the effective date of this section. The amount of landscaping required for expansions of existing buildings/remodeling are outlined in Section 7.5, Correction of Nonconforming Site Features.

## D. Landscaping Requirements

Landscaping areas shall be provided so as to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular circulation. All sites shall be landscaped such that the following requirements are met:

### 1. Street Yard Lawn Required

All parking areas except for those associated with Townhouses, Condominiums and Apartments (See Section 5.2.D.4, *Townhouses, Condominiums and Apartments)* shall be separated from a public or private right-of-way, by a street lawn with a minimum width of eight (8) feet. This lawn shall be parallel to the street right-of-way on the applicant's property. This area shall not be used for parking, sidewalks, or trails, but shall be maintained as a planting strip for grass, trees, and/or shrubs. The lawn shall contain at least three (3) large trees, twelve (12) large shrubs and eight (8) small shrubs for each one hundred (100) linear feet of street frontage. Clustering is permitted.

### 2. Perimeter Lawn Required

All sites except Townhouses, Condominiums and Apartments (See Section 5.2.D.4, *Townhouses, Condominiums and Apartments)* shall be separated from adjacent properties by a perimeter lawn with a minimum width of four (4) feet. The lawn shall contain at least four (4) understory trees, twelve (12) large shrubs and eight (8) small shrubs for every one hundred (100) linear feet of the developments lot lines. Clustering is permitted.

This perimeter lawn is not required when the side or rear boundary would serve as either a shared driveway or as a shared parking bay or will be in the future as a result of a phased development. The perimeter lawn landscaping is not required where required pond and/or buffering landscaping will be installed.

### 3. Interior Landscaped Islands Required

(a) One (1) interior planter island shall be provided for every ten (10) parking spaces on site.

(b) No parking space shall be separated from the trunk of a large canopy tree by more than fifty (50) feet.

(c) The minimum size of interior islands shall be the same as a typical parking space stall.

(d) Five (5) shrubs are required per interior island.

### 4. Townhouses, Condominiums and Apartments

In addition to the requirements set forth in this section, the following applies to all multi-family developments:

#### (a) Foundation Planting

A ten (10) foot planting area shall be provided between the building foundation and parking areas. Four feet of sidewalk is permitted within this area.

#### (b) Side and Rear Buffers

Shall meet the standards established in Section 5.2.F Bufferyard

#### (c) Street Yard Requirements Adjacent to Major and Minor Arterial or Collector Streets:

##### (1) Option 1: Berm with Plantings

i. Shall meet the requirements found in Section 5.2.G Berms;

ii. Berm Height: Minimum height of three (3) feet;

iii. Percent of Frontage: Berm shall comprise at least eighty percent (80%) of the street frontage;

iv. Large Trees: Six (6) trees per one hundred (100) linear feet

v. Shrubs: Thirty (30) shrubs per one hundred (100) linear feet. Variety required - twenty five percent (25%) maximum of any one species;

##### (2) Option 2: Plantings Only

i. Street Lawn Width: Twenty (20) feet;

ii. Percent of Frontage: Lawn shall comprise at least eighty percent (80%) of the street frontage;

iii. Large Trees: Nine (9) trees per one hundred (100) linear feet that are at least three (3) inches in caliper and between ten – twelve (10-12) feet in height;

iv. Shrubs: Fifty (50) shrubs per one hundred (100) linear feet. Variety required - twenty five percent (25%) maximum of any one species;

v. Ground Cover: In order to prevent bare, paved or completely impervious ground cover on berms, the berms must be covered in natural materials (i.e. mulch, pine straw, grass, etc.) except for stone. Stone is permitted only as an accent.

(3) **Option 3: Specific Landscape Design**

i. Plan shall be prepared by a Registered Landscape Architect, Architect, Arborist, Horticulturalist, or NC Registered Landscape Contractor;

ii. Shall meet the overall intent of this ordinance; and

iii. Shall be approved by Development Services Director.

## (d) Street Yard Requirements Adjacent to all Other Streets or Roads not Listed in (c) Above:

(1) **Option 1: Berm with Plantings**

i. Shall meet the requirements found in Section 5.2.G Berms;

ii. Berm Height: Minimum height of two (2) feet;

iii. Percent of Frontage: Berm shall comprise at least eighty percent (80%) of the street frontage;

iv. Large Trees: Six (6) trees per one hundred (100) linear feet;

v. Shrubs: Twenty (20) shrubs per one hundred (100) linear feet. Variety required - twenty five percent (25%) maximum of any one species;

(2) **Option 2: Plantings Only**

i. Street Lawn Width: Twenty (20) feet;

ii. Percent of Frontage: Lawn shall comprise at least eighty percent (80%) of the street frontage;

iii. Large Trees: Nine (9) trees per one hundred (100) linear feet;

iv. Shrubs: Twenty (20) shrubs per one hundred (100) linear feet. Variety required - twenty five percent (25%) maximum of any one species;

v. Ground Cover: In order to prevent bare, paved or completely impervious ground cover on berms, the berms must be covered in natural materials (i.e. mulch, pine straw, grass, etc.) except for stone. Stone is permitted only as an accent.

(3) **Option 3: Specific Landscape Design**

i. Plan shall be prepared by a Registered Landscape Architect, Architect, Arborist, Horticulturalist, or NC Registered Landscape Contractor;

ii. Shall meet the overall intent of this ordinance; and

iii. Shall be approved by Development Services Director.

### 5. Storage Areas, Truck Terminals, Warehousing Operations or Other Similar Uses

The planting requirements for specialized vehicular use areas which are closed to the public such as storage areas, truck terminals, motor freight terminals and other transportation and warehousing operations are exempt from interior landscape island requirements. However, the area, trees, and shrubs shall be planted elsewhere on the property at a rate of one (1) large tree, five (5) shrubs for every 3,780 square feet of vehicular use area. These requirements do not replace perimeter or screening or bufferyard requirements; they are in addition to such requirements.

### 6. General Standards for Landscaping

(a) Barriers, such as curbs or wheel stops, or other alternative, durable and contextually appropriate material as approved by the Development Services Director shall be provided shall be provided between vehicular accommodation areas and landscaped areas so as to protect all plantings. This standard shall not prohibit use of planting areas as on-site stormwater management devices.

(b) Each shrub at the time of planting shall be 3 gallon size or larger.

(c) Each large canopy tree at the time of planting shall be a minimum of two (2) inches in caliber and eight (8) - ten (10) feet in height. When mature, a large canopy tree should be at least forty (40) feet high and have a minimum crown width of thirty (30) feet. Every large canopy tree that is required by this section may be substituted with two (2) understory trees. However, no more than fifty (50) percent of the required large canopy trees may be substituted.

(d) Each understory tree at the time of planting shall be a minimum of one (1) inch in caliber and eight (8) feet in height. When mature, an understory tree should be between fifteen (15) and forty (40) feet height. Every two (2) understory trees that is required by this section may be substituted with one (1) large canopy tree. However, no more than fifty (50) percent of the required understory trees may be substituted.

(e) When large and small shrubs are planted by the developer to satisfy the requirements of this subsection, the developer shall follow guidelines set forth within this ordinance.

### 7. Location

Required landscaping, including the eight (8) foot lawn space shall be located outside existing and proposed street rights-of-way as identified by the City of Jacksonville Thoroughfare Plan as amended. The proposed landscaping plan shall comply with any planning documents adopted by City Council. Required trees and shrubs may be located in utility easements by approval of the Technical Review Committee. No trees or shrubs greater that twelve inches (12") shall be planted in sight triangle(s) of driveways and

streets without approval from the reviewing authority. On State maintained roads, both NCDOT and City standards shall apply.

## E. Standards for Retention, Detention Ponds, Stormwater Wetlands

### 1. Purpose

These provisions are intended to encourage stormwater retention or detention ponds to be located and configured as an open space amenity or as a constructed stormwater wetland within a development site, as opposed to configuration as a utility facility. The standards do not prohibit configuration of the pond as a utility feature (instead of an amenity or wetlands), but when configured as a utility, a stormwater retention or detention pond should be strategically located and screened from off-site views. The landscaping required by this Part shall not be counted towards the total landscaping required by Section 5.2.D Landscaping Requirements of this section.

### 2. Configured as a Site Amenity

Stormwater retention or detention ponds configured as a site amenity (instead of a utility feature) shall comply with the following requirements:

(a) In general stormwater retention or detention ponds are considered as a site amenity when they are not surrounded by a fence, maintain gentle slopes of 3:1 or less above the 10:1 vegetated shelf and also contain at least three (3) of the following design features:

(1) Integrated with the design and location of the other site features (instead of being located in a peripheral location);

(2) Include comparable shrubs and other vegetative material as are used in other areas of the site;

(3) Provide pedestrian access to and around the facility;

(4) The visibility of rip-rap or stone weirs have been minimized to the greatest extent practicable;

(5) Incorporate some form of fountain or other visible water circulation device, in accordance with state guidelines;

(6) Incorporate some form of lighting in and around the facility;

(7) Incorporate seating or other use areas;

(8) Have a natural appearance (round, oval, kidney in shape with irregular edge); and/or

(9) Any innovative design deemed appropriate by the Development Services Director.

(b) Stormwater wetlands are also considered as a site amenity when they are not surrounded by a fence, maintain gentle slopes of 3:1 or less above the permanent pool elevation. The design shall be prepared in accordance with the City of Jacksonville's Stormwater Ordinance.

(c) Trash racks and other debris control structures should be sized to prevent entry by children.

### (d) Landscaping

#### (1) Shrubs Required

Shrubs shall be provided around the perimeter of the pond at a rate of 20 shrubs per 100 linear feet. These shrubs shall be planted above the sloped embankment surrounding the pond. The particular variety of shrub(s) to be used to satisfy this requirement should come from Table 5.2.E.1 or should otherwise be approved by the City. In those instances that there are circumstances outside of the developer's control that make it impractical to fully meet this requirement, it may be modified by the City.

#### (2) Understory Trees Required

Trees shall be provided around the perimeter of the pond at a rate of one (1) per twenty five (25) linear feet. These trees shall be planted above the sloped embankment surrounding the pond. The particular variety of understory tree(s) to be used to satisfy this requirement should come from Table 5.2.E.2 or should otherwise be approved by The City. In those instances that there are circumstances outside of the developer's control that make it impractical to fully meet this requirement, it may be modified by The City.

## 3. Configured as a Utility

Stormwater retention or detention ponds configured as a utility feature (instead of a site amenity) shall comply with the following requirements:

### (a) Location

Stormwater retention or detention ponds shall be behind the front wall of the principal building and at least 100 feet away from all public or private street rights-of-ways.

### (b) Fencing

(1) When configured as a utility, the pond shall be surrounded by a green or black vinyl-coated steel or aluminum chain-link fence or other alternative that is a durable and contextually appropriate material as approved by the Development Services Director with a minimum height of four feet. All fences should provide securable entrances to allow access for maintenance personnel and equipment, and to provide for the safety of citizens.

(2) Fences around stormwater ponds shall not be required when the site containing the pond is entirely surrounded by a fence of six feet in height or higher.

### (c) Landscaping

#### (1) Shrubs Required

Except for fence entrances, shrubs shall be provided around the outside perimeter of the required fence five (5) foot on center. Guard rails shall also be screened by the shrubs. The particular variety of shrub(s) to be used to satisfy this requirement should come from Table 5.2.E.1 or should otherwise be approved by The City. In those instances that there are

circumstances outside of the developer's control that make it impractical to fully meet this requirement, it may be modified by the City.

(2) **Understory Trees Required**

Understory trees shall be placed outside the required fencing at a rate of one (1) per twenty five (25) linear feet of fencing provided around the pond. Guard rails shall also be screened by the trees. The particular variety of understory tree(s) to be used to satisfy this requirement should come from Table 5.2.E.2 or should otherwise be approved by the City. In those instances that there are circumstances outside of the developer's control that make it impractical to fully meet this requirement, it may be modified by the City.

**Table 5.2.E.1: Shrubs Recommended to be Used Around Retention / Detention Ponds**

| Common Name | Botanical Name | At Maturity | |
|---|---|---|---|
| | | Height | Spread |
| **Glossy Abelia** | *Abelia grandiflora* | 3'-6' | 3'-6' |
| **Elaeagnus** | *Elaeagnus puhgehs* | 5'-8' | 8'-10' |
| **Fatsia** | *Fatsia japonica* | 5'-7' | 4'-6' |
| **Chinese Holly** | *Ilex cornuta cultivars* | Varies | Varies |
| **Mugo Pine** | *Pinus mugo* | 5'-7' | 8'-10' |
| **Yaupon Holly** | *Ilex vomitoria* | Varies | Varies |
| **Winged Euonymus** | *Euonymus alata compacta* | 5'-7' | 8'-12' |
| **Pittosporum** | *Pittosporum tobira* | 6'-8' | 12'-20' |
| **Juniper** | *Juniperus cultivars* | Varies | Varies |
| **Holly Grape** | *Mahonia aquifolium* | 3'-6' | 6'-8' |
| **Viburnum** | *Viburnum tinus* | 4'-6' | 2'-3' |
| **Japanese Barberry** | *Berberis thurthun* | 5'-8' | 4'-6' |
| **Flowering Quince** | *Chaenomeles speciosa* | 4'-8' | 4'-6' |
| **Privet** | *Ligustrum vulgare* | 6'-8' | Varies |
| **Indian Hawthorn** | *Raphiolepis indica* | 5'-7' | 4'-6' |
| **Japanese Yew** | *Taxus species* | Varies | Varies |
| **Burfordi Holly** | *Ilex crenata* | Varies | Varies' |

**Table 5.2.E.2: Understory Trees Recommended to be Used Around Retention / Detention Ponds**

| Common Name | Botanical Name | At Maturity | |
|---|---|---|---|
| | | Height | Spread |
| **Amur Maple** | *Acer ginnala* | 15'-20' | 15'-20' |
| **Japanese Maple** | *Acer palmatum* | 15'-25' | 15'-25' |
| **Redbud** | *Cercis canadensis* | 20'-30' | 25'-35' |
| **Flowering Dogwood** | *Cornus florida* | 20'-30' | 20'-30' |
| **Kousa Dogwood** | *Cornus kousa* | 20'-30' | 20'-30' |

**Table 5.2.E.2: Understory Trees Recommended to be Used Around Retention / Detention Ponds**

| Common Name | Botanical Name | At Maturity | |
|---|---|---|---|
| | | Height | Spread |
| **Washington Hawthorn** | *Crataegus phaenopyrum* | 25'-30' | 20'-25' |
| **Carolina Silverbell** | *Halesia carolina* | 30'-40' | 20'-35' |
| **American Holly** | *Ilex opaca* | 20'-40' | 18'-40' |
| **Holly (large types)** | *Ilex x cultivar* | 15'-25' | 15'-25' |
| **Golden Raintree** | *Koelreuteria bipinnata* | 25'-40' | 30'-40' |
| **Crape Myrtle** | *Lagerstroemia indica (x faurei)* | 18'+ | varies |
| **Saucer Magnolia** | *Magnolia x soulangeana* | 20'-30' | 15'-25' |
| **Sweetbay Magnolia** | *Magnolia virginiana* | 20'-30' | 25'-35' |
| **Flowering Crabapple** | *Malus hybrid* | varies w/ species | varies w/ species |
| **Chinese Pistache** | *Pistachia chinensis* | 30'-35' | 25'-35' |
| **Flowering Cherry** | *Prunus species* | varies w/ species | varies w/ species |
| **Japanese Snowbell** | *Styrax japonica* | 20'-30' | 20'-30' |

# F. Bufferyard

## 1. Purpose and Intent

Buffers are intended to mitigate potential negative effects of contiguous uses in different zoning districts.

## 2. Applicability

All development shall provide a buffer to separate it from development in different adjacent base zoning districts in accordance with Table 5.2.F.1, *Buffer Types*, and Table 5.2.F.2, *Buffer Type Application*.

## 3. Types of Buffers

Table 5.2.F.1, *Buffer Types*, describes a buffer for Non-Downtown Districts and those that are within the Downtown Districts. Where a particular buffer type is required in Table 5.2.F.2, *Buffer Type Application*, the requirement may shall be met as specified. Where an option utilizing a berm or fence is selected, the berm or fence shall comply with the standards of Section 5.2.G, *Berms*, or Section 5.4, *Fences and Walls*.

**TABLE 5.2.F.1: Buffer Types**

| Buffer Type and Configuration | Minimum Screening Requirements Within Perimeter Buffer [1, 2] | |
|---|---|---|
| | Type A - Minimum Width 30 Feet | Type B - DT Districts Only Minimum Width 15 Feet |
| This buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation. | 4 canopy trees + 6 understory trees + 25 small shrubs per 100 linear feet + any combination of berm and/or fence/wall that equals or exceeds 6 feet | 4 canopy trees + 6 understory trees + 25 small shrubs per 100 linear feet + any combination of berm and/or fence that equals or exceeds 6 feet |

NOTES:
[1] Fences and walls shall comply with the standards in Section 5.4, *Fences and Walls*.
[2] The Development Services Director may allow reduced widths for those lots that either contain and/or are adjacent to large easements or rights-of-way.

## 4. Buffer Type Application

Table 5.2.F.2, *Buffer Type Application*, specifies the type of perimeter landscape buffer that new development shall provide between it and adjacent property, based on the zoning district of the development site and that of the adjacent property. The buffer type is indicated by a letter corresponding two buffer types depicted in Table 5.2.F.1, *Buffer Types*.

**TABLE 5.2.F.2: BUFFER TYPE APPLICATION [1]**
A = Type A Buffer B = Type B Buffer
N/A = Not Applicable (No Buffer Required)

| Zoning Classification of Proposed Development Site [2] | Zoning Classification Of Adjacent Land | | | | | |
|---|---|---|---|---|---|---|
| | RSF-40, RSF-20, RSF-10, RSF-7, RSF-5 RMF-LD | RMF-HD | DTR, DTB | OI, | NC CC, | IND |
| RSF-40, RSF-20, RSF-10, RSF-7, RSF-5, RMF-LD | N/A | N/A | N/A | N/A | N/A | N/A |
| RMF-HD | A | N/A | A | A | A | A |
| DTR, DTB | B | B | B | B | B | B |
| OI | A | A | A | N/A | A | A |
| NC, CC | A | A | A | A | N/A | A |
| IND | A | A | A | A | A | N/A |

NOTES:
[1] Letters in cells correspond to the buffer types depicted in Table 5.2.F.1, *Buffer Types*.
[2] Development in PD districts is subject to bufferyard requirements in the PD district standards. In cases where development is proposed next to an existing PD district having no bufferyard, the proposed development shall provide a bufferyard that is consistent with the type of buffer required if the adjacent use was in a differing base district appropriate for the type of use.

## 5. Buffering of Nonconforming Uses

(a) In cases where new development is proposed adjacent to a nonconforming use in the same base zoning district, the new development shall provide the buffer along the lot line shared with the lot containing the nonconforming use. Nothing in this subsection shall prevent the ability to locate some or all of the required buffering on the lot containing the nonconforming use, subject to land owner authorization.

(b) In cases where an existing nonconforming use is redeveloped or altered as authorized by Section 7.2., *Expansion and Enlargement*, the nonconforming use shall provide a buffer along all lot lines shared with lots in the same or a lower-intensity base zoning district.

## 6. Responsibility for Buffer Installation

### (a) Vacant Parcels

Where a developing parcel is adjacent to a vacant parcel and a bufferyard is required in accordance with this section, the developing parcel shall provide the bufferyard required adjacent to the vacant land.

### (b) Existing Land Uses

Where a developing parcel is adjacent to an existing use and a bufferyard is required in accordance with this section, the developing parcel shall provide the full bufferyard required adjacent to the existing use in accordance with Table 5.2.F.1 *Buffer Types*, and Table 5.2.F.2, *Buffer Type Application*, unless a portion or all of a bufferyard that complies with the standards of this section already exists between the lots. Where all or part of a bufferyard exists, but the buffer does not fully comply with the standards of this section, the developing parcel shall be responsible for providing all the additional planting material necessary to meet the standards of this section.

## 7. Location of Buffers

Bufferyards required by this section shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line; however, the bufferyard may be located along shared access easements between parcels in nonresidential developments.

## 8. Development within Required Buffers

(a) The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in this Ordinance.

(b) Sidewalks, trails, and other elements associated with passive recreation may be placed in Bufferyard if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the City are permitted in half of the buffer area; however, the vegetation shall be placed in the portion of the bufferyard not impacted by the utilities. Where required landscaping material is damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this Ordinance.

### 9. Sight Triangles

No fencing, berms, walls, or other landscaping features may exceed 30 inches above grade within required sight triangles for streets, alleys, or driveways.

### 10. Credit for Existing Vegetation

Existing vegetation meeting the size standards of Section 5.2.D.6, *Landscaping Requirements*, located within the bufferyard area may be preserved and credited toward the bufferyard standards.

### 11. Credit for Required Landscaping

Required landscaping associated with a stormwater pond located within ten feet of the bufferyard may be credited towards the bufferyard requirements of this section.

## G. Berms

All proposed berms shall meet the following:

1. Berm Slope: Minimum of three to one (3/1);
2. Berm Crown: Minimum width equal to the height; and
3. Ground Cover: In order to prevent bare, paved or completely impervious ground cover on berms, the berms must be covered in natural materials (i.e. mulch, pine straw, grass, etc.) except for stone. Stone is permitted only as an accent.

## H. Landscaping Plan Required

All proposed developments and expansions shall submit a landscaping plan for review containing the following information:

1. General location, type, and quantity of plant materials
2. Existing plant materials and areas to be left in the natural state
3. Locations, size and labels for all proposed plants
4. Plant lists with common name, quantity, and spacing and size of all proposed landscaping material at the time of planting
5. Location and description of other landscape improvements, such as islands, earth berms, walls, fences, buffer yards, sculptures, fountains, street furniture, lights, courtyards, or paved areas
6. Planting and installation details
7. Location of proposed buildings
8. Location of vehicular accommodation areas and internal traffic patterns
9. Location of overhead and underground utilities
10. Location of signage
11. Connection of existing streets
12. Zoning and land use of the subject and adjacent properties
13. The landscaping plan shall be drawn to scale and include a North arrow and necessary legends.
14. The location and description of any barriers to be erected to protect any vegetation from damage both during and after construction.

# I. Other Landscaping Standards

## 1. Time for Installations of Required Landscaping

All required landscaping (including mulching and seeding) shall be installed in accordance with the industry standard prior to the issuance of a Certificate of Occupancy unless the Development Services Director grants an extension to this time limit in accordance with Section 5.2.I.2, Extensions.

## 2. Extensions

(a) The Development Service Director may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installations of required landscaping. Circumstances that may warrant an extension include, but are not limited to, the following:

(1) Unusual environmental conditions such as drought, ice, hurricanes, or over-saturated soil (deep mud);

(2) It is not yet the or inappropriate planting season for the approved plant species;

(3) Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant's diligent effort to secure the required materials; or

(4) Completion of utility work occurring in a proposed landscaped area is incomplete or delayed.

(b) No extension to the time limit shall be granted unless a performance guarantee/warranty is posted in accordance with the following:

(1) Documentation of the estimated cost of the remaining landscaping to be completed.

(2) Cash/warranty that equals one and a quarter (1 1/4) times the cost of the plant material yet to be installed, based on the estimate received by the company performing the landscaping installation.

(3) Signed/executed agreement form.

(c) Upon receipt of a performance guarantee/warranty and signed/executed agreement form, the City may issue a temporary Certificate of Occupancy for a maximum period of up to one hundred eighty (180) days.

### 3. Maintenance of Landscaping Materials

The owner shall be responsible for the maintenance of all landscape areas including the areas within the public/private right-of-way. Such areas shall be maintained in accordance with the approved landscape plan or alternative landscape plan and shall present a healthy and orderly appearance free from refuse and debris. All plant life shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed within ninety (90) days or the next planting season.

#### (a) Damage Due to Natural Occurrence

In the event that any vegetation or physical element functioning to meet the standards of this section is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner or developer may be required to replant if the landscaping standards are not being met. The owner shall have one (1) growing season to replace or replant. The Development Services Director shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural re-vegetation in making a determination on the extent of replanting requirements.

#### (b) Protection during Operations and Routine Maintenance

The owner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants shall be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

#### (c) Maintain Shape

All required trees (whether canopy, understory, or otherwise) shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Trees (including but not limited to Crape Myrtles) that have been severely pruned, sheared, topped, or shaped as shrubs no longer serve the intended buffering or screening function and shall be considered as damaged vegetation in need of replacement and shall be replaced within ninety (90) days or the next planting season.

### 4. Monitoring of Compliance with Landscaping Standards

#### (a) Inspections Prior to Certificate of Occupancy

The site shall be inspected prior to the issuance of a Certificate of Occupancy for the development and such certificate shall not be issued if the landscaping required under this section is not living or healthy or is not installed in accordance with the approved landscape plan or alternative landscape plan[2] or the provisions in (2) Extensions above.

#### (b) Inspections after First Year

The site shall be inspected during the growing seasons following the installation to ensure compliance with the approved landscape plan or alternative landscape plan and to ensure that the landscaping is properly maintained. Failure to maintain required landscape areas (trees and shrubs) in accordance with the standards of this section shall constitute a violation of this Ordinance.

## J. Allowable Deviations to Landscaping Requirements

Deviations may be granted by the Development Services Director during or before the plan review process through negotiation or may be approved (if approval is granted) by City Council in conjunction with a Special Use Permit. The deviations may be approved only if the following findings are made:

### 1. Hardship Cases

There are practical difficulties or unnecessary hardships in carrying out the strict letter of the ordinance because of one or more of the following conditions:

(a) Areas of environmental concern (AEC);

(b) An irregular shaped lot that was legally plated prior to November 9, 2011;

(c) A narrow lot (less than 100 feet in width) that was legally plated prior to November 9, 2011;

(d) A small lot (less than 1 acre in size) that was legally plated prior to November 9, 2011;

(e) When the required landscaping consumes more than 20% of the land area; or

(f) The redevelopment of an existing site.

2. Approval of the deviation will not endanger public health/safety if located and installed according to the application and plan as submitted and approved.

3. Approval of the deviation will not substantially injure the value of adjoining or abutting property.

4. Use of the property otherwise meets all required conditions and specifications.

[2] NOTE TO STAFF: This term and type of alternative plan are not included within these regulations.

# 5.3 Open Space Set-Aside

## A. Purpose and Intent

The purpose of this section is to ensure a portion of land in a development is set aside as open space to protect natural features, greenways, trails, and appropriate passive and active recreational uses for the use of owners in the development.

1. Establish the standards under which a portion of residential, nonresidential, and mixed-use development shall set aside a portion of the development area as open space;
2. Distinguish between the characteristics, requirements, and appropriate locations for open space set-asides for active and passive recreation purposes; and
3. Establish minimum ownership and maintenance standards for homeowner and property owner associations related to open space set-asides.

## B. Applicability

### 1. General

Unless exempted, the provisions of this section shall apply to development of all land in the City subject to a Subdivision Plat (Section 2.3.E), Planned Development (Section 2.3.B), Site Plan (Section 2.3.C), or Building Permit (Section 2.3.G), as appropriate.

### 2. Exemptions

(a) Agricultural uses and single-family detached, duplex, or two- to four-family dwellings on a platted lot before (*insert the effective date of this Ordinance*) shall be exempt from the open space set-aside standards in this section.

(b) Commercial, Industrial and Office uses shall also be exempt from the open space set-aside standards in this section.

## C. Open Space Set-Aside Standards

### 1. Amount of Open Space Set Aside Required

Development shall provide at least the minimum amounts of open space set-aside identified in Table 5.3.1, *Required Open Space Set-Aside* below:

**Table 5.3.1: Required Open Space Set-Aside**

| Use Classification [1] | Minimum Open Space Set-Aside Area (as a percentage of development site area) | |
|---|---|---|
| | Downtown Zoning Districts (DTR & DTB) | All Other Zoning Districts |
| Residential | 10% | 25% |
| NOTES:<br>[1] See Table 4.1.1, Use Table. | | |

### 2. Calculation of Open Space Set-Aside

For the purposes of complying with this section:

### (a) Unique Features

Natural features (riparian areas, wetlands, wildlife corridors, steep slopes, etc.), natural hazard areas (floodplains, etc.), water features (drainage canals, ditches, lakes, natural ponds, streams, rivers, etc.), and wildlife habitat areas for threatened and endangered species shall be counted towards the open space set-aside.

### (b) Required Landscaping

Except for areas devoted to internal landscaping within a vehicular use area or site landscaping, areas occupied by required landscaping shall be counted towards the passive recreation requirements for the open space set-aside.

### (c) Active Recreational Areas

Land occupied by active recreational uses such as pools, playgrounds, tennis courts, jogging trails, and clubhouses used primarily for recreation purposes shall be counted toward the minimum open space set-aside.

### (d) Passive Recreational Areas

Passive recreation areas shall be counted towards the open space set-aside.

### (e) Urban Features

Plazas, fountains, roof gardens, atriums, and pedestrian seating/activity areas shall be counted towards the minimum open space set-aside for mixed-use development and development within the DTR and DTB districts.

### (f) Stormwater Devices

Land area occupied by stormwater retention and detention ponds shall be counted towards the open space set-aside when such features are a site amenity in accordance with Section 5.2.E, Standards for Retention, Detention Ponds, Stormwater Wetlands, and a 50% credit will be given when it is a utility.

### (g) Not Counted as Open Space

The following areas shall not be counted as open space set-aside:

(1) Private yards not subject to an open space or conservation easement;

(2) Public street rights-of-way or private street easements, including sidewalks located within those rights-of-way or easements;

(3) Open parking areas and driveways for dwellings;

(4) Land covered by structures not designated for active recreational uses; and

(5) Designated outdoor storage areas;

## 3. Allowable Uses in Open Space Set-Asides

Open space set-aside areas shall not be disturbed, developed, or improved with any structures except for the following limited purposes:

### (a) Active Recreation Uses

Facilities for active recreation purposes—including, but not limited to: play structures for children; gardens or seasonal planting areas; pools; athletic fields;

courts; and clubhouses used primarily for recreational purposes (equipment or structures for such uses shall be indicated on the Planned Developed Master Plan (Section 2.3.B), Subdivision Plat (Section 2.3.E), or Site Plan (Section 2.3.C).

### (b) Passive Recreational Uses

Facilities for passive recreational, environmental education, wildlife habitat protection, and natural area preservation purposes—including, but not limited to benches or other seating areas; pedestrian-scaled lighting; gazebos or other decorative structures; fountains or other water features; walking, paths or trails; tables, shelters, grills, and other picnicking facilities; docks and other facilities for fishing; and environmental guides and exhibits.

## 4. Ownership of Open Space Set-Asides

### (a) Homeowners or Property Owners Association

All open space set-aside areas shall be owned jointly or in common by the owners of the development through a recognized homeowners or property owners association, which should be established in accordance with the following:

(1) The landowner shall submit documents for the creation of the homeowners or property owners association to the City for review and approval, including the association's bylaws, all documents governing ownership, maintenance, and use restrictions for the open space set-aside, and a legal description of open space set-aside areas.

(2) The landowner shall agree that the association shall be established by the landowner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first Final Plat or Building Permit, whichever occurs first, for the development.

(3) Membership in the association shall be automatic (mandatory) for all purchasers of land, dwelling units, or structures in the development, and their successors in title.

### (b) Nonprofit Organization

Open space set-asides may be deeded to a nonprofit organization such as a land trust or land conservancy with the prior approval of the City Council.

### (c) Retained on Private Lots

All required open space set-aside areas maintained on individual building lots shall be protected as open space through the use of an easement prohibiting future development of the open space except in accordance with this section. Any open space set-aside areas subject to such an easement shall be credited against any open space set-aside required. Such open space set aside shall be clearly marked on the Site Plan and on the Subdivision Plat and Final Plat, as appropriate.

### (d) City Park Land or Fee in Lieu of

See Section 6.3 Recreation Requirements

## 5. Maintenance of Open Space Set-Asides

The owner of the land shall be responsible for maintenance of all open space set-aside areas. Failure to maintain open space set-aside areas or other community facilities in accordance with the approved Planned Development Master Plan (see Section 2.3.B), Final

Plat (Section 2.3.E) or Site Plan (Section 2.3.C) shall be a violation of this Ordinance subject to the remedies and penalties in Article 8: Enforcement.

# 5.4 Fences and Walls

## A. Purpose and Intent

The purpose and intent of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within neighborhoods and the City.

## B. Applicability

The provisions of this section shall apply to all construction, substantial reconstruction, or replacement of fences or walls not required for support of a principal or accessory structure, or any other linear barrier intended to delineate different portions of a lot. In the event of any inconsistency between the provisions of this section and any screening standard in Section 5.2.F, *Bufferyard*, the standards in Section 5.2.F, *Bufferyard*, shall control.

## C. General Requirements for Fences and Walls

### 1. Location

(a) Front and side street yard fences and walls shall not be located in a manner that blocks sidewalks;

(b) Shall not be located within any easement and/or rights-of-ways;

(c) Are permitted on property lines; and

(d) No fence or wall may be located so that is substantially interferes with the view or vision necessary for motorists to proceed safely on public or private right of ways, as specified in the Manual of Specifications, Standards and Design (MSSD).

### 2. Height

#### (a) Mixed-Use and Residential Uses

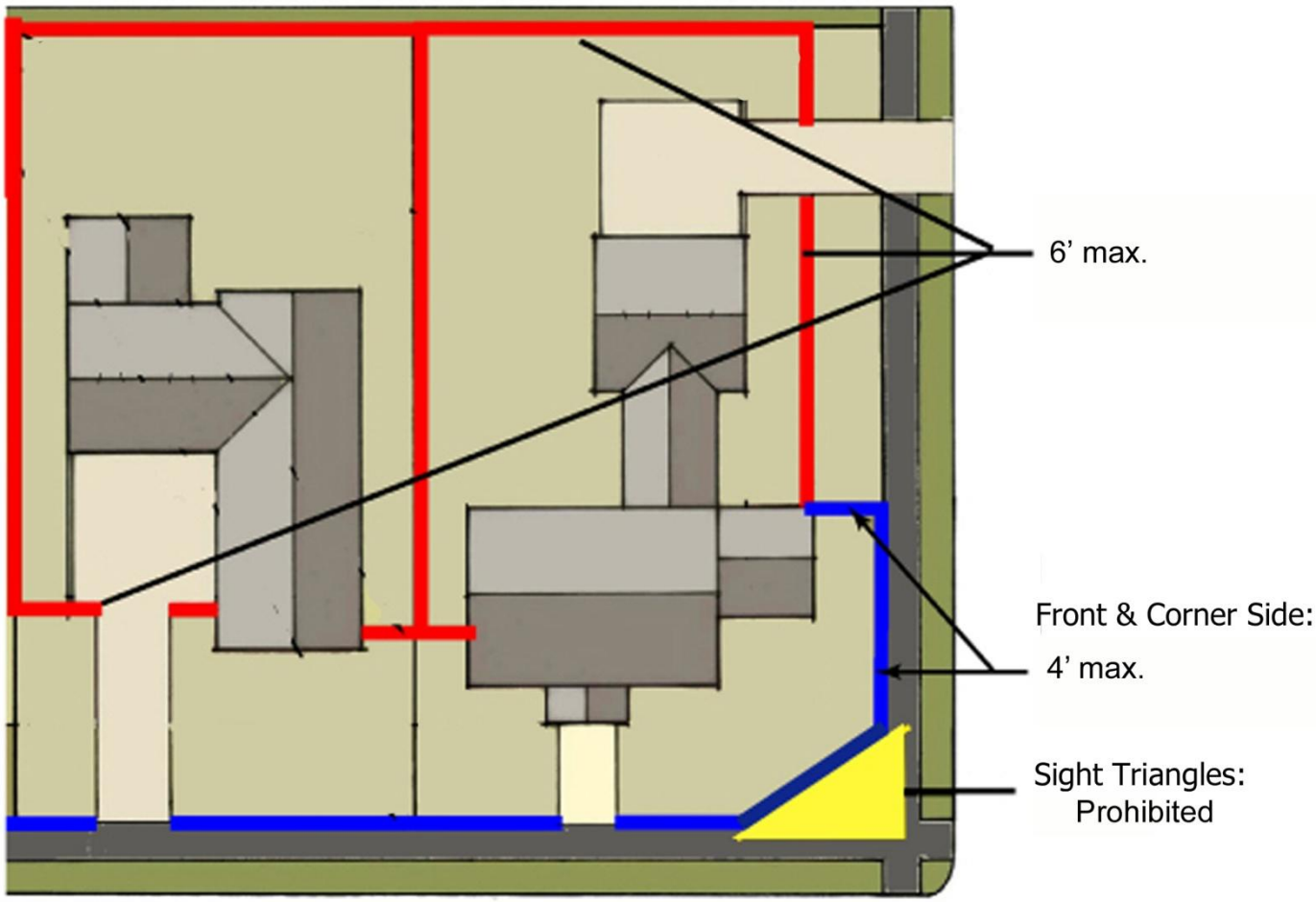
(1) Fences and walls located in front of the front wall of the principal building shall not be greater than 4 feet in height.

(2) Fences and walls located behind the front wall of the principal building shall not be greater than 6 feet in height.

#### (b) Nonresidential Uses

Fences on nonresidential properties are allowed to be 8 feet in height.

Figure 5.4.1: Fence and Wall Height




3. **Blocking Natural Drainage Flow**

No fence shall be installed so as to block or divert a natural drainage flow on to or off of any other land.

4. **Customary Materials**

Fences and walls shall be constructed of any combination of treated wood posts and planks, rot-resistant wood (such as cypress or redwood), wrought iron, decorative metal materials, chain link, brick, stone, masonry materials, or products designed to resemble these materials or as deemed acceptable by the Development Services Director. Where certain materials are specified for particular types of screening or buffering fences or walls, all other fence materials are prohibited.

## D. Prohibited Fences

1. **Barbed Wire, Concertina Wire, and Aboveground Electrified Fences**

In all zoning districts, fences using barbed or concertina wire and aboveground electrified fences shall be prohibited unless allowed through an approved security plan or bona fide agricultural use (see Section 5.4.G, *Exemption for Bona Fide Farms and Agricultural Use* and

Section *5.4.H Exemption for Security Plan*). (Underground electric fences designed for control of domestic animals are allowed.)

2. **Debris, Junk, Rolled Plastic, Sheet Metal, Plywood, Tires, or Other Waste Materials**

Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, tires, or waste materials are prohibited in all zoning districts unless such materials have been recycled and reprocessed, for marketing to the general public, as building materials that resemble new building materials (e.g., picket fencing made from recycled plastic and fiber).

## E. Exemption for Recreational Fencing

Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility shall be exempt from the height restrictions of this subsection.

## F. Exemption for Safety

Major utilities, wireless communication towers, government facilities, and other public safety uses shall be allowed to increase maximum fence heights to eight feet in front, side, and rear yards, unless further increased through an approved security plan (see Section 5.5.H, Exemption for Security Plan). Major utilities, wireless communication towers, government facilities, and other public safety uses shall be allowed the use of barbed or concertina wire and aboveground electrified fences without an approved security plan.

## G. Exemption for Bona Fide Farms and Agricultural Uses

Barbed-wire, split-rail and similar fence materials may only be used in conjunction with a permitted agricultural use or in conjunction with a permitted keeping of horses or livestock.

## H. Exemption for Security Plan

An owner or tenant or a representative of a public agency responsible for a public facility may submit to the Development Services Director a site security plan proposing fences or walls taller than those permitted by this subsection or the use of barbed or concertina wire atop a fence or wall. The Development Services Director shall approve, or approve with conditions, the site security plan and its proposed exemption of fences or walls from the standards of this subsection, upon finding that:

1. The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land; and
2. The proposed taller fences or walls or use of barbed or concertina wire will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent lands or the surrounding area as a whole.

## I. Exemption for Hardship

The Development Services Director may grant exemption where extenuating circumstances, such as topography, make compliance impractical.

## J. Maintenance Required

No fence or wall shall have more than 20 percent of its surface area covered with disfigured, cracked, or missing materials or peeling paint for a period of more than 30 successive days. No fence or wall shall stand with bent or broken supports, including loose or missing appendages for a period of more than 30 successive days.

# 5.5 Exterior Lighting

## A. Purpose

The purpose of this section is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, this section is intended to:

1. Regulate lighting to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists;
2. Ensure that all site lighting is designed and installed to maintain adequate lighting levels on site; and
3. Provide security for persons and land.

## B. Applicability

The provisions of this section shall apply to all development in the City unless exempted in accordance with Section 5.5.C, *Exemptions*.

## C. Exemptions

Single-family detached dwellings are exempted from the requirements of this section.

## D. Measurement

Light level measurements shall be made at the lot line of the land upon which light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property.

Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five percent. Measurements shall be taken with a light meter that has been calibrated within two years.

## E. General Standards for Exterior Lighting

### 1. Illumination Direction

In all districts, lighting shall be directed downward (dark sky). In addition, upwardly-directed lighting shall not be used to illuminate structures, except for low-wattage architectural lighting.

## F. Design Standards for Exterior Lighting

All exterior lighting shall meet the following standards:

### 1. Maximum Lighting Height

(a) Except for outdoor sports fields or performance areas, the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 25 feet in residential districts, OI, and NC. In the CC and IND districts no greater than 30 feet.

Maximum lighting heights shall not exceed 16 feet for new development locating adjacent to existing lower intensity development and those within the DTR and DTB Districts.

(b) Wherever possible, illumination of outdoor seating areas, building entrances,

and walkways shall be accomplished by use of ground mounted fixtures not more than four feet in height.

### 2. Maximum Illumination Levels

All outdoor lighting and indoor lighting visible from outside shall be designed and located so that the maximum illumination measured in footcandles at ground level at a property line shall not exceed the standards in Table 5.5.1, *Maximum Illumination Levels*. Cut-off lighting shall be designed to direct light downward (e.g., shoe box style).

**Table 5.5.1: Maximum Illumination Levels**

| Type of Use [1] | Maximum Illumination at Property Line (Maintained foot-candles) |
|---|---|
| Residential or Public and Institutional Use | 0.5 |
| Commercial Use [2] | 2.5 |
| Industrial Use | 2.5 |
| Vehicular use areas [3] | 2.5 |

NOTES:
[1] See Table 4.1.1, *Use Table*.
[2] Includes mixed-use developments.
[3] The minimum illumination level at the property line shall be 0.2 foot-candle.

## G. Exemptions for a Security Plan

Government facilities, parks and open areas, public safety, and other uses (see Table 4.1.1, *Use Table*) where public safety or site security is a concern may submit to the Development Services Director a site security plan proposing exterior lighting that deviates from the standards in this subsection. The Development Services Director shall approve or approve with conditions, the site security plan and its proposed deviation from the standards of this subsection, upon finding that:

1. The proposed deviation from the standards is necessary for the adequate protection of the public;
2. The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding land; and
3. The proposed deviation from the standards is the minimum required, and will not have a significant adverse effect on neighboring lands.

## H. Illumination of Outdoor Sports Fields and Performance Areas

Lighting of outdoor sports fields and performance areas shall comply with the following standards:

### 1. Glare Control Package

All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices) and aimed so that their beams are directed and fall within the primary playing or performance area.

### 2. Hours of Operation

The hours of operation for the lighting system for any game or event shall not continue more than 120 minutes after the end of the game or event.

## I. Sign Lighting

Lighting fixtures illuminating signs shall comply with the standards in Section 5.12, *Signage*.

# 5.6 Transportation Impact Analysis

## A. Purpose

The purpose of a Transportation Impact Analysis (TIA) is to assess the impact of a proposed development, redevelopment, zoning map amendment, or special use permit on the City's transportation system. A TIA will:

1. Evaluate existing conditions and future impacts of a proposed development on the transportation system;
2. Identify existing/impending problems with the transportation system;
3. Identify and evaluate solutions to for the problems; and
4. Assign responsibility for the necessary improvements to mitigate potential adverse effects on the transportation system.

## B. Applicability

Development applications for a map amendment, planned development, site plan, or subdivision that meet the following criteria shall conduct a TIA prepared in accordance with the standards in this section.

### 1. Generally

Any new development, redevelopment or expansion anticipated to generate more than 100 trips (including pass-by and internal capture trips) during any peak hour period on the surrounding roadways (generally between 7:00-9:00 A.M. and 4:00-6:00 P.M.) upon completion of all or a portion of the development. In the case of currently developed property, a net increase of 100 peak hour trips will require the completion of a study.

### 2. Localized Safety or Capacity Conditions

Any development or redevelopment, regardless of the expected trip generation levels, when the City determines there are or may be:

(a) Current traffic problems in the area of the proposed development, such as high-hazard crash locations, confusing traffic patterns, or an intersection that warrants additional traffic control as determined by the City and/or NCDOT;

(b) Significant impact to current or projected levels of service of the roadway in the vicinity of the development;

(c) An inability of the adjacent, existing, or proposed roadway system to handle increased traffic, or an inability to improve the roadway system to handle increased traffic;

(d) Close proximity to a project identified on the Statewide Transportation Improvement Program; or

(e) Other specific problems or deficiencies that may be affected by the proposed development or the traffic impacts of the development to be satisfactorily accommodated (i.e. driveway orientation and/or location, vertical/horizontal curvature, circulation patterns, potential vehicle queuing issues).

## C. Exemption

The Development Services Director or City Council shall have the authority to waive the requirement for completion of the TIA for any proposed development regardless of the size based upon just cause.

## D. Pre-Application Conference Required

1. Any application subject to the requirement to conduct a pre-application conference in accordance with Section 2.2.E, *Pre-Application Conference*, or where a TIA is required in accordance with Section 5.6.B, *Applicability*, shall conduct a pre-application conference with City staff and the traffic engineer selected to prepare the TIA.
2. The pre-application conference shall establish the study area, the trip distribution, the traffic counts to be utilized, approved developments in the area, pass-by and internal capture percentages, additional hours of analyses, if required (other than A.M. and P.M. peak hours), and resolve any other questions specific to the site.
3. The engineering firm shall submit a scope of work and cost proposal to the City within ten working days of the pre-application conference.
4. Prior to any work commencing on the TIA, the applicant shall submit the necessary fee as set forth in the fee schedule adopted by City Council.

## E. Required TIA Contents

1. A licensed engineer registered to practice in the State of North Carolina shall prepare the TIA. The engineer shall have traffic assessment and transportation management experience.
2. The engineer shall submit five copies of the TIA report to the City, which shall include, at a minimum, the following information:

### (a) General Information

(1) Study purpose and objectives;

(2) Description of the site and study area boundaries including appropriate mapping and the rationale for selection of the study area boundaries;

(3) A summary of existing conditions including but not limited to: surrounding street and key intersection traffic volumes (Daily and Peak Hour), turning movements, and capacities, safety deficiencies and funded transportation improvements;

(4) Anticipated or approved development in the area;

### (b) Trip Generation and Distribution

(1) Trip generation estimates shall be based on trip generation rates contained in the latest edition of *Trip Generation* published by the Institute of Transportation Engineers (ITE). The applicant shall also provide the ITE code and methodology used to calculate proposed trip generation estimates. Estimates completed without the guidance of ITE trip generation manual must be justified and agreed upon by all parties involved in the TIA process;

(2) Pass-by trip factors and assumptions;

(3) Internal trip assumptions for mixed use developments;

(4) Trip distribution assumptions complete with diagrams;

### (c) Future Projections

Projection of future traffic volumes and assessment of future roadway and intersection operating conditions for the year of the ultimate completion of the project. All projections should specifically document projected background traffic as well as the traffic generated by the proposed development. If the project is to be phased; projections for each phase of the development are required. If the un-phased build out period of the project is greater than nine years, then a minimum of one intermediate and one full build out impact projection is required. All projections and assessments should include the following three scenarios:

(1) No-build;

(2) Maximum possible development under existing use or zoning. Applicant shall conduct assessment of project phasing. The impact of the development of a particular phase is not to be compared with the total possible build out of the entire project location; and

(3) Proposed development.

### (d) Generalized Peak Hour and/or Daily Link Level of Service (LOS) Analysis

Using the peak hour directional volumes and daily traffic volumes forecast and service thresholds, a general evaluation shall be made of the street system for the short term and long-term horizon years. If the project is to be phased; then an assessment of conditions after the completion of each phase of the development is required. Incremental differences attributable to the land use action shall be identified. A map showing generalized levels of service shall be presented for each design year.

### (e) Access Analysis

The design, number, and location of access points to collector and arterial roadways must be fully analyzed. The number of access points shall be kept to a minimum and designed to be consistent with the type of roadway facility. Access analysis shall include a strip crash, intersection crash analysis and bicycle/pedestrian analysis.

### (f) Intersection Analysis (Signal Warrant Analysis, Phasing Analysis, Intersection Crash Analysis and Progression Analysis)

The appropriateness of the development's access locations and type must be established. For full-access locations, a signal warrant analysis based on the *Manual on Uniform Traffic Control Devices* must be conducted for each design year. Traffic signals specifically warranted by the land use action shall be identified.

### (g) Peak Hour Intersection Level of Service

An A.M. and P.M. peak hour intersection LOS analysis shall be conducted for each intersection, based on procedures specified in the most recent release of the *Highway Capacity Manual*. Levels of service for signalized intersections shall be based on the signal timings developed for the signal progression analysis.

### (h) Turn Lane Storage Requirements

Turn lane storage needs shall be identified for the "warranted" situation, based on projected turning volumes and NCDOT analytic techniques. Appropriate documentation of the calculations must be provided.

### (i) Sight Distance

The adequacy of sight distance at all entrances and internal intersections shall be evaluated.

### (j) Appropriateness of Acceleration or Deceleration Lanes

All proposed access points on arterials shall be evaluated to determine the need for acceleration lanes or deceleration lanes, with justification and basis provided for recommendations.

### (k) Pedestrian and Bicycle Analysis

Continuity and adequacy of pedestrian and bike facilities shall be provided to the nearest attraction (existing or planned) within a 1/4 mile of the development site. Destinations of significance include bus stops, elementary schools, parks, activity centers and major bicycle facilities. Adherence to the *Americans with Disabilities Act* (ADA) and American Association of State Highway and Transportation Officials AASHTO standards shall be required.

### (l) Public Transportation Analysis

Existing and proposed (if any) public transportation facilities analysis shall be provided.

### (m) Special Analysis/Issues

The City may require specific focused traffic analyses relative to the proposed development.

### (n) Recommendations for Improvements

Recommendations for site access and transportation improvements or mitigation measures needed to maintain traffic flow to, from, within and adjacent to the proposed development at an acceptable and safe level of service (generally assumed at LOS D or better). Any recommendations for roadway improvements should identify funding sources for these improvements.

### (o) Collected Data

Data collected for the study shall be made available to the City for evaluation of the study conclusions. The format for data submission as well as format for data to be provided to the City will be determined at a pre-consultation meeting between the applicant and City.

## F. Review Process

### 1. Review

(a) The City and/or NCDOT, as appropriate, will review and may comment on the draft TIA submitted for the proposed development. When necessary, the draft TIA report may be forwarded to the NCDOT Congestion Management Section or other applicable NCDOT sections for review and comment.

(b) The City and/or NCDOT, as appropriate, may request clarification and further analysis of the impacts considered necessary to adequately determine the impact to the LOS presented to the traveling public by the proposed development.

2. **Revision**

(a) The engineer shall address all additional City and NCDOT comments, as appropriate, and re-submit a revised TIA report.

(b) The City or NCDOT, as appropriate, shall review the revised report and may request additional information or approve the TIA report.

3. **Decision**

(a) Once all comments have been addressed and the City has approved the TIA report, the City shall notify the applicant of the TIA approval.

(b) TIA approval shall be valid for a period of 18 months. Significant changes in the development proposal or surrounding conditions may require revision to or re-submittal of the TIA.

(c) When multiple mitigation alternatives are identified in the report, which address the same transportation deficiency, the City or NCDOT, as appropriate, may select the alternative that provides the greatest public benefit and that meets the appropriate LOS on the impacted street network.

(d) If the cost of the TIA exceeds the submitted cost proposal and the applicant utilizes the City's selected engineering firm, the additional fee must be received prior to review of the development application.

(e) If the City Council accepts the means of mitigation, the mitigation must be successfully completed prior to the issuance of a Certificate of Occupancy.

## G. Appeals

An applicant may appeal the decision of the Development Services Director to the Board of Adjustment in accordance with Section 2.3.M, *Appeal*.

# 5.7 Community Form Standards

## A. Purpose and Intent

The purpose for this section is to establish the community form standards for development in the City. More specifically, this section is intended to:

1. Support street development as an integral component of community design;
2. Provide safe, efficient, and convenient vehicular, bicycle, and pedestrian access and circulation patterns within and between developments;
3. Incorporate design features like street trees and street configurations designed to enhance the visual quality of the streetscape;
4. Foster a pedestrian-friendly distribution of land uses and street network;
5. Assure safe access to and from streets by emergency vehicles; and
6. Reduce interference with through traffic by other vehicles, bicycles, or pedestrians entering, leaving, and crossing streets.

## B. Applicability

1. Except where otherwise expressly stated, the standards in this section apply to new developments within the City, as well as to all street rights-of-way, unless exempted in accordance with Section 5.7.C, *Exemptions*.
2. Compliance with these standards, to the maximum extent practicable, shall also apply to redevelopment of an existing structure, building, or use when it is expanded, enlarged, or otherwise increased in intensity.
3. In the event of conflict or overlap with the standards in this section and the standards in Article 6: *Subdivision Standards*, the standards in Article 6 shall control.

## C. Exemptions

1. Development limited to a single lot shall be exempted from the following standards in this section:
   (a) Section 5.7.D, *Streets*; and
   (b) Section 5.7.F, *Development Entry Points*.
2. Development within the MR district is exempted from the requirements in this section.

## D. Streets

Except where exempted, all development shall abut a public or private access that complies with the following standards:

### 1. Street Design

#### (a) Conformity to Existing Maps or Plans

The street layout within new developments shall further the intent of any adopted City, MPO, or NCDOT transportation plan or map, including the Manual of Specifications, Standards, and Design. In areas where such plans are not completed, the streets shall be designed and located in accordance with:

(1) Existing and proposed streets;

(2) Existing topography;

(3) Natural features such as streams and stands of mature hardwood trees;

(4) Public convenience and safety; and

(5) The proposed use of land to be served by streets.

### (b) Continuation of Adjacent Streets

Proposed street layouts shall be coordinated with the existing street system in surrounding areas. Existing streets shall be extended to provide access to adjacent subdivisions and to provide for additional points of ingress and egress, to the maximum extent practicable.

### (c) Connection with State Roads

Permits authorizing connection to any existing state system roadway shall be submitted to the City prior to any construction on the street or roadway.

### (d) On-Street Parking

(1) Streets within the DTR and DTB districts shall incorporate on-street parking, to the maximum extent practicable.

(2) Except where approved by the City in advance, all on-street parking shall be parallel to the curb.

### (e) Underground Utilities

Except for high voltage electrical utilities, all utility providers (e.g., cable, telephone, gas, electric), shall install service lines for their respective utilities to each lot prior to street paving as a means of minimizing damage to the pavement.

### (f) Vehicular Gates

For the purposes of preserving access to public and private lands by citizens, utility companies, and emergency service providers, vehicular gates, barriers, or other devices intended to obstruct vehicular traffic along public street rights-of-way shall be prohibited.

## 2. Sight Distance Triangles

(a) No object shall interfere with visibility within the sight distance triangle of an intersection of public streets (assuming eye level of three feet to ten feet from a distance of 15 feet from the edge of the pavement).

(b) Sight triangles (see MSSD's) shall be preserved at all street intersections.

(c) Site triangles shall be noted on the Preliminary and Final Plats, as appropriate.

## 3. Temporary Dead End Streets

In the event a Final Plat (See Section 2.3.E.7, *Final Plat*) for the phase or portion of a development served by a temporary dead end street is submitted for approval or recording, the Final Plat shall include a notation that the street is temporary, and that additional modifications to the street will occur as additional phases or portions of the subdivision are developed.

## 4. Alleys

(a) Alleys meeting the City's minimum standards shall be provided along the rear property lines of lots intended for new detached single-family and townhouse dwellings when such lots front a collector or arterial street. Development of five or fewer dwellings in neighborhoods where alleys do not exist may be exempted from the requirements of this subsection when the Development Services Director finds that provision of alleys is impractical.

(b) Alleys meeting the City's minimum standards are encouraged along front or rear property lines of lots intended for new detached single-family and townhouse dwellings when such lots are part of a block face with an average lot width of 55 feet or less.

(c) Lots served by alleys in accordance with this subsection shall access garages or off-street parking areas from the alley as opposed to a street.

(d) Lots served by alleys in accordance with this subsection shall not have driveways in front or corner side yard areas.

(e) Alleys shall not be dead-end streets, and shall only intersect with streets.

(f) Alleys shall not exceed 20 feet in width for two-way traffic and 16 feet in width for one-way traffic.

## 5. Private Streets

Private streets and drives shall comply with all public street standards, except that private streets may include a vehicular gate, but in no instance shall the gate prevent service or emergency access from City or emergency vehicles.

## 6. Internal Street Connectivity

The use of cul-de-sacs within subdivisions should be minimized to promote internal street connectivity.

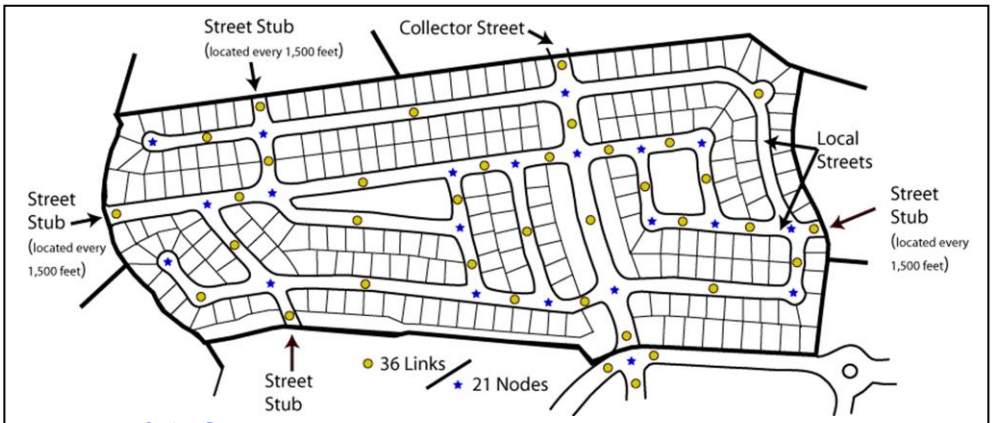



Figure 5.8.1, Connectivity

### 7. External Street Connectivity

(a) The arrangement of streets in a development shall provide for the alignment and continuation of existing or proposed streets into adjoining lands in those cases in which the adjoining lands are undeveloped and intended for future development or in which the adjoining lands are developed and include opportunities for such connections.

(b) Street rights-of-way shall be extended to and along adjoining property boundaries and the road surface shall be built to the maximum extent practical and the un-built roadway guaranteed. This will ensure roadway connection with the street stub provided for development where practicable and feasible in each direction for development of abutting adjacent vacant property. At all locations where streets terminate with no street connection, but a future connection is planned or accommodated, a sign shall be installed at the location with the words "FUTURE ROAD CONNECTION" to inform property owners.

(c) The Final Plat (see Section 2.3.E.7, *Final Plat*) shall identify all stub streets and include a notation that all street stubs are intended for connection with future streets on adjoining undeveloped property.

## E. Development Entry Points

1. Unless exempted in accordance with subsection (c) or (d) below, all subdivisions shall provide access from the development to the street system outside the development in accordance with Table 5.7.2, *Required Subdivision Access* and the North Carolina Building Code:

**Table 5.7.2: Required Subdivision Access**

| Development Type | Minimum Number of Access Points |
|---|---|
| Residential Use Types (# of units) | |
| 80 or fewer | 1 |
| 81+ | 2 |

2. Nothing in this section shall limit the total number of streets providing access to the street system outside a development, or exempt a development from meeting all applicable external street connectivity standards.

3. Residential subdivisions shall be exempted from these standards if it is demonstrated the following conditions apply:

(a) The appropriate number of street access points cannot be located due to lot configurations, absence of connecting streets, or environmental or topographic constraints;

(b) NCDOT will not authorize the required number of entrances; or

(c) As waived by the Development Services Director; or

(d) Alternative access can be provided in a manner acceptable to the City.

# F. Vehicular Use Area Cross-Access

## 1. General

All development, except single-family detached, and duplexes, shall be designed and built to allow for cross-access to adjacent compatible developments in accordance with the following standards:

### (a) Cross Access

Cross-access ways shall be designed and required for all properties.
Except within the DTR and DTB districts, a stub for future parking lot cross access shall be provided to all adjacent vacant land zoned with a nonresidential or mixed-use zoning district.

### (b) Minimum Width

Cross-access ways shall allow for two-way traffic between parcels through the use of a single drive aisle with a minimum width of 18 feet, or through two one-way aisles, each with a minimum width of 12 feet.

## 2. Waiver

The cross-access standard may be waived by the Development Services Director if the applicant demonstrates it is impractical to provide cross-access due to:

(a) Topography, or natural features;

(b) The size and configuration of the site;

(c) Vehicular safety factors;

(d) The presence of incompatible uses; or

(e) Existing development patterns on adjacent developed sites.

## 3. Recording Required

Where provided, a cross-access easement shall be recorded by the owner/developer prior to issuance of a Certificate of Occupancy.

# G. Bicycle and Pedestrian Facilities

## 1. Purpose and Intent

These regulations are intended to promote walking and other forms of non-motorized transportation, allow the citizens to have significant social, environmental, and health benefits that are often not available in auto-oriented places. This will be achieved by ensuring safe, convenient, and comfortable trails, sidewalks, and pathways provide opportunities for exercise, help people meet and socialize, and provide all citizens with mobility options.

## 2. Applicability

Bicycle and pedestrian facilities shall be installed for all new development including subdivisions and new construction that requires a site plan or similar approval prior to the issuance of a certificate of occupancy permit unless an owner/developer is eligible for payment in lieu of construction or is exempted in this section. The type of facility that the owner/developer is responsible for is identified on the City's Sidewalk and Multi-use

Network Map. All new residential and commercial developments within the City limits and its extraterritorial jurisdiction (ETJ) shall comply with the following:

(a) The applicable requirements of the City of Jacksonville Manual of Specifications, Standards and Design (MSSD), as revised;

(b) All City plans;

(c) ADA standards;

(d) AASHTO bicycle and pedestrian guidelines;

(e) NCDOT guidelines (where applicable); and

(f) The standards of this Ordinance.

### 3. Configuration

Bicycle and pedestrian facilities shall be configured using the following standards:

(a) Sidewalk facilities shall be at least 5 feet in unobstructed width for non-residential and multi-family property and at least four (4) feet in unobstructed width for residential property.

(1) When a four (4) foot wide sidewalk facility exists in good condition on non residential and multi-family property, passing areas can be provided in lieu of removal/replacement provided that there are no obstructions and there is a utility strip as required by the MSSD between the sidewalk and back of street curb or edge of pavement when no curbs exist.

(b) Bicycle and pedestrian facilities other than sidewalks shall meet the standards established in the MSSD;

(c) Bicycle and Pedestrian facilities shall connect with existing or planned facilities at property boundaries;

(d) Where facilities do not exist on adjacent properties, bicycle and pedestrian facilities shall be constructed so that the adjacent property can make a future unobstructed connection.

(e) New nonresidential, mixed-use, and multi-family development shall provide at least one improved on-site connection between the development and the adjacent public pedestrian system.

### 4. Option for Bicycle and Pedestrian Facilities Agreement

(a) A property owner or developer may select the option to pay a fee in lieu of installing the required bicycle and pedestrian facility based on the annually adopted fee schedule instead of constructing the facilities. This agreement would be made with the understanding that the City would use these funds to construct bicycle and pedestrian facilities in accordance with the established Capital Improvements Program (CIP). Funds collected from properties within the ETJ are to be used for improvements and maintenance within the ETJ.

(b) The following properties are not eligible to pay a fee in lieu of installing the required bicycle and pedestrian facility:

(1) Properties that required the installation of a bicycle and pedestrian facility as part of a subdivision.

(2) Properties located on roadways or sides of roadways which are identified as "Existing" or "Proposed" on the City's Sidewalk and Multi-use Network Map.

Properties located within the ETJ or on a controlled access road have the option to pay the fee in lieu of installing bicycle and pedestrian facilities even if identified as "Existing" or "Proposed" on the City's Bicycle and Pedestrian Plan or required by a subdivision.

If a facility identified as "Existing" or "Proposed" on the City's Sidewalk and Multi-use Network Map is on the CIP for pedestrian facility installation or on the NCDOT schedule for widening within the next five (5) fiscal years adjacent properties are eligible to pay a fee in lieu of installing the required facility.

In no instance shall a property be required to pay more than one fee in lieu of construction or pay a fee in lieu and construct a facility within a five (5) year period.

Change of occupancy or the division of a building into units where the footprint of the building is not changed shall not be required to install or pay in lieu of installation.

### 5. Flexibility in Administration Required

(a) The City Council recognizes that due to the particularities of any given development, the inflexible application of the standards in Section 5.8.G.3, *Configuration*, may result in a development with either insufficient facilities or one that cannot reasonably comply with the standards herein. In addition, there may be other suitable construction methods or materials available as technology advances. Therefore, the Development Services Director after consultation with the Public Services Director may accept or require alternate designs, construction methods and materials not specifically prescribed herein.

(b) Whenever such flexibility is utilized, the reasons and specific requirements that are imposed shall be documented. In addition, the Development Services Director may impose specific conditions when granting flexibility.

## H. Street Trees

### 1. Where Required

Street trees shall be required along both sides of all streets, except alleys.

### 2. Location

Shall be determined based on street and species required during the development review process.

### 3. Configuration

(a) Street trees shall be canopy trees except beneath overhead utilities or other projections into the public right-of-way, where understory trees shall be located.

(b) Within the Downtown district and other urban areas, street trees shall be located within tree pits of at least 25 square feet in size. Tree pits may be located adjacent to the back of the curb.

(c) All trees planted along DOT rights-of-way shall conform to NCDOT guidelines.

### 4. Maximum On-Center Spacing

(a) Understory street trees shall be spaced between 20 and 30 feet on-center.

(b) Canopy street trees shall be spaced between 40 and 50 feet on-center.

## I. Wetlands

New development shall comply with all relevant City, State, and Federal wetland protection standards.

# 5.8 Non-Residential Design Standards

## A. Purpose and Intent

These commercial design standards are intended to:

1. Promote a strong sense of place and pedestrian-friendly development;
2. Encourage a pedestrian-friendly environment through attention to site features and human scale design; and
3. Foster greater compatibility between commercial development and adjacent residential neighborhoods.

## B. Applicability

### 1. General

Except where exempted by Section 5.8.B.3, *Exemptions*, these commercial design standards apply to all uses in the Commercial Use Classification in Table 4.1.1, *Use Table*.

### 2. Redevelopment

The standards in this section are applied only to the redeveloped portions of buildings.

### 3. Exemptions

(a) Commercial development in the DTR and DTB districts are exempt from these standards; however, refer to the zoning district for specifics standards within these zones.

(b) Development meeting the definition of a large non-residential establishment shall be exempted from these commercial design standards, but shall comply with the large non-residential design standards in Section 5.9.

### 4. Time of Review

Review for compliance with these standards shall occur at the time of Site Plan (see Section 2.3.C), Planned Development (see Section 2.3.B), Subdivision Plat (see Section 2.3.E), or Building Permit (see Section 2.3.G), whichever occurs first.

## C. General Standards

Except otherwise noted, these general commercial standards are intended to apply for all commercial development in the City.

### 1. Building Orientation

(a) The building façade containing the primary entrance shall be considered as the primary façade.

(b) The primary facades of all buildings are encouraged to face a public street serving the development.

(c) In the case of multi-building development, the perimeter buildings shall be oriented so that the primary facade faces a public street. Buildings interior to the site may be oriented to private streets or accessways.

### 2. Building Façade

Any façade visible from a public or private right-of-way shall be designed as a primary façade and include at least three (3) of the following elements:

(a) Canopies/porticos above the entrance;

(b) Roof overhangs above the entrance;

(c) Entry recesses/projections;

(d) Arcades that are physically integrated with the entrance;

(e) Raised corniced parapets above the entrance;

(f) Gabled roof forms or arches above the entrance;

(g) An outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;

(h) Display windows that are directly adjacent to the entrance;

(i) Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above or directly adjacent to the entrance;

(j) Integral planters or wing walls that incorporate landscaped areas or seating areas;

(k) Variations in roof form and parapet heights;

(l) Pronounced building wall recesses and projections with a minimum depth of two feet;

(m) Distinct changes in texture and color of wall surfaces;

(n) Ground level arcades and second floor galleries/balconies;

(o) Protected and recessed entries; or

(p) Vertical accents or focal points.

### 3. Service and Loading Area Placement and Screening

(a) Outdoor storage, trash collection, and loading areas shall be integrated with the overall design of the building, or be screened to a height necessary to fully screen the site feature by opaque fencing, vegetation, or a combination of both.

(b) Outdoor storage, trash collection, and loading areas shall be designed so they are located no closer than 20 feet to a public right-of-way nor 20 feet to a private right-of-way unless they are specifically designed for access from the interior portion of the lot and not from the public or private right-of-way.

(c) Shopping cart containment areas shall not be located adjacent to internal

public spaces, plazas, or commercial streets.

(d) Exterior shopping cart storage areas located within the building are exempt.

(e) Cart corrals within the parking areas are exempt.

4. **Roof-Mounted Equipment**

(a) All rooftop equipment shall be screened from all street views.

(b) When flat roofs are used, parapet walls with three dimensional cornice treatments or other approved method shall be used to conceal roof-mounted equipment.

5. **Glazing**

(a) Except for development subject to the standards for large non-residential buildings shall provide glazing for at least 15 percent of the ground floor facade area facing a street.

(b) All street-level windows shall be visually permeable between a height of three feet and eight feet above the walkway grade. Banks, Offices and similar uses are exempt from this standard.

(c) Reflective or tinted glass that obstructs views into the building shall not be used unless approved by the Development Services Director

6. **Materials**

Except for lots in the Industrial (IND) district, ribbed metal siding shall not be used as a principal exterior building material on building walls fronting a public street. Architectural metal siding and similar products may be used upon approval by the Development Services Director

7. **Façade Lighting**

Illuminated tubing or strings of lights that outline roof lines, doors, windows, or similar areas are prohibited. In addition, exterior lighting should comply with dark sky standards.

8. **Accessory Structures**

Accessory structures shall comply with the standards in Section 4.3, *Accessory Uses and Structures*, and the following standards:

(a) Access to accessory structures shall be provided from alleys or secondary streets, whenever possible.

(b) Accessory structures shall be compatible with the principal structure in terms of, materials, massing, and color.

(c) Accessory structures shall not physically obstruct pedestrian entrances or travelways.

(d) Trash receptacles and refuse collection areas shall be enclosed on four sides when the entry is visible from a street. In cases when the entry is not visible from a street enclosure is only required on three sides per Section 5.4 Fences and Walls. Fence and/or wall height shall be at least 6-feet in height or the height of the receptacle, whichever is greater.

# 5.9 Additional Design Standards for Large Non-Residential

## A. Purpose and Intent

These standards are intended to address the visual impact and compatibility issues related to large-scale non-residential buildings of 40,000 square feet in size or more. The standards seek to encourage visual interest and greater pedestrian orientation on sites containing large non-residential buildings.

## B. Applicability

### 1. New Development

Individual buildings or a combination of buildings of 40,000 square feet in size or more shall comply with the standards in this section.

### 2. Redevelopment

Redevelopment of an existing building that results in a building or a combination of buildings of 40,000 square feet or more in size shall comply with the standards in this section. These standards will be applied only to the redeveloped portion of the structure.

### 3. Planned Development

Buildings subject to a PD Master Plan may modify these standards in accordance with the planned development approval (see Section 2.3.B, *Rezoning, Conditional Rezonings, Planned Developments or Text Amendments*).

## C. Exemptions

Developments located within the Downtown districts shall be exempted from these standards; however, refer to the zoning district for specifics standards within these zones.

## D. Time of Review

Review for compliance with these standards shall occur at the time of Site Plan (see Section 2.3.C), Planned Development (see Section 2.3.B), Subdivision Plat (see Section 2.3.E), or Building Permit (see Section 2.3.G), whichever occurs first.

## E. Building Orientation

### 1. Single Building Developments

(a) The building façade containing the primary entrance shall be considered as the primary façade.

(b) The primary facades of all buildings shall be encouraged to face a public street serving the development.

(c) Any street facing façade shall have a similar level of detailing as the primary façade.

### 2. Multiple-Building Developments

Developments with more than one building shall be configured to:

(a) Break up the site into a series of smaller "blocks" defined by on-site streets, vehicle accessways, pedestrian walkways, or other circulation routes;

(b) Frame and enclose outdoor dining or gathering spaces for pedestrians

between buildings or

(c) Off-street parking lots of 250 or more spaces serving a large retail building shall be organized into a series of parking bays or "rooms" surrounded by buildings, landscaping, or accessways designed to appear as streets.

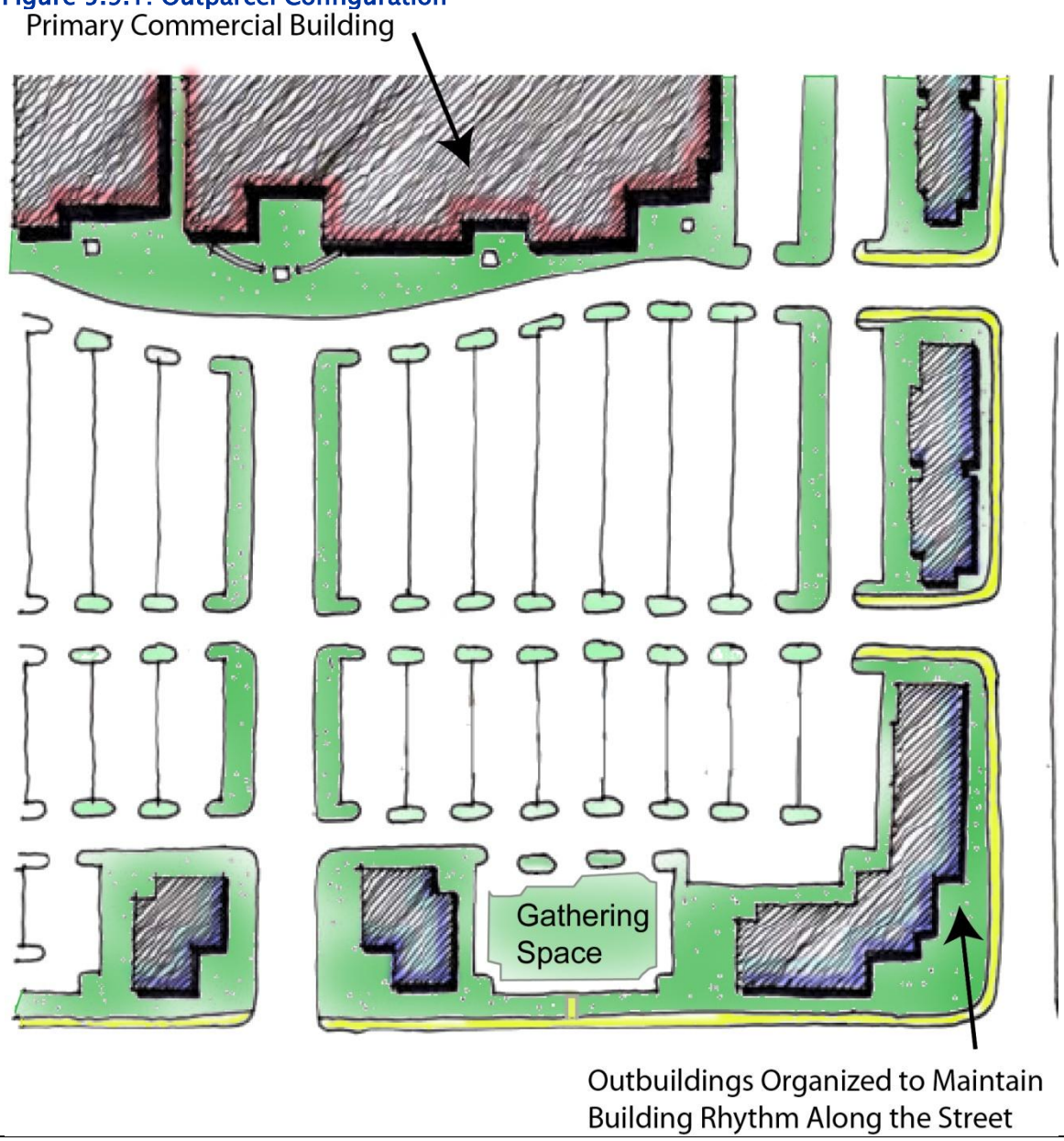
### 3. Outparcel Development

(a) To the maximum extent practicable, outparcels and their buildings in a development shall be clustered in order to define street edges, entry points, and intimate spaces for gathering or seating between buildings, as illustrated in Figure 5.9.1, *Outparcel Configuration*.

(b) Spaces between buildings on outparcels shall be improved to provide small scale pedestrian amenities such as plazas, seating areas, pedestrian connections, gathering spaces, or well-landscaped parking areas.

(c)

Figure 5.9.1: Outparcel Configuration



## F. Customer Entrances

1. Each large non-residential building shall have clearly-defined, highly-visible customer entrances that include no less than three of the following design features:
    - (a) Canopies/porticos above the entrance;
    - (b) Roof overhangs above the entrance;
    - (c) Entry recesses/projections;
    - (d) Arcades that are physically integrated with the entrance;
    - (e) Raised corniced parapets above the entrance;
    - (f) Gabled roof forms or arches above the entrance;
    - (g) An outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;
    - (h) Display windows that are directly adjacent to the entrance;
    - (i) Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above or directly adjacent to the entrance; or
    - (j) Integral planters or wing walls that incorporate landscaped areas or seating areas.

## G. Building Facades

As a means of reducing the perceived mass and scale of large non-residential buildings, such buildings shall incorporate two or more of the following design elements on each façade visible from a street:

1. Variations in roof form and parapet heights;
2. Pronounced building wall recesses and projections with a minimum depth of two feet;
3. Distinct changes in texture and color of wall surfaces;
4. Ground level arcades and second floor galleries/balconies;
5. Protected and recessed entries; and
6. Vertical accents or focal points.

## H. Glazing

Large non-residential buildings shall provide glazing in the following amounts:

1. Twelve percent of the ground floor façade area when it faces a street. One half of this glazing may be tinted, frosted, or visually opaque; and
2. Reflective or heavily tinted glass that obstructs views into the building shall not be used on the primary façade or a secondary façade fronting a street. Banks, Offices and similar uses are exempt from this standard.

## I. Roofs

1. Except for mansard roofs, cupolas, and steeples, sloped roofs on large non-residential buildings shall include two or more sloping roof planes with greater than or equal to one foot

of vertical rise for every three feet of horizontal run, and less than or equal to one foot of vertical rise for every one foot of horizontal run.

2. When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them. The cornice shall include a perpendicular projection a minimum of eight inches from the parapet façade plane.

## J. Façade Lighting

Illuminated tubing or strings of lights that outline roof lines, doors, windows, or similar areas are prohibited. In addition, exterior lighting should comply with dark sky standards.

## K. Accessory Structures

Accessory structures shall comply with the standards in Section 4.3, *Accessory Uses and Structures*, and the following standards:

(a) Access to accessory structures shall be provided from alleys or secondary streets, whenever possible.

(b) Accessory structures shall be compatible with the principal structure in terms of, materials, massing, and color.

(c) Accessory structures shall not physically obstruct pedestrian entrances or travelways.

(d) Trash receptacles and refuse collection areas shall be enclosed on four sides when the entry is visible from a street. In cases when the entry is not visible from a street enclosure is only required on three sides per Section 5.4 Fences and Walls. Fence and/or wall height shall be at least 6-feet in height or the height of the receptacle, whichever is greater.

# 5.10 Multi-Family Design Standards

## A. Purpose

These multi-family design standards are intended to promote housing variety and options for attached residential, townhouse, and multi-family development in the City. More specifically, the purpose of this section is to:

1. Establish a minimum level of design quality for two- to four-family dwellings, townhouse, and multi-family development to foster sustained value and stability within developments and neighborhoods; and
2. Promote greater compatibility between multi-family uses and other allowable uses in the City.

## B. Applicability

1. The standards in this section shall apply to all two- to four-family dwellings, townhouse, and multi-family development in the City.
2. In addition, these standards shall apply to any two- to four-family dwellings, townhouse, or multi-family dwellings existing on July 1, 2014 if any expansion or alteration exceeds 50 percent of the building's assessed value at the time of expansion or alteration.

## C. Exemptions

These standards shall not be applied to vertically-integrated mixed-uses or upper story residential units located over a nonresidential use (e.g., residential units located on the second floor above commercial development). In addition, developments located within the Downtown district(s) shall be exempted from these standards; however, refer to the zoning district for specifics standards within these zones.

## D. Time of Review

Review for compliance with these standards shall occur at the time of Site Plan (see Section 2.3.C), Planned Development (see Section 2.3.B), Subdivision Plat (see Section 2.3.E), or Building Permit (see Section 2.3.G), as appropriate.

## E. Design Standards

All two- to four-family dwellings, townhouse, and multi-family development subject to this section shall comply with the following standards:

### 1. Building Orientation

All buildings with shared building entrances shall be oriented so that the primary entrance(s) faces the street. In the case of corner lots, the primary entrance(s) shall face the street from which the building derives its street address.

### 2. Building Size

(a) Individual building footprints shall not exceed a maximum of 15,000 square feet.

(b) The maximum length of any townhouse or multi-family structure shall be 200 linear feet, regardless of the number of units.

(c) No more than six side-by-side attached residential or townhouse units shall

be attached in any single structure.

(d) Buildings with more than six units shall include a pedestrian pass-through from one side of the building to the other.

### 3. Height

Except in the DTR and DTB districts, two- to four-family dwellings, townhouse, and multi-family development located within 100 feet of existing single-family development or lands designated as a single-family residential district (RSF-40, RSF-20, RSF-10, and RSF-7) on the official zoning map shall not exceed 35 feet or three stories above the finished grade.

### 4. Building Design

Building details, including roof forms, siding materials, windows, doors, and trim shall reflect a similar level of quality and architectural detailing on all sides facing a street, existing single-family development, and vacant land with a zoning designation for single-family development (RSF-40, RSF-20, RSF-10, and RSF-7).

### 5. Building Facades

#### (a) Massing

(1) Long wall and rooflines shall be visually differentiated at least every 30 feet. This differentiation can be achieved by, but not limited to: changes in roofline or cornice; parapets; recessions or projections; inclusion of porches or bays; and/ or decorative downspouts.

(2) If using changes in roofline, the changes shall indicate a change in the building's footprint and/or massing.

(3) If using recessions and projections, the recessions, projections or changes in building plane must be of at least three feet in depth. These changes in plane should extend from the ground to the roofline. Changes in roof form for decorative purposes are not permitted.

#### (b) Foundation/ Decorative Base

A masonry, stucco or decorative concrete exposed foundation or decorative base of at least 18 inches in height shall be provided around the base of the building.

#### (c) Materials

(1) Exterior materials shall consist of a single primary material and may include accent materials. Use of multiple primary materials is not permitted.

(2) A primary material will comprise at least 65 percent of each exterior building face, excluding windows and doors. However, architectural style and detailing of the building should dictate the appropriate composition of primary material.

(3) Primary exterior materials include brick, stone, stucco, lap siding, and shingles.

(4) Materials that appear heavier and more massive (brick, stone, stucco) shall be used closest to the ground. When using multiple materials, lighter materials (lap siding and shingles) shall be used on upper stories.

(5) When using vinyl siding, the siding must have a thickness of at least 0.044 inches and a four- to eight-inch reveal, include a frieze board of at least six inches in width, a water table board of at least eight inches in width, and corner boards of at least five inches in width.

(6) Vertically-applied siding shall be limited to board and batten siding.

(d) **Building Entrances**

Building entrances shall be pedestrian scaled with architectural features such as, but not limited to:

(1) Recesses or projections including weather protection (i.e., canopy, overhang, or arcade),

(2) Architectural detail such as raised corniced parapets over the door, arches, tile work and moldings integrated into the building structure and design;

(3) Sidelights;

(4) Transoms;

(5) Decorative casings at least three-and-one-half inches in width;

(6) Surrounds;

(7) Porticos; and

(8) Pediments.

(e) **Posts**

Posts, pillars, columns and the like shall be at least six inches in width.

(f) **Windows**

Windows shall comprise at least 15 percent of the façade and shall be emphasized from the building façade by providing, one or more of the following:

(1) Casing at least three-and-one-half inches in width;

(2) Window cornice and sill;

(3) Shutters that correspond in size and shape to their respective openings; used over the entire façade;

(4) Recessed from the façade plane or lintel/sill by at least one-half inch; and

(5) Other design elements which add emphasis but are not listed above.

6. **Garage Standards**

(a) Garages serving two- to four-family dwellings and townhouse uses shall be located on the side or **behind the rear** facades of such buildings.

(b) Garages serving multi-family buildings shall be located to the side or rear of such buildings, or be structured parking.

(c) The exterior materials, design features, and roof form of garages shall be compatible with the building it serves.

7. **Parking Location**

(a) No off-street surface parking associated with a townhouse or multi-family

development shall be located between the structure and the street it fronts.

(b) Off-street surface parking located beside a building shall not occupy more than 25 percent of the parcel's street frontage. Associated driving areas shall be included as part of such off-street surface parking.

### 8. Roof Form

(a) Outside the DTR. DTB, or PD districts, two- to four-family dwellings, townhouse, and multi-family structures shall incorporate roof pitches between 3:12 and 12:12; however, alternative roof forms or pitches may be allowed for small roof sections over porches, entryways, or similar features.

(b) All roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or otherwise be configured, to the degree practicable, to have a minimal visual impact as seen from the street.

### 9. Storage

Each two- to four-family dwelling, townhouse, and multi-family dwelling unit shall include an area for enclosed storage with a minimum size at least five percent of the size of the unit.

### 10. Outdoor Activity Areas

Outdoor activity areas, porches, balconies, decks, vending areas, and other similar site attributes shall be located away or fully screened from adjacent single-family detached dwellings.

# 5.11 Single-Family Design Standards

## A. Purpose

These single-family design standards are intended to protect and preserve the quality and character of single-family residential areas in the City. More specifically, the purposes of this section are to:

1. Encourage distinctive, well-designed single-family detached residential development as a strategy for investing in the City's future;
2. Promote human-scale design and foster the pedestrian environment within single-family detached residential areas;
3. Reinforce the unique attributes found in different single-family detached areas of the City; and
4. Protect and enhance property values.

## B. Applicability

### 1. General

Unless exempted in accordance with subsection (2) below, these standards apply to all new single-family detached and attached residential development in the City.

### 2. Exemptions

Single-family detached and attached residential development located within the Downtown district(s) shall be exempted from these standards; however, refer to the zoning district for specifics standards within these zones.

### 3. Time of Review

Review for compliance with these standards shall occur at the time of Site Plan (see Section 2.3.C), Planned Development (see Section 2.3.B), Preliminary Plat (see Section 2.3.E), or Building Permit (see Section 2.3.G), as appropriate.

## C. Design Standards

### 1. Building Orientation

All single-family detached dwellings shall be oriented so that the primary entrance faces the street. In the case of corner lots, the primary entrance shall face the street from which the dwelling derives its street address.

### 2. Foundation

A masonry, stucco or decorative concrete exposed foundation or decorative band of at least 12 inches in height shall be provided around the base of the building.

### 3. Architectural Variability

#### (a) Intent

The intent of these standards is not to limit creativity or mandate individual architectural styles, rather the intent is to ensure single-family residential development avoids monotonous design with little or no architectural variability between different homes along a street.

### (b) Standards

Development subject to these standards shall include distinctly different front façade elevations within any single phase of the development such that:

(1) No three homes that are side-by-side may have the same front façade elevation; and

(2) No homes directly across the street from one another shall have the same front façade elevation.

### (c) Distinctly Different Defined

"Distinctly different" shall be defined to mean that a single-family residential detached dwelling's front facade must differ from other single-family detached building's elevations in at least two of the following five ways:

(1) The use of different colors and/or surface materials;

(2) Variations in rooflines, pitches, or the use of dormers;

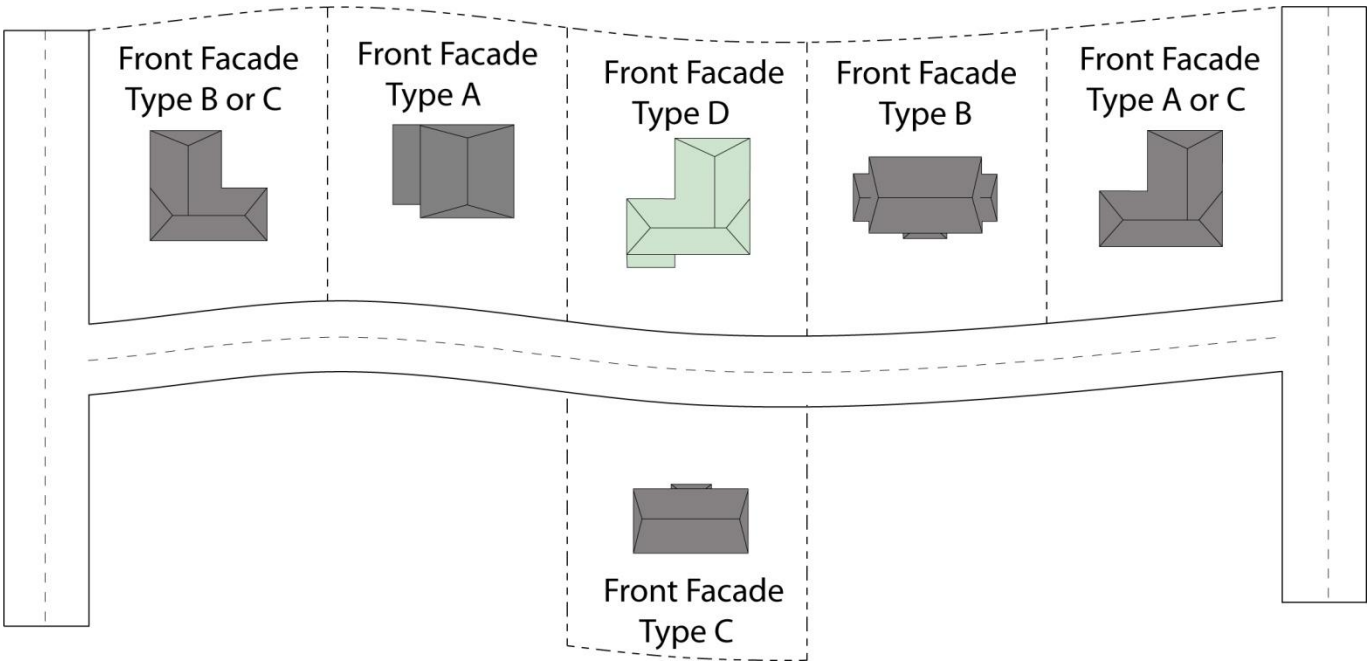
(3) Variation in the location and proportion of front porches;

(4) Variation in the location or proportion of garages and garage doors; or

(5) Mirror images of the same configuration (provided different building colors are used).

The location of a garage behind the front façade of the dwelling it serves may be credited as a "distinctly different" feature, even when adjacent dwellings also have garages located behind the front façade.

Figure 5.11.1: Distinctly Different



### D. Landscaping

One canopy tree is required in the front yard. The tree shall have a minimum caliper of two inches and be at least eight to ten feet in height at the time of planting.

## 5.12 Signage

### A. Purpose

Signs are herein regulated in the interest of promoting traffic safety, safeguarding public health and comfort, facilitating police and fire protection, preventing adverse community appearance and the overcrowding of land, and protecting and promoting the character of the area in which they are located. In general, it is intended that signs of a general commercial nature be prohibited in areas where commercial activities are prohibited and that signs in less restrictive business and industrial areas be regulated to the extent necessary to protect or improve the character of the area and to conserve property values. Further, that because aesthetic value of the total environment does affect economic values of the community, and the unrestricted proliferation of signs can and does detract from the economic value of the community, it is the intent of this chapter to provide limiting controls, where necessary, to preserve or improve and upgrade community scenic, economic, and aesthetic values.

### B. Applicability

The regulations stipulated in this section shall apply to all signs that are constructed, erected, moved, enlarged, illuminated, substantially altered or otherwise maintained within the City of Jacksonville's jurisdiction except for signs expressly or implicitly regulated elsewhere in this Ordinance.

### C. Permit Required for Signs

1. Except as otherwise provided in Section 5.12.D, *Signs Excluded from Regulation*, and Section 5.12.E, *Certain Temporary Signs: Permit Exceptions and Additional Regulations*, no sign may be constructed, erected, moved, enlarged, illuminated or substantially altered except in accordance with the provisions of this section. Mere repainting or changing the message of a sign shall not, in and of itself, be considered a substantial alteration.
2. Sign permit applications and Sign Permits shall be governed by the standards in Section 2.3.H, Zoning Permits.
3. Signs exempted under the provisions referenced in paragraph (1) above may be constructed, erected, moved, enlarged, illuminated or substantially altered only in accordance with a sign permit issued by the Development Services Director.
4. Additional permit requirements that are applicable for billboard permits are specified in Section 5.12.M, *Billboards*.
5. Signs located in the DTR and DTB districts shall also conform to the standards described in their respective sections in Article 3: *Zoning Districts*.

### D. Signs Excluded From Regulation

The following signs are exempt from the standards in Section 5.12, Signage except for those stated in Sections 5.12 c & 5.12 e.

1. Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (1) signs giving property identification

names or numbers or names of occupants, (2) signs on mailboxes or newspaper tubes, and (3) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

2. Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional, or regulatory signs.
3. Official signs of a noncommercial nature erected by public utilities.
4. Flags or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
5. Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
6. Signs directing and guiding traffic on private property that do not exceed four square feet each.
7. Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street and 15 square feet in area and that are not illuminated.
8. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
9. Signs proclaiming religious, political, or other noncommercial messages (other than those regulated in Section 5.12.E that do not exceed one per abutting street and 15 square feet in area and that are not illuminated.
10. Sign face replacement utilizing an existing frame/sign.

## E. Certain Temporary Signs: Permit Exemptions and Additional Regulations

1. The following temporary signs are permitted without a Zoning Permit or Special Use Permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this section except those contained in Section 5.12.I, *Wall Sign Surface Area*, and Section 5.12.L, *Number of Freestanding Signs*.

    (a) In residential zoning districts, temporary signs erected for the purpose of sale, lease, or rent of the real estate on which the sign is located (including buildings), may not exceed 6 square feet in area. In non-residential districts, such signs may not exceed 15 square feet in area. All such signs shall be removed immediately after sale, lease, or rental of the property on which the sign is located and where applicable, before a Certificate of Occupancy is issued for the subject structure. For lots of less than 5 acres, a single sign on each street frontage may be erected. For lots of 5 acres or more in area and having a street frontage in excess of 400 feet, a second sign may be erected.

    (b) Temporary construction site identification signs may be erected during the construction period of a structure in all zoning districts, for the purpose of identifying the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources and related information including but not limited to sale or leasing information. Such signs may not exceed 32 square feet in area. All such signs shall not be erected prior to the issuance of a Building Permit, and must be removed from the subject

site before the issuance of a Certificate of Occupancy.

(c) Temporary signs attached temporarily behind and/or on a building window or door. Such signs, individually or collectively, may not cover more than 75 percent of the surface area of the transparent portion of the window or door to which they are attached.

(d) Displays, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within 10 days following the holidays.

(e) Signs erected in connection with elections or political campaigns. Such signs shall be removed within 3 days following the election or conclusion of the campaign.

(f) Signs erected in connection with festivals, special events, and fund-raising campaigns for civic clubs and other bona-fide non-profit organizations. Such signs shall be removed within 3 days following the conclusion of the event or fund-raising campaign.

(g) Banner signs and advertising inflatables (balloons) indicating that a special event such as a grand opening, fair, carnival, circus, festival, or similar event is to take place on the lot where the sign is located. No more than 2 such signs may be displayed per lot or business premises at any given time.

(h) Banner signs indicating "Welcome Home" or similar signs pertaining to the return of military forces from deployment elsewhere. Such signs may not be erected more than five days before and must be removed within five days after the return of the specified military unit.

(i) Flags, other than those described in Section 5.12.D.4, of a commercial or non-commercial nature. Such flags may be displayed for indefinite periods of time provided that they remain in good physical condition and are not tattered, torn or otherwise deteriorated to the point that they become aesthetically detrimental by virtue of their poor physical condition. In no case may such flags extend over or otherwise encroach upon public rights-of-way.

(j) Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:

(1) Not more than one such sign may be located on any lot.

(2) No such sign may exceed four square feet in surface area.

(3) Such sign may not be displayed for longer than three consecutive days nor more than 10 days out of any 365-day period.

2. Other temporary signs not listed in Section 5.12.E.1 above shall be regarded and treated in all respects as permanent signs, except that temporary signs shall not be included in calculating the total amount of permitted sign area.

## F. Special Provisions for Certain Signs

### 1. Schools and Church Signs

(a) Signs located within residential zoning districts shall comply with the following standards:

(1) **Freestanding Signs**

Shall be a monument type sign not exceeding 32 square feet in area and 8 feet in height. The maximum number of signs allowed shall be 1 per street frontage.

(2) **Wall Signs**

Shall comply with Section 5.12.I, *Wall Sign Surface Area*.

(b) Signs located within nonresidential zoning districts shall not be subject to (a) above.

2. **College and University Signage**

Signage associated with a college or university shall be coordinated in terms of design features and comply with the following standards when located on 30 or more acres housing 10 or more buildings.

(a) **Freestanding Signs**

(1) Primary entrance(s)/driveway(s) are allowed to have a monument sign(s) on one or both sides of the entrance/driveway, provided:

i. These signs identify the college or university. A single side of such sign face may not exceed 250 square feet.

ii. In no case may any portion of supporting structural elements of the sign exceed a height greater than 15 feet. Sign height is measured from ground level at the base of the sign structure.

(2) Secondary entrance(s)/driveway(s) are allowed to have a monument sign(s) on one or both sides of the entrance/driveway, provided:

i. These signs identify the college or university. A single side of such sign face may not exceed 150 square feet.

ii. In no case may any portion of supporting structural elements of the sign exceed a height greater than 15 feet. Sign height is measured from ground level at the base of the sign structure.

(b) **Wall Signs**

Wall signs shall be subject to Section 5.12.I, *Wall Sign Surface Area.*

(c) **Signs Excluded from Regulation:**

(1) Signs directing and/or guiding traffic on private property that do not exceed 16 square feet.

(2) Interior campus and/or directional signs.

(3) Alphanumeric parking lot identification that does exceed 8 square feet.

## G. Determining the Number of Signs

1. For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

2. A two-sided, double face (back to back), or multi-sided sign shall be regarded as one sign so long as the distance between the backs of each face of the sign does not exceed three feet

## H. Computation of Sign Area

1. The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.

2. If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

3. With respect to two-sided, multi-sided, or three-dimensional signs, the sign surface area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point. Without otherwise limiting the generality of the foregoing:

   (a) The sign surface area of a double faced, back to back sign shall be calculated by using the area of only one side of such sign, so long as the distance between the backs of such signs does not exceed three feet.

   (b) The sign surface area of a double faced sign constructed in the form of a "V" shall be calculated by using the area of only one side of such sign (the larger side if there is a size difference), so long as the angle of the "V" does not exceed 30 degrees and at no point does the distance between the backs of such sides exceed five feet.

## I. Wall Sign Surface Area

1. Subject to the other provisions of this section, the maximum wall sign surface area permitted on any building in a non-residential district shall be determined as follows:

   (a) **Front Primary Elevation**

   The maximum sign surface area permitted on the front elevation of an individual building shall not exceed 2 square feet of sign surface area per linear foot of primary building frontage. In the case of a multi-tenant building the store front shall be used as building frontage.

   (b) **Secondary Elevations (Side and Rear)**

   The maximum sign surface area permitted on the side and rear elevations of a building shall not exceed 1 square feet of sign surface area per linear foot of primary building frontage.

2. Electronic message boards are not permitted as wall signs.
3. The provisions of this subsection shall not apply to billboards. The placement and dimensional requirements of billboards shall be governed by Section 5.12.M, *Billboards*.

## J. Development Entrance Signs

1. For purpose of this section, development entrance signs shall meet the following requirements:
   (a) Signs shall be monument style (structure/supports do not count as sign area unless logos, text, etc. are located on the base).
   (b) Sign height is measured from ground level at the base of the structure.
   (c) The base of the monument shall be no more than 1/3 the size of the sign area.
   (d) Text on the sign shall not be smaller than 4" letters.
   (e) Allotment may be divided between 2 signs but no more than 2 signs are permitted at each entrance.

2. **Developments of a commercial use shall also meet the requirements below:**
   (a) For the primary entrances, the allotted square footage is equal to the linear footage of the front primary elevation of the largest building.
   (b) For the secondary entrances, the allotted square footage is equal to half the linear footage of the front primary elevation of the largest building.
   (c) A maximum of 150 square feet is permitted per primary entrance and 75 square feet per secondary entrance.
   (d) Electronic message boards cannot exceed 50% of sign area.
   (e) In no case may any portion of supporting structural elements of the sign exceed 20 feet in width nor be erected to a height greater than 15 feet.

3. **Developments of a residential use shall also meet the requirements below:**
   (a) A single side of any such sign may not exceed 32 square feet.
   (b) If two signs are erected the total surface area of all such signs located at a single entrance shall not exceed 64 square feet.

(c) In no case may any portion of supporting structural elements of the sign exceed 10 feet in width nor be erected to a height greater than 6 feet.

(d) Electronic message boards are prohibited.

## K. Freestanding Sign Surface Area

1. For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the total sign surface area as provided in Section 5.12.H, *Computation of Sign Area*. For example, wall signs typically have one side. Freestanding signs typically have two sides (back to back), although four-sided and other multi-sided signs are also common.

2. A single side of a freestanding sign may not exceed 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. In addition, the maximum total surface area for a single side of a freestanding sign shall not exceed 150 square feet. Maximum percentage of the total allowed sign area for an electronic message board shall not exceed 30 percent. A recent survey (within 3 years), most current deed or other acceptable method as determined by the Development Services Director will be utilized for determining the amount of street frontage.

3. Whenever a lot is situated such that it has no street frontage on any lot boundary and an applicant desires to install on such a lot a freestanding sign, the applicant may utilize the development entrance sign option.

4. With respect to freestanding signs that have no discernible sides, such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed the maximum total surface area allowed for a single side of a freestanding sign.

5. The provisions of this section shall not apply to billboards. The placement and dimensional requirements of billboards shall be governed by Section 5.12.M, *Billboards*.

## L. Number of Freestanding Signs

1. Except as authorized by this section, no development may have more than one freestanding sign. Development Entrance Signs are not counted as freestanding signs for the purpose of this part.

2. If a development is located on a corner lot that has at least 100 feet of frontage on each of the two intersecting public streets, then the development may have not more than one freestanding sign along each side of the development bordered by such streets.

3. If a development is located on a lot that is bordered by two public streets that do not intersect at the lot's boundaries (double front lot), then the development may have not more than one freestanding sign on each side of the development bordered by such streets.

4. For developments that have more than 300 linear feet of frontage along a single right-of-way boundary, a second freestanding sign may be established. For developments that have more than 500 feet of frontage, a maximum of three freestanding signs may be established. Multiple freestanding signs established in the same development must be separated by a minimum of 100 feet. The total amount of area for all freestanding signs erected for a single development may not exceed 0.75 square feet in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. In no case may any

such freestanding sign exceed 150 square feet in size.

5. Freestanding signs are prohibited in all residential districts, except as otherwise provided by this section.

6. The provisions of this section shall not apply to billboards. The placement and dimensional requirements of billboards shall be governed by Section 5.12.M, *Billboards*.

## M. Billboards

1. Billboards shall be permitted only in the Billboard Overlay Zone as shown on the Official Zoning Map for the City of Jacksonville and its extraterritorial jurisdiction. For the purposes of this Chapter, Billboards constitute a separate and distinct land use due to their size and prominence upon the landscape, and are therefore subject to the following separate regulatory provisions. It is recognized that billboards provide the opportunity to advertise products, services, and ideas; however, because of their sheer size, location in proximity to buildings, and potential for storm damage these signs can be aesthetically undesirable, create traffic hazards, and present dangers to adjoining properties. Therefore, it is the purpose of this ordinance to allow for the establishment of billboards under specific, limited circumstances.

2. No two billboards shall be spaced less than 2000 feet apart on the same side of the roadway on all streets and rights-of-way where they are allowed. In addition, no two billboard structures shall be placed within 1000 feet in either direction of the nearest point on the opposite side of the same right-of-way from an existing billboard. When determining the distance between signs the measurement shall be from the nearest points of the respective signs (including braces, overhang, etc.).

3. No billboards shall be allowed within 750 feet of the center point of an intersection where both roads allow billboards nor within 750 feet of the interior apex of an angle intersection, where both roads allow billboards.

4. All billboard structures, including overhangs and all other components, shall be set back at least 20 feet from the nearest road right-of-way.

5. The maximum allowable height for a billboard shall be 40 feet.

6. No one copy area of any billboard structure shall exceed four hundred square feet, and there shall be no more than one copy area facing any one side of the traveled roadway on any sign structure.

7. All billboards shall be plainly marked with the name of the person, firm, or corporation erecting and maintaining such sign and shall have affixed the firm number issued for said sign by the building inspector.

8. All owners of billboards are required to obtain and maintain an annual billboard permit in order for the billboard to be considered a conforming use. Billboard permits shall only be issued for billboards that are in complete conformance with the requirements of this ordinance. If a billboard permit expires, the billboard shall be deemed non-conforming until a new permit is obtained. For the purposes of this subsection, a billboard shall be considered "destroyed" if damaged to an extent that the cost of repairing the billboard to its former stature or replacing it with an equivalent billboard equals or exceeds 50 percent of the tax value, as listed in the Onslow County Tax Office, of the billboard so damaged.

## N. Location and Height Requirements

1. No sign or supporting structure shall be established within an existing right-of-way boundary

or future right-of-way boundary as depicted on the amended City of Jacksonville Thoroughfare Plan or other officially adopted plan; unless the sign is attached to a structural element of a building and an encroachment permit has been obtained by the appropriate agency or agencies. The property owner is responsible for ensuring this standard is met. If it is determined that a sign has been placed within an existing or future right-of-way, it shall be the property owner's responsibility to remove such sign within 90 days of an official notice.

2. No sign or supporting structure may be located within or over any easement unless an encroachment has been obtained from the easement holder.
3. No sign attached to a building may project more than 18 inches from the building wall.
4. No part of a freestanding sign may exceed a height, measured from ground level at the base of the sign, of 35 feet in the CC and IND districts and 15 feet in all other districts where they are allowed.

## O. Sign Illumination and Signs Containing Lights

1. Unless otherwise prohibited by this chapter, signs may be illuminated if such illumination is in accordance with this section.
2. No sign within 150 feet of a residential zone (including those within) may be illuminated beyond 0.5 footcandles at the property line.
3. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
4. Subject to (6) below, illuminated tubing or strings of lights that outline property lines, sales areas, roof lines, doors, windows, or similar areas are prohibited.
5. Subject to (6) below, no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity.
6. Sections 5.12.O.4 & 5 do not apply to temporary signs erected in connection with the observance of holidays.

## P. Miscellaneous Restrictions and Prohibitions

Where applicable, all signs shall be constructed in accordance with the requirements of the North Carolina State Building Code, as amended. The following signs and situations are specifically prohibited within the City of Jacksonville and its extra-territorial jurisdiction.

1. No sign may be located so that it substantially interferes with the view or vision necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets or private roads. All signs located near intersections or driveways shall be situated to provide a minimum vehicular site triangle as depicted in the MSSD for the purpose of ensuring traffic safety.
2. Signs that revolve or are animated or that utilize movement or apparent movement to attract the attention of the public are prohibited. Signs that only move occasionally because of wind are not prohibited if their movement (1) is not a primary design feature of the sign, and (2) is not intended to attract attention to the sign. The restriction of this section shall not apply to signs specified in flags or insignia excluded from sign regulations, "welcome home" banners, or to signs indicating the time, date, or weather conditions.
3. No sign may be erected so that by its location, color, size, shape, nature, or message it

would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

4. Freestanding signs that are not securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property are prohibited.
5. Portable signs are prohibited.
6. Flashing signs are prohibited.
7. Painted-on-building signs are prohibited.
8. Signs located within public rights-of-way (except governmental and informational signs as exempted in Section 5.12.D, *Signs Excluded from Regulation*, are prohibited.
9. Signs that are posted on any telegraph pole, telephone pole, electric light pole, or any tree along any street are prohibited.
10. Signs that obstruct ingress or egress to any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress for any room or building as required by law are prohibited.
11. Strings of lighting, pennants and similar devices are prohibited.

## Q. Maintenance of Signs

1. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to freestanding signs and billboards, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
2. If the message portion of a sign is removed, leaving only the supporting "shell" of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over such sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not allow the replacement of a nonconforming sign, see Section 7.6 *Non-Conforming Signs and Billboards*. Nor shall this subsection be construed to prevent the changing of the message of a sign.
3. The area within 10 feet in all directions of any part of a freestanding sign shall be kept clear of all debris and all undergrowth more than 8 inches in height. This requirement shall not apply to well-maintained landscaping that may include decorative shrubs, bushes, flowering plants and other managed types of flora.

## R. Unlawful Cutting of Trees or Shrubs

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

1. Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the City of Jacksonville;
2. On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located; and
3. In any area where such trees or shrubs are required to remain under a permit issued under this Ordinance.

### S. Adult Business Signage

1. Window Signage: The main entrance (door) or window adjacent to the main entrance, may contain a one square foot sign that state hours of operation and admittance to adults only, no signs shall be placed in any window;
2. Ground Sign: All lots (both corner and interior) on which an adult establishment is located upon shall be limited to one (1) ground sign not to exceed twenty-five (25) feet in height. The size of the sign shall be limited to 0.3 square feet for every linear foot for every linear foot of road frontage that the sign fronts. In no case shall the size of the sign exceed seventy-five (75) square feet; and
3. Wall Signage: All buildings or unit, whichever is applicable, within which an adult establishment is located shall be limited to one (1) sign not to exceed seventy-five (75) square feet. This wall sign shall include any sign that is painted or attached to any wall or any portion of the building façade. No roof signs shall be permitted.

### T. Amortization of Painted-On-Building Signs

Subject to other applicable provisions of this Ordinance, all painted-on-building signs as defined by this Ordinance existing on April 19, 2011 shall, within five years of April 19, 2011, be altered to comply with the provisions of this section or be removed.

## 5.13 Street Naming and Addressing

### A. Purpose and Intent

The purpose and intent of this ordinance is to provide a uniform system of addresses throughout the City's planning jurisdiction in order to minimize difficulty in locating properties and buildings for public service agencies and the general public.

### B. Road Names

1. The road names on file with the North Carolina Department of Transportation and the City of Jacksonville Development Services Department are hereby declared the official name of these roads, unless changed by action of the City Council in accordance with policies adopted by the City Council. The Development Services Director is hereby authorized to determine the need for road name changes and to recommend such changes to the City Council.
2. No new private road names shall be recognized by this ordinance without prior approval of

the Development Services Director.

3. The name of any new road or road being named whether it is public or private, shall not duplicate or be similar to any other road name already in existence. This shall not apply to the extension of any roads. Duplication or similarities shall also include sounds or pronunciation of words that result in the same general sound, regardless of spelling.

4. New subdivision roads, whether private or public, shall be named when created through the subdivision approval process (see Section 2.3.E).

5. Road name signs shall be uniform throughout the City in accordance with approval of local standards and policies.

## C. Administration and Application

The Development Services Director shall be responsible for the administration of these standards, including but not limited to:

1. Assigning all numbers for properties and buildings;

2. Maintaining address records of each property and building;

3. Recommending change of existing addresses when necessary to facilitate sequential building numbers along a road;

4. Designating individual units within multiple housing units in conformity with this Ordinance;

5. Coordinating system changes and adjustments with emergency service organizations and agencies; and

6. Assisting the public in complying with the requirements of this Ordinance.

## D. Display of Road Address Numbers

1. Road address numbers must be clearly displayed so that the location can be identified easily from the road.

    (a) The official address number must be displayed on the front of a building or at the entrance to a building whichever is more clearly visible from the road during both day and night.

    (b) Numerals indicating the address number of a single-family dwelling shall be a minimum of three inches in height when placed on the structure. These numbers shall be posted and maintained so as to be legible from the road.

    (c) Numerals for multiple dwelling units and non-residential buildings shall be at least six inches in height and shall be placed on the front of the building facing the road or the end of the building nearest the road. Individual units shall be required to display unit numbers at least three inches in height on the front door or immediately adjacent to the door.

    (d) Should the structure be too far from the public vehicular area for the numerals to be seen, the property owner shall also display an additional set of numerals legible for vehicles traveling at the prevailing speed on the roadway. Such numbers shall be located where the main driveway to the building intersects the nearest public or private street.

    (e) Numerals must be of contrasting color to the background.

    (f) The address shall be determined by the street upon which the front door of

the structure faces, unless there is no access to the structure from that roadway.

2. The Development Services Director in conjunction with the Police Department and Fire Department will have the authority to authorize and approve methods of displaying road address numbers which meet the intent of this Ordinance when strict adherence to these standards cannot be reasonably met.

## E. Enforcement

1. It shall be unlawful for any person or corporation to remove or deface a street address which is displayed in according with this Ordinance. It shall also be unlawful to allow an incorrect street address to remain on a building.
2. No Building Permit shall be issued until an official building number has been assigned for a lot.
3. No Certificate of Occupancy shall be released until a building number is displayed in accordance with this Ordinance.
4. Any violation of this section shall be subject to the enforcement provisions in Article 8: *Enforcement*. Each day's continuing violation shall be a separate and distinct offense.

# 5.14 Performance Guarantees

## A. Performance Guarantees

### 1. General

A performance guarantee in accordance with the standards in this section shall be required in the following circumstances:

(a) To ensure that existing infrastructure (e.g., streets, sidewalks, stormwater management facilities, potable water facilities, wastewater facilities, street lights, and any others as deemed appropriate by the City of Jacksonville) that may be impacted or removed will be restored to an acceptable manner. The performance guarantee shall be required prior to disturbing any/all existing infrastructure.

(b) To ensure the completion of public infrastructure improvements that are required as part of an approved Subdivision (e.g., streets, sidewalks, stormwater management facilities, potable water facilities, wastewater facilities, street lights, and any others as deemed appropriate by the City of Jacksonville), but are not approved by the Development Services Director as complete before application for approval of a Final Plat (see Section 2.3.E.7).

(c) To ensure completion of public infrastructure improvements that are required as part of an approved Site Plan (e.g., streets, sidewalks, stormwater management facilities, potable water facilities, wastewater facilities, street lights, and any others as deemed appropriate by the City of Jacksonville), but are not installed before application for a Building Permit and/or a Certificate of Occupancy.

(d) To ensure completion of private site improvements that are required as part of an approved Site Plan (e.g., landscaping, sidewalks, exterior lighting), but are not installed before application for a Certificate of Occupancy, provided that the Development Services Director determines that the property may be safely occupied and used pending the delayed installation of the improvements.

### 2. Form of Performance Guarantee

(a) Where required, the owner or developer shall furnish a performance guarantee in any of the following acceptable forms:

(1) Cash (in US currency) deposit with the City;

(2) Certified check from a North Carolina financial institution based upon a cash deposit, bearing the name of the developer, and in a form acceptable to the City Attorney and Finance Director;

(3) Irrevocable letter of credit from a banking institution located and incorporated in North Carolina in a form acceptable to the City Attorney and Finance Director. This may include the ability for the letter of credit to be cashed in Onslow County;

(4) A certificate of deposit in the name of and payable to the City of Jacksonville, referencing the name of the developer/subdivider; or

(5) Other financial instruments including land/finished and developable lots

which are acceptable to the City Attorney and City Manager may be provided for unconstructed sidewalks only.

(b) The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the performance guarantee. Performance guarantees shall provide that in case of the owner and/or developer's guarantor failure to complete the guaranteed improvements, the City shall be able to immediately obtain the funds necessary to complete installation of the improvements.

(c) All financial guarantees submitted shall be accompanied by an agreement signed by the owner and/or developer, and the Development Services Director, and shall include a completion date, which may not exceed two years from the application date.

### 3. Required Statement

All financial guarantees, agreements, and/or accompanying documentation must contain the following language:

#### (a) Public Infrastructure

"(Developer's name) shall adequately complete the work described as all water facilities, sewer facilities, streets, sidewalks, storm drainage, landscaping and all other public improvements as shown on the plan as approved by the City of Jacksonville and guarantee these public improvements for (insert the warranty period as specified in the Manual of Specifications, Standards and Design, latest revision) after the public improvements have been accepted by the Jacksonville City Council, if applicable."

#### (b) Private Infrastructure

"(Developer's name) shall adequately complete the work identified on the plan as approved by the City of Jacksonville."

### 4. Review of Cost Estimates

(a) Estimated costs for completing installation of required public infrastructure improvements shall be itemized by improvement type and certified by the developer's licensed professional engineer or land surveyor, and are subject to approval by the Director of Public Services.

(b) Estimated costs for completing installation of required site improvements shall be itemized and certified by the developer's licensed landscape architect, professional engineer or land surveyor, and are subject to approval by the Development Services Director.

(c) The Development Services Director shall submit plans and developer's cost estimates to the Director of Public Services for review, who shall provide detailed cost estimates to the Development Services Director within ten business days.

(d) Estimates will be determined by using the current year construction cost index or other applicable methods approved by the City.

(e) The amount of a performance guarantee may be waived or reduced by the

City Manager where the improvements are being installed with federal funds or in other circumstances where similar third-party assurance of their completion exists.

5. **Amount of Performance Guarantee**

(a) The amount of the performance guarantee required shall be the total cost of all incomplete improvements as determined by the Director of Public Services and/or Development Services Director, whichever is applicable, plus ten percent (110%) of the total cost of improvements (for the warranty period).

(b) In the event that all improvements, except for sidewalks, have been installed and the Director of Public Services recommends the improvements be accepted by the City, the amount shall be ten percent of the total cost of improvements plus the cost of uncompleted sidewalks.

(c) Performance guarantees may include a maximum contingency amount of up to 15 percent of the estimated full cost of completing the installation of the required improvements, including the costs of materials, labor, and project management.

(d) If the guarantee is renewed, the Director of Public Services and/or Development Services Director, whichever is applicable, may require the amount of the performance guarantee be updated to reflect cost increases over time.

6. **Term of Performance Guarantees**

The term of a performance guarantee shall reflect any time limit for completing installation of required improvements that is included in approval of the Final Plat, Building Permit, or Certificate of Occupancy, as appropriate. Any subsequent extensions may be granted by the Public Services Director and/or Development Services Director, whichever is applicable.

7. **Maintenance of Performance Guarantee**

(a) Upon receipt of a performance guarantee, the Development Services Director shall submit the financial guarantee to the Finance Department. The Finance Department will review, approve, record, and maintain the financial guarantee until the improvements have been installed and accepted by City for maintenance.

(b) All original financial guarantees shall be kept in the City vault, except cash or certified checks, which shall be deposited in an account specified by the Finance Department; and

(c) The LOC/Performance guarantee can roll into the required warranty once improvements have been accepted by the appropriate agency.

8. **Expiration and Renewal**

No later than 45 days prior to the expiration date of a performance guarantee, the Finance Director, shall notify the developer and financial guarantee company by certified mail that the City will condemn the performance guarantee if a required renewed guarantee is not submitted at least 5 days prior to the expiration date. The City will send only one notification.

## 9. Release or Reduction of Performance Guarantees

### (a) Requirements for Release or Reduction

The City shall release or reduce a performance guarantee only after:

(1) The developer has submitted to the Director of Public Services and/or Development Services Director, whichever is applicable, a written request for a release or reduction of the performance guarantee that includes certification by the developer's engineer, land surveyor or landscape architect, whichever is appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications;

(2) City staff has performed an inspection of the improvements and certified in writing that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications;

(3) The developer has reimbursed the City for all costs associated with conducting any inspection that finds the guaranteed improvements have not been installed in accordance with approved plans and specifications;

(4) The developer has provided the Director of Public Services and/or Development Services Director, whichever is applicable, assurances that liens against guaranteed public infrastructure improvements will not be filed after their acceptance by the City (e.g., through affidavits, releases, or waivers of liens from all contractors and subcontractors); and

(5) The developer has provided the Director of Public Services and/or Development Services Director, whichever is applicable, any required maintenance guarantee for the same public infrastructure improvements (see Section 6.1.E).

### (b) Limits on Reductions

(1) No performance guarantee for public infrastructure improvements (including street trees planted within a public ROW) shall be reduced to less than 10 percent of the full amount of the performance guarantee (plus the cost of uncompleted sidewalks) until all guaranteed public infrastructure improvements (with the exception of sidewalks) have been completed by the developer.

(2) No performance guarantee for required site improvements shall be reduced to less than 10 percent of the full amount of the performance guarantee, until all guaranteed private site improvements (with the exception of sidewalks) have been completed by the developer.

### (c) Release Amount

Releases from performance guarantees shall be in increments of no less than $25,000.00.

### (d) Release Notification

The Public Services Department and/or Development Services Director, whichever is applicable, shall provide written notice of the City's final acceptance of the public infrastructure improvements to the developer.

### 10. Default and Forfeiture of Performance Guarantee

#### (a) Notice of Failure to Install or Complete Improvements

If the developer fails to complete installation of the guaranteed improvements within the term of the performance guarantee (as may be extended), the Director of Public Services and/or Development Services Director, whichever is applicable, shall give the developer 30 days written notice of the default by certified mail.

#### (b) City Completion of Improvements

After the 30-day notice period expires, the City may draw on the security and use the funds to perform work necessary to complete installation of the guaranteed improvements. After completing such work, the City shall provide a complete accounting of the expenditures to the developer and, as applicable, refund all unused security deposited, without interest. If the total cost of constructing the improvements exceeds the amount of the security, the City shall bill the developer for the cost difference.

## B. Warranties

### 1. General

A warranty in accordance with the standards in this section is required in the following circumstances:

To ensure against defects in workmanship or materials in providing infrastructure improvements required as part of an approved Subdivision (Section 2.3.E), or Site Plan (Section 2.3.C).

### 2. Term of Warranties

The term of a warranty for required infrastructure improvements shall be that which is stated in the *City of Jacksonville's Manual of Standards, Specifications, and Design* (latest version) from the date of acceptance.

### 3. Form of Warranties

(a) Where required, the developer shall furnish a warranty in any of the following acceptable forms:

(1) Cash (in US currency) deposit with the City;

(2) Certified check from a North Carolina financial institution based upon a cash deposit, bearing the name of the developer, and in a form acceptable to the City Attorney and Finance Director;

(3) Irrevocable letter of credit from a banking institution located and incorporated in North Carolina in a form acceptable to the City Attorney and Finance Director. This may include the ability for the letter of credit to be cashed in Onslow County;

(4) A certificate of deposit in the name of and payable to the City of Jacksonville, referencing the name of the developer or subdivider; or

(5) Other financial instruments including land or finished and developable lots which are acceptable to the City Attorney and City Manager may be provided for unconstructed sidewalks only.

(b) The warranty shall be conditioned on the performance of all work necessary to maintain required public infrastructure improvements during the term of the warranty. Warranties shall provide that in case of the developer's failure to maintain and repair the infrastructure during the term of the warranty, the City shall be able to immediately obtain the funds necessary to make necessary repairs or replacements.

## 4. Amount of Warranties

(a) Warranties shall be in an amount equal to at least 10 percent of the full actual cost, including the costs of materials and labor, of installing the required improvements.

(b) Actual costs for installing required improvements shall be itemized by improvement type and certified by a licensed professional engineer, or land surveyor or licensed landscape architect and shall be approved by the Public Services Director and/or Development Services Director, whichever is applicable. Warranties for Developments Outside Corporate limits or with Private Streets

## 5. Inspection Required

(a) Once improvements are complete, the developer shall submit, in writing, a request to the City for a final inspection.

(b) The City shall inspect the subdivision, and if deficiencies are found, the City shall notify the developer by certified mail. Once the corrections have been satisfactorily completed, the City will notify the developer by certified mail and reduce the warranty to a revised amount for incomplete sidewalks, if appropriate.

## 6. Warranty Period

Because the City may not accept improvements outside the City Limits and because some subdivisions designate their streets as private, the following shall govern the warranty period.

(a) Warranty for private streets. A financial guarantee is required for the warranty period unless a Homeowner's Association has been organized and documentation recorded which addresses the upkeep and maintenance of streets.

(b) Warranty for NCDOT streets. If a Homeowner's Association has been organized and documentation recorded which addresses the upkeep and maintenance of streets and addresses the petition process for NCDOT acceptance, no warranty period for streets will be required. Additionally, if the developer can provide documentation that the streets have been included on the State system; no warranty guaranty for street will be required.

## 7. Release of Warranties

The Director of Public Services shall inspect the improvements approximately three months prior to the expiration of the warranty term. Release of a warranty shall only occur after City staff has performed an inspection of the infrastructure and

certified in writing that the guaranteed improvements have been maintained in accordance with approved plans and specifications.

### 8. Extension of Warranties

A developer may request an extension for an expired warranty period to repair damaged infrastructure or dead vegetation.

### 9. Default and Forfeiture of Guarantee

If the developer fails to maintain the guaranteed improvements during the term of the warranty, the Director of Public Services shall give the developer 30 days written notice of the default by certified mail.

## C. Exception for Sidewalk Construction

In no case shall the City accept the improvements in a subdivision for City maintenance responsibility without the installation of sidewalks being completed or a performance guarantee payable to the City being posted in accordance with this subsection to guarantee such construction.

### 1. Procedure

(a) Construction of sidewalks in subdivisions may be delayed by the developer for a period not to exceed twelve months from the date of acceptance of public improvements provided that the City holds a financial guarantee in an amount equal to the value of the uncompleted sidewalks.

(b) No final inspection or Certificate of Occupancy for any building may be issued until the construction of sidewalks have been completed upon the land for which such final inspection or Certificate of Occupancy is required and the construction approved by the Director of Public Services.

(c) If the developer cannot complete sidewalks within 12 months of acceptance of public improvements, a request may be made to the City for additional time. The Public Services Director shall have the authority to approve up to two one-year extensions of the sidewalk completion period.

(d) If the Public Services Director does not grant extensions for uncompleted sidewalks, the performance guarantee will be condemned and used to rectify the deficiency.

(e) If a performance guarantee for sidewalks is condemned, an appeal may be made to the City Council for their consideration.

### 2. Amount

A performance guarantee payable to the City in an amount equal to the estimated cost of the construction of the sidewalk in the subdivision shall be submitted to the City by the developer.

### 3. Forfeiture

In the event of a default by the developer in the requirements of this ordinance, and after 30 days written notice of such default by the City to the developer, the performance guarantee shall be forfeited to the City, and the City may construct the sidewalks in question and apply the amount of said performance guarantee to the construction cost. If the total cost of constructing the sidewalks exceeds the amount of the security, the City shall bill the developer for the cost difference.

# Article 6: Subdivison Standards

# Article 6: Subdivision Standards Table of Contents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# ARTICLE 6: Subdivision Standards

## 6.1 Subdivisions

### A. Purpose

These standards are adopted in accordance with Section 160-226 through Section 160-227.1 of the North Carolina General Statutes, and Chapter 880 of the Session Laws of 1955 for the purpose of regulating and controlling the subdivision of land within the City's planning jurisdiction in order to promote the public health, safety, and general welfare of the community. More specifically, these standards are intended to:

1. Further the orderly layout and use of land;
2. Insure proper legal description and proper documenting of subdivided land;
3. Secure safety from fire, panic, and other dangers;
4. Provide adequate light and air;
5. Facilitate adequate provision for transportation, water, sewerage, stormwater, schools, playgrounds, parks, and other public requirements;
6. Facilitate the further subdivision of larger tracts into smaller parcels of land; and
7. Lessen congestion in the streets and highways.

### B. Applicability

Except for divisions of land subject to the standards in Section 2.3.E.2.(b), *Exemptions*, the standards in this section shall apply to all subdivisions of land within the City's planning jurisdiction.

### C. Procedure

1. All subdivisions shall be reviewed in accordance with Section 2.3.F, *Subdivision Plats*, Section 6.1.D, *General Standards*, Section 6.1.E, *Improvements,* and all other relevant sections of this Ordinance and the City Code of Ordinances.
2. Deviations or modifications from the standards in this section shall be reviewed in accordance with Section 2.3.K, *Administrative Adjustments*. Subdivision applications seeking to modify the standards of this section beyond the extent allowable by an administrative adjustment shall be reviewed in accordance with the standards and procedure in Section 2.3.J, *Variance*.

### D. General Standards

#### 1. Approval Required Prior to Construction or Sale

##### (a) Construction

No street or other public facilities shall be accepted and maintained by the City nor shall any street lighting, water, or sewer be extended to or connected with any subdivision of land, nor shall any permit be issued by City for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved, unless and until the plat has been approved in accordance with the standards in this Ordinance.

(b) **Transfer or Sale**

Any person who transfers or sells such land by reference to a plat showing a subdivision of such land before the plat has been approved and recorded in the Office of the Register of Deeds of Onslow County shall be guilty of a misdemeanor. The City shall enjoin such transfer or sale by action for injunction in accordance with this Ordinance and Section 160-226.5 of the North Carolina General Statutes.

2. **Duty of Register of Deeds of Onslow County**

(a) The Register of Deeds shall not file or record a plat of a subdivision located within the City's planning jurisdiction without it being approved by the City in accordance with the standards in this Ordinance.

(b) The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the City's limits and extra territorial jurisdiction.

(c) The filing or recording of a plat of a subdivision without the approval of the municipal legislative body as required by this ordinance shall be a violation of this Ordinance, and shall be null and void.

3. **Compliance with the Coastal Area Management Act**

All lots, structures, and utilities shall comply with the applicable Areas of Environmental Concern (AEC) Standards, as amended, in accordance with the *State Guidelines for AECs* (15 NCAC 7H) pursuant to the *Coastal Area Management Act of 1974.*

4. **Compliance with Transportation Plan**

When a tract to be subdivided includes any part of a future facility identified by an adopted transportation plan, such part of the facility shall be platted and dedicated, and in some cases, constructed by the subdivider in the location and at the width planned.

5. **Transportation Impact Analysis Required**

All subdivisions subject to the standards in this section shall comply with the provisions of Section 5.6, *Transportation Impact Analysis*.

6. **Reservation of Land for Community Facilities**

When a tract to be subdivided includes community facilities sites (i.e., schools, fire stations, utilities stations, and similar public service facilities) set forth on an official land use plan, community facilities plan, or other official plan, or when the scale of a development indicates the need for such community facilities, the subdivider shall reserve such sites (for public acquisition) for a period of 60 months from subdivision approval. If after 60 months, the City of Jacksonville, Onslow County or other governmental entity has not completed the necessary actions to secure acquisition of the property, the sub-divider shall be relieved of that obligation and the reserve site may be used by the developer and the developer's obligations shall be considered fulfilled.

7. **Compliance with the Community Form Standards**

All subdivisions approved after ____ (*insert the effective date of this Ordinance*) within the City's planning jurisdiction shall comply with the standards in Section 5.7, *Community Form Standards.*

## E. Improvements

Prior to approval of a Final Plat (See Section 2.3.E.7), all improvements required by this section and shown on the approved Preliminary Plat shall be installed or guaranteed in accordance with Section 5.14, *Performance Guarantees*. New subdivisions shall comply with the following requirements:

### 1. Monuments

Monuments and markers shall be installed in accordance with standards adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.

### 2. Streets

(a) All streets within the City's planning jurisdiction shall comply with:

(1) All the applicable requirements of the City of Jacksonville Manual of Specifications, Standards and Design (MSSD), as amended;

(2) Comply with the City's Transportation Plans; and

(3) The standards of this Ordinance.

(b) Private streets and drives shall be designed and constructed in accordance with the *Manual of Specifications, Standards and Design*, as amended.

(c) Private streets and drives shall be clearly labeled "private" on all plats.

(d) The developer or subdivider shall execute and record an approved statement waiving any claims for damage resulting from normal use by public service and safety agencies, waiving rights to request municipal maintenance in the future (unless designed and constructed to City standards), acknowledging public agencies' rights to discontinue services unless the street or drive is maintained properly, and establishing responsibility for continuing maintenance of the private street or drive. This information and the private nature of the street or drive shall also be included as a covenant in all transfers of lots or units in the development.

(e) A permanent easement or right of way shall be recorded allowing use by the lot owners, building occupants, and by public service and safety agencies.

### 3. Sidewalks and Bicycle Facilities

Sidewalks and bicycle facilities within the City's planning jurisdiction shall comply with:

(a) All the applicable requirements of the *City of Jacksonville Manual of Specifications, Standards and Design*, as revised;

(b) The adopted Transportation Plan; and

(c) The standards of this Ordinance related to minimum width and location.

### 4. Public Utilities

Construction of public utilities, including, but not limited to potable water, drainage, and sanitary sewer shall be installed in accordance with the City of Jacksonville, Onslow County Environmental Health standards, and/or other agency as determined by the Public Services Director, and the following:

(a) Where public water and sewer facilities are available, every lot shall meet

the minimum lot area requirements for the base zoning district in which it is located.

(b) Where public water and sewer facilities are not available, each residential lot shall meet the underlying zoning development standards and the standards prescribed by Onslow County Public Health.

(c) Where community water supply is available and sewer facilities are not available each residential lot shall contain a minimum land necessary to comply with Onslow County Environmental Health regulations.

### 5. Stormwater Management Devices

Construction and long term maintenance of required stormwater management devices shall be conducted in accordance with all applicable permit requirements and the standards in section 5.2, *Landscaping Standards*.

### 6. Street Signs

(a) Regulatory signs including, but not limited to, stop and speed limit signs are to be of the type specified and placed in accordance with the latest edition of the MUTCD standards.

(b) Appropriate street name signs, which meet standard City specifications, shall be placed at all street intersections.

(c) All signs are to be installed prior to the installation of the roads surface course.

### 7. Street Lights

Streetlights shall be installed in accordance with the City's Streetlighting Policy as well as the City's standard specifications and as shown on preliminary plat.

### 8. Street Trees

Street trees shall be installed in accordance with Section 5.7.H, *Street Trees*.

### 9. Lots

Lot, size, shape and location shall be in accordance with due regard to topography conditions, contemplated use and the surrounding area, and all of the following:

(a) In no event shall the lot area be less than that prescribed for the area by the zoning regulations;

(b) Every lot shall front or abut a public street or shall have access to a public street via an approved private street or drive;

(c) Double frontage and reverse frontage lots shall be avoided except when one of the rights-of-way on which the property fronts is a major thoroughfare;

(d) Side lot lines shall be at right angles to straight streets or radial to curved streets, whenever possible.

### 10. Easements

Easements shall be provided in all subdivision of land according to the following provisions:

(a) Easements on side and rear property lines and where appropriate shall be provided for utilities and drainage where necessary in accordance with the

*Manual of Specifications, Standards and Design*, as revised.

(b) Where a subdivision is traversed by a water course, drainage way, channel, or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, as modified, shall be provided. Parallel streets or parkways may be required in connection therewith.

11. **Buffer Strips**

The provision of buffer strips a minimum of 50 feet located outside of platted, buildable lots is required for new residential subdivisions abutting railroads and limited access highways.

12. **Fire Hydrants**

Fire hydrants shall meet all spacing requirements as specified in the *Manual of Specifications, Standards and Design*, and North Carolina Building Code as revised.

## 6.2 Cluster Subdivisions

### A. Purpose and Intent

The purpose and intent of this section is to provide landowners in the residential districts zoning districts a development option that provides additional development flexibility to build on smaller lots when additional open space is provided, and the development is designed and located in a way that protects the natural and historic features on the site. This is done in order to:

1. **Conserve Open Land**

Conserve open land, including those areas containing unique and sensitive natural features such as floodplains, wetlands, river and stream corridors, and steep slopes;

2. **Retain and Protect Natural Resources**

Retain and protect existing environmental, natural, and cultural resources;

3. **Link Open Spaces**

Create a linked network of open spaces;

4. **Promote Rural Character**

Promote existing rural character, where appropriate; and

5. **Provide Reasonable Use of Property**

Provide reasonable economic use of the property.

### B. Applicability

This cluster subdivision option may be used as a development option for single-family detached and manufactured home residential development.

### C. Procedure

Development utilizing the cluster subdivision option shall be approved in accordance with the procedures and standards in Section 2.3.E, *Subdivision Plat*, after approval of a conservation and development areas plan in accordance with this section.

## 1. Conservation and Cluster Development Plan

Prior to review of an application for a Sketch Plat approval for a cluster subdivision option, an applicant shall have a conservation and development plan for the land reviewed and approved, or approved with conditions by the Development Services Director in accordance with this section and the standards of Section 6.2.D, *Cluster Subdivision Standards*, and Section 6.2.E, *Delineation of Conservation Areas and Development Areas within the Conservation Subdivision*.

## 2. Conservation and Development Plan Requirements

### (a) Step 1—Site Analysis Map

The applicant shall prepare a site analysis map that provides information about existing site conditions and context, and that comprehensively analyzes existing conditions both on the land proposed for the development site and on land within 500 feet of the site, and submit the site analysis map to the Development Services Director. It is the intent of this section that the information required to be presented in the site analysis map be produced primarily from existing sources, maps, and data.

### (b) Step 2—Site Inspection

After receipt of the site analysis map, the Development Services Director shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with the Development Services Director. The purpose of this site visit is to:

(1) Familiarize the Development Services Director and City staff with the existing site conditions and natural and historic features of the site (if any);

(2) Identify potential site development issues; and

(3) Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, roads, and other development features. Comments made by the Development Services Director or other City staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation and development plan shall be made during the site inspection.

### (c) Step 3—Conservation and Development Areas Map

Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development areas map that depicts proposed primary conservation areas, secondary conservation areas, and development areas, in accordance with Section 6.2.E, *Delineation of Conservation Areas and Development Areas within the Cluster Subdivision*.

### (d) Step 4—Conservation and Development Plan

Based on the site analysis map, the information obtained during the site inspection, and the conservation and development areas map, the applicant shall prepare and submit to the Development Services Director a conservation and development plan. The conservation and development plan shall include the following:

(1) A site analysis map;

(2) A conservation and development areas map,

(3) A preliminary site improvements plan, showing proposed site development, including minor utilities, roads, other development features, and lot lines located in the proposed development area(s).

### 3. Review of Conservation and Development Plan

The Development Services Director shall review and make a decision on the application in accordance with the procedures and requirements of Section 2.2.I, *Decision by Technical Review Committee or Development Services Director*, the standards of Section 6.2.D, *Cluster Subdivision Standards*, and Section 6.4.E, *Delineation of Conservation Areas and Development Areas within the Cluster Subdivision*.

### 4. Review and Approval of Cluster Subdivision

Following review and approval or approval with conditions of the conservation and development plan by the Development Services Director, the application for Sketch Plat shall be submitted and approved, approved with conditions, or denied in accordance with Section 2.3.E, *Subdivision Plat*.

## D. Cluster Subdivision Standards

A conservation subdivision shall:

### 1. Minimum Project Size

Be at least 20 acres in size if in an agricultural area, and eight acres in size in any other area;

### 2. Required Conservation Area

Set aside a minimum of 50 percent of the total acreage of the site as conservation area to be permanently maintained and protected;

### 3. Maximum Residential Density

Not exceed the maximum allowable residential density for the district where located;

### 4. Lot Area

Have no minimum individual lot size;

### 5. Setbacks

Not be subject to front yard, side yard, and rear yard setback standards except along the perimeter of the subdivision; and

### 6. Exempt from Other Development Standards

Applicants for development utilizing the conservation subdivision option may request an exemption from the TRC for the following standards:

(a) Minimum off-street parking requirements (Table 5.1.1, *Minimum Off-Street Parking Standards*); and

(b) The community form standards in Section 5.7, *Community Form Standards*.

# E. Delineation of Conservation Areas and Development Areas Within the Cluster Subdivision

The conservation areas and development areas on the conservation and development areas map and within the cluster subdivision shall comply with the following standards:

## 1. Conservation Areas

### (a) Features to be Preserved

The following features shall be located and delineated on the conservation and development areas map, and shall be preserved in the following priority order as primary conservation areas:

(1) The 100-year floodplain;

(2) Wetlands under the jurisdiction of the Army Corps. of Engineers or the State of North Carolina;

(3) Habitat utilized by endangered or threatened species;

(4) Non-jurisdictional wetlands not under the jurisdiction of the Army Corps. of Engineers or the State of North Carolina;

(5) Steep slopes (slopes greater than 25 percent);

(6) Historic, archeological, and cultural resources;

(7) Existing and mature woodland forests, natural fields, and meadows (especially those greater than five acres);

(8) Prime agricultural lands, including existing pastures (whether in use or otherwise);

(9) Scenic corridors and views;

(10) Areas with slopes between 15 and 25 percent; and

(11) Areas that could serve to extend existing greenways, trails, parks, or recreation areas.

## 2. Allowable Uses

Uses located within a conservation area shall be limited to:

(a) Unpaved pedestrian trails and walkways;

(b) Docks and other water-related features as allowed in this Ordinance;

(c) Above ground and below ground public utilities and associated easements, provided no feasible alternative exists; and

(d) Street and/or driveway crossings provided such crossings do not violate this Ordinance, or other state or federal laws.

## 3. Ownership

### (a) Homeowners or Property Owners Association

All conservation areas shall be owned jointly or in common by the owners of the cluster subdivision through a recognized homeowners or property owners association, which should be established in accordance with the following:

(1) The landowner shall submit documents for the creation of the homeowners or property owners association to the City for review and approval, including the association's bylaws, all documents governing ownership, maintenance, and use restrictions for the conservation area, and a legal description of conservation areas.

(2) The landowner shall agree that the association shall be established by the landowner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first Final Plat or Building Permit, whichever occurs first, for the development.

(3) Membership in the association shall be automatic (mandatory) for all purchasers of land, dwelling units, or structures in the development, and their successors in title.

### (b) Nonprofit Organization

Conservation areas may be deeded to a nonprofit organization such as a land trust or land conservancy with the prior approval of the City Council.

## 4. Maintenance of Conservation Areas

The owner of the land shall be responsible for maintenance of all conservation areas. Failure to maintain conservation areas or other community facilities in accordance with the approved Final Plat shall be a violation of this Ordinance subject to the remedies and penalties in Article 8: *Enforcement*.

# 6.3 Recreation Requirements

When a tract is subdivided for residential purposes, the sub divider must make a contribution of land or make a fee in lieu of land to the recreation fund in accordance with the following requirements.

## A. Area required

The minimum area to be dedicated (land or fee in lieu of) shall be determined by the following formula:

*(Total # of Lots) X (Average family size, last official census) X (.008 acres/person) X (Density Multiplier)*

**Table 6.5.1: Density Multiplier**

| Average Acres Per Lot | Density Multiplier |
|---|---|
| .0-.1 | 1.2 |
| .1-.2 | 1.0 |
| .2-.3 | 0.9 |
| .3-.5 | 0.7 |
| .5-.99 | 0.5 |

## B. Standards

The proposed recreation and/or park space must be considered by the City to be usable for the required purpose, shall abut or have adequate access to a public street. The proposed space shall not contain floodplain, wetlands, severe slopes, or otherwise restricted lands. The location of the recreation/park space shall be approved by the City and may be on or off-site, depending on the Recreation Master Plan and at the whole discretion of the City.

## C. Acceptance, Maintenance, Development

The City reserves the right to accept, develop, and maintain the dedicated park, recreation, or open space in accordance with its determination of public needs.

## D. Payments in Lieu of Dedication

When the area to be provided would be less than ten acres, the subdivider will be required to make a financial contribution to a recreation or park reserve fund to help provide recreation/park space for the additional residences being developed. The financial contribution shall be equal to the value of raw land (established each year and found within the adopted City of Jacksonville Fee Schedule), which would be required under the area requirement formula. When the area to be provided is 10 acres or greater, the City at its sole discretion may accept either land or a payment in lieu of land.

## E. Private Recreation

Subdividers may provide private recreation or park space and or facilities in conjunction with their development. These areas will be credited to the percentage of open space required for that development, but are not credited towards the public recreation/park area land dedication/fee in lieu of requirements.

## F. Other Community Facilities

When a tract to be subdivided includes community facilities sites set forth on an official land use plan, community facilities plan, or other official plan, or when the scale of a development indicates

the need for such community facilities; the subdivider shall reserve such sites (for public acquisition) for a period of twenty-four months from general plan approval. Community facilities include schools, fire stations, utilities stations, and similar public service facilities.

# Article 7: Nonconformities

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# ARTICLE 7: Nonconformities

## 7.1 General Applicability

### A. Purpose and Scope

#### 1. General

In the provisions established by this ordinance, there exist uses of land, structures, lots of record, and signs that were lawfully established before this ordinance was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures, lots of record, and signs that do not conform to the provisions of this ordinance, or any subsequent amendments.

#### 2. Permitting of Nonconformities

It is the intent of this ordinance to permit most of these nonconformities to continue until they are removed, but not to encourage their survival except under the limited circumstances established in this article. The provisions of this article are designed to curtail substantial investment in nonconformities.

### B. Authority to Continue

Nonconformities are allowed to continue in accordance with the requirements of this article, and are encouraged to receive routine maintenance as a means of preserving safety and appearance.

### C. Determination of Nonconformity Status

In all cases, the burden of establishing that nonconformity lawfully exists shall be the responsibility of the owner of the land on which the alleged nonconformity is located.

### D. Minor Repairs and Maintenance

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots of record, and signs in a safe condition are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming use, structure, lot of record, or sign. For the purposes of this section, "minor repair or normal maintenance" shall mean:

1. Repairs that are necessary to maintain a nonconforming use, structure, lot of record, or sign in a safe condition; and
2. Maintenance of land areas to protect against health hazards and promote the safety of surrounding uses.

### E. Change of Tenancy or Ownership

Changes of tenancy, ownership, or management of an existing nonconformity are permitted, but the nonconforming situation shall continue to be subject to the requirements of this section.

# 7.2 Nonconforming Uses

## A. General

Nonconforming uses are declared generally incompatible with the permitted uses in the zoning district in which they are located and with the provisions of this ordinance. Nonconforming uses shall be subject to the standards in this section.

## B. Change of Use

### 1. Use of Land

A nonconforming use of land shall not be changed to any use other than one permitted in the zoning district.

### 2. Use of Structure

A nonconforming use of a structure and premises may be changed to another nonconforming use if:

(a) No significant structural alterations are made; and

(b) The proposed new nonconforming use is equal or more in character with the uses normally permitted in the zoning district than the previous nonconforming use.

## C. Expansion and Enlargement

1. Except in accordance with this subsection, a nonconforming use shall not be enlarged, expanded in area occupied, or intensified.
2. An existing nonconforming use may be enlarged into any portion of the structure in which it is located provided the area proposed for expansion was clearly designed and intended for such use before the date the use became a nonconformity.
3. A nonconforming single-family detached dwelling structure may be enlarged, expanded in area, or altered provided the enlargement, expansion, or alteration shall comply with the dimensional and minimum yard standards in the base zoning district where located, to the maximum extent practicable.

## D. Nonconforming Mobile/Manufactured Homes

Where existing nonconforming mobile or manufactured homes exist within the City of Jacksonville, they may not be replaced nor relocated on the same parcel with another mobile or manufactured home.

## E. Relocation on Lot

A nonconforming use of land shall not be relocated or significantly rearranged on the same lot, in whole or in part, unless it thereafter conforms to this ordinance.

## F. Discontinuance or Abandonment

Once a nonconforming use has been vacated, abandoned, ceased to operate, or otherwise discontinued for a period of 180 days or longer, it shall not be re-established and shall only be replaced with a conforming use. Efforts to renovate or repair the use are not considered a vacancy, abandonment, cessation, or discontinuance, provided all appropriate development

approvals are obtained, and provided the renovation or repair is completed within 180 days from its commencement, and the use is re-established within 30 days after completion of the renovation or repair. Failure to complete the renovation or repair within 180 days or re-establish the use within 30 days after completion of the renovation or repair shall constitute discontinuance, and a nonconforming use shall not be re-established.

## G. Accessory Uses

Once a nonconforming principal use is discontinued, all associated accessory uses shall cease operations within 30 days.

## H. Reconstruction after Casualty Damage

### 1. Destruction or Damage beyond 50 Percent of Value

(a) If a structure housing a nonconforming use is damaged or destroyed, by any means, to an extent more than 50 percent of its fair market value or assessed value, whichever is lower, at the time of damage or destruction, it shall only be restored in a manner that conforms to the provisions of this ordinance.

(b) New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this ordinance.

### 2. Damage of 50 Percent or Less of Replacement Value

(a) If a structure housing a nonconforming use is damaged or destroyed, by any means, to an extent of 50 percent or less of its fair market value or assessed value, whichever is lower, at the time of damage or destruction, it may be rebuilt to its previous form if a Building Permit for such repair or restoration is obtained within 180 days of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

(b) No repair or restoration of a structure housing a nonconforming use shall increase the degree of nonconformity.

## I. Nonconforming Use of Part of a Structure

A nonconforming use in one part of a structure shall not affect the status of conforming uses in other parts of the same structure.

# 7.3 Nonconforming Structures

## A. Relationship with Nonconforming Uses

A nonconforming principal structure containing a conforming use may only continue in accordance with the provision of this section. Nonconforming structures housing nonconforming uses may only continue in accordance with the standards in Section 7.2, *Nonconforming Uses*.

## B. Enlargement

A nonconforming structure shall not be enlarged or expanded in any way that increases the degree of nonconformity. (For example, a structure that has a five-foot side yard setback where the ordinance requires a ten-foot side yard setback cannot be enlarged so as to further encroach into the side yard setback.) Expansion of the structure in a way that complies with applicable dimensional standards or that decreases the degree of nonconformity is permitted.

## C. Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless upon relocation it conforms to the requirements of this ordinance.

## D. Restoration after Casualty Damage

### 1. Destruction or Damage beyond 50 Percent of Value

(a) If a nonconforming structure (or portion of a structure) other than a single-family detached dwelling is damaged or destroyed, by any means, to an extent more than 50 percent of its fair market value or assessed value, whichever is lower. At the time of damage or destruction, it shall only be restored in a manner that conforms to the provisions of this ordinance.

(b) If a nonconforming structure (or portion of a structure) used as a single-family detached dwelling is damaged or destroyed, by any means, to an extent more than 50 percent of its fair market value or assessed value, whichever is lower, at the time of damage or destruction, and the same size structure could not be rebuilt on the lot without encroaching into required building setbacks, the structure may be rebuilt within the same footprint as the damaged or destroyed structure.

(c) New construction (including the establishment of off-street parking, landscaping, signage, and other site features) shall be in accordance with the requirements of this ordinance.

### 2. Damage of 50 Percent or Less of Value

(a) If a nonconforming structure is damaged or destroyed, by any means, to an extent of 50 percent or less of its fair market value or assessed value, whichever is lower, at the time of damage or destruction, it may be rebuilt to its previous form if a Building Permit for such repair or restoration is obtained within 180 days of the casualty damage, and repair or restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

(b) In no event shall repair or restoration increase the degree of nonconformity.

### E. Deteriorated and Dilapidated Structures

If a nonconforming structure becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared unsafe or unlawful by a building inspector due to its physical condition, the structure shall not be restored, repaired, or rebuilt except in conformity with this Ordinance. This provision shall not prevent strengthening or restoring an unsafe structure (or portion of a structure) to a basically safe condition under orders from any official charged with protecting the public health and safety.

## 7.4 Nonconforming Lots of Record

### A. General

No use or structure shall be established on a nonconforming lot of record except in accordance with the standards in this section.

### B. Status of Structures on Nonconforming Lots

1. Conforming structures legally established on a nonconforming lot before ___ (*insert the effective date of this ordinance*) may be continued, enlarged, extended, reconstructed, or structurally altered in any way that is in conformance with the standards of this ordinance.
2. Nonconforming structures legally established on a nonconforming lot before ____ (*inset the effective date of this ordinance*) may be continued, enlarged, or redeveloped only in accordance with the standards in Section 7.3, *Nonconforming Structures*.

### C. Development of Unimproved Lots in Single-Family Residential Districts

In the single-family residential (RSF) zoning districts, notwithstanding limitations imposed by other provisions of this ordinance, a single-family detached dwelling and customary accessory structures may be developed on any single lot of record legally existing before the effective date of this ordinance. This provision applies even if the lot of record fails to comply with the standards for area or width in the district where located. Development of a single-family detached dwelling on the lot of record shall comply with the other standards in the district where located, to the maximum extent practicable.

### D. Combination or Recombination

Where a vacant nonconforming lot abuts another lot of record (whether conforming or nonconforming), held in the same ownership on or subsequent to the effective date of this ordinance, the land owner shall be encouraged to combine said lots in such a fashion as to create either a single conforming lot or two or more conforming lots or one conforming lot and one lot which is less nonconforming.

### E. Development of Improved Lots in Residential Districts after Casualty

If a legally established single-family attached or detached dwelling on a nonconforming lot in a single-family residential (RSF) zoning district is damaged or destroyed, by any means, to an extent more than 50 percent of its structural replacement cost at the time of damage or destruction, the dwelling may be rebuilt within the same footprint as the damaged or destroyed dwelling even though the lot does not meet the minimum lot area or lot width requirements.

### F. Governmental Acquisition of Land

Governmental acquisition of a portion of a lot for a public purpose that results in a reduction in lot width or lot area below that required in the district where located shall not render the lot nonconforming.

### G. Development on a Nonconforming Lot

Development on a nonconforming lot shall comply with all setbacks or obtain a Variance in accordance with Section 2.3.J, *Variance*.

### H. Change of Nonconforming Lot

A nonconforming lot may be increased in area, width, or both, through a combination or lot line adjustment in accordance with the requirements of Section 2.3.E, Subdivision Plats, to make the lot less nonconforming.

## 7.5 Correction of Nonconforming Site Features

### A. General

The remodeling or expansion of buildings or structures outside the Downtown district shall be subject to this section's requirements for correction of any on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and signage.

### B. Interior and Exterior Remodeling of Buildings or Structures

If a Building Permit (not including trade permits) is required for interior or exterior remodeling or redevelopment of a building or structure, the remodeling or redevelopment shall require correction of existing on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and signage in accordance with this section.

#### 1. Off-Street Parking, Landscaping, Perimeter Buffers, and Screening

##### (a) 25 Percent or Less of Structure Value

Remodeling in any continuous five year period that costs 25 percent or less of the current fair market or assessed value of the structure (at the option of the applicant) shall not require any correction of the nonconforming site aspects.

##### (b) More Than 25 Percent but Less Than 75 Percent of Structure Value

Remodeling in any continuous five year period that costs more than 25 percent but less than 75 percent of the current fair market or assessed value of the

structure (at the option of the applicant) shall require that a corresponding percentage of the off-street parking, landscaping, perimeter buffer, and screening standards of this ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance. (For example, if a site has 20 of 30 required parking spaces (66 percent of the required parking) and the cost of the remodeling is 50 percent of the value of the building, then 50 percent of the total amount of required off-street parking, or nine spaces, shall be provided.

#### (c) 75 Percent or More of Structure Value

Remodeling in any continuous five year period that costs 75 percent or more of the current fair market value or assessed value of the structure (at the option of the applicant) shall require 100 percent compliance with the off-street parking, landscaping, perimeter buffer, and screening standards of this ordinance.

#### (d) Five or Fewer Additional Parking Spaces

When five or fewer additional off-street parking spaces are required under this subsection as a result of a remodeling project, such additional off-street parking is not required to be installed.

### 2. Signage

Remodeling in any continuous five year period that costs more than 25 percent of the current fair market or assessed value of the structure (at the option of the applicant) shall require 100 percent compliance with the signage standards of this ordinance.

### 3. Physically Constrained Properties- Comply to Maximum Extent Practicable

Where full compliance with the requirements of this subsection is precluded by a lack of sufficient developable area due to the size and layout of existing development and/or the presence of significant wetlands, floodplains, watercourses, steep slopes, or other significant environmental constraints on development, compliance shall be to the maximum extent practicable, as determined by the Development Services Director.

### 4. Determination of Remodeling Cost and Structure Value

For purposes of determining when a correction is required by this subsection, the cost of the remodeling shall be as shown on the approved Building Permit application. Fair market value shall be based on a market appraisal performed by a certified appraiser, at the applicant's expense. Assessed value shall be based upon information in the Onslow County Tax Office.

## C. Additions and Expansions of Buildings or Structures

Additions and expansions to buildings or structures shall require correction of existing on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and signage in accordance with this subsection.

### 1. Off-Street Parking, Landscaping, Perimeter Buffers, and Screening

#### (a) Expansion of 50 Percent or Less of Gross Square Footage over Five Years

Expansions in any continuous five-year period that result in a 50 percent or less increase in the gross square footage of the existing structure (measured at the

beginning of the five-year period) require that a corresponding percentage of the off-street parking, landscaping, perimeter buffer, and screening standards of this ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance. (For example, if the addition is 25 percent of the area of the existing structure and the site contains only 50 percent of the required landscaping, 25 percent of the required landscaping for the entire site must be provided, thereby bringing the landscaping on the site to 75 percent of the total required.) Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.

#### (b) Expansion of Greater than 50 Percent of Gross Square Footage over Five Years

Expansions in any continuous five-year period that result in a greater than 50 percent increase in the gross square footage of the existing structure (measured at the beginning of the five-year period) require the entire property to meet all of the off-street parking, landscaping, perimeter buffer, screening, and signage standards of this ordinance.

### 2. Signage

Any expansion shall require 100 percent compliance with the on-premise signage standards of this Ordinance.

### 3. Physically Constrained Properties- Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply to the maximum extent practicable as determined by the Development Services Director.

## 7.6 Nonconforming Signs and Billboards

### A. General

No nonconforming sign or billboard shall be used, erected, altered, repaired, or relocated except in accordance with the standards of this section.

### B. Enlargement or Alteration

A nonconforming sign or billboard shall not be enlarged, expanded, or altered in any way that increases the degree of nonconformity.

## C. Relocation or Replacement

1. A nonconforming sign or billboard shall not be moved, in whole or in part, or replaced except to bring the sign into complete conformity with the requirements of this ordinance.
2. Nonconforming wall signage may be removed from a wall or facade to allow repair or maintenance of the wall or façade and then replaced.
3. In cases where a nonconforming wall sign is associated with a tenant located within an in-line shopping center or other multi-tenant building, the nonconforming wall sign may be removed for repairs or maintenance to the wall or façade, but the nonconforming sign shall be brought into compliance with the provisions of this ordinance when the tenant vacates the space.
4. If governmental acquisition results in the need to relocate or replace a nonconforming sign or billboard, said sign or billboard may be relocated provided that in the actions of the government, the sign is not purchased by the government.

## D. Illumination

Illumination shall not be added for the benefit of any nonconforming sign or billboard.

## E. Abandonment

1. If a nonconforming on-premise sign advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that has not been operated, conducted, or offered for a period of at least 180 days, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, landowner, or other person having control over the sign.
2. If a nonconforming billboard remains blank for a continuous period of 180 days, that sign shall be deemed abandoned and shall, within 30 days after such abandonment, be brought into compliance with this ordinance or be removed by the sign owner, owner of the land where the sign is located, or other person having control over the sign. For purposes of this subsection, a billboard shall be deemed "blank" if:
   (a) It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
   (b) The advertising message it displays becomes illegible in whole or substantial part; or
   (c) The advertising message it displays has been removed. (For purposes of this subsection, the terms "Sign for Rent", "Sign for Lease", "Building for Rent", "Building for Lease", "Building for Sale", etc., shall not be deemed to be an advertising message).
3. On-premise signs advertising a use or structure that has been demolished or relocated to another site shall be removed within 60 days following such demolition or relocation. In the event an existing use or structure has been demolished or relocated to facilitate new construction, all signage associated with the new construction shall comply with the standards in Section 5.14, *Signage*.

## F. Maintenance, Repairs, and Renovation

1. Nonconforming signs and billboards may be maintained, repaired, and renovated provided

such activities are completed in accordance with the requirements in Section 5-12: *Signage*, and provided that the cost of repair or renovation within any twelve-month period does not exceed 50 percent of the replacement cost of the sign or billboard.

2. Nonconforming signs or billboards determined by the Development Services Director to represent a danger to the public health or safety shall be immediately replaced or removed, and any replacement signage shall comply with all requirements of this ordinance.

3. No maintenance, repair, or renovation of a nonconforming sign or billboard shall increase the degree of nonconformity.

4. All maintenance, repair, and renovation of a nonconforming sign or billboard must occur through the permit processes and receipt of any/all required permits.

## G. Restoration after Casualty Damage

1. If a nonconforming sign or billboard (or portion of a sign or billboard) is damaged or destroyed, by any means, to an extent more than 50 percent of its structural replacement cost at the time of damage or destruction, it shall only be restored, repaired, or reconstructed in a manner that conforms to the provisions of this ordinance.

2. No restoration, repair, or reconstruction of a nonconforming sign or billboard shall increase the degree of nonconformity.

## H. Change in Advertised Use and Change of Copy

If there is a change in use to the use, structure, or premises advertised by a nonconforming on-premise sign, the nonconforming sign shall be removed and may be replaced only by a sign that conforms to the provisions of this ordinance. Otherwise, the message of a nonconforming sign may be changed so long as doing so does not create any new nonconformity.

# Article 8: Enforcement

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# ARTICLE 8: Enforcement

## 8.1 Purpose

This article establishes procedures through which the City seeks to ensure compliance with the provisions of this ordinance and obtain corrections for ordinance violations. It also sets forth the remedies and penalties that apply to violations of this ordinance. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

## 8.2 Compliance Required

Compliance with all the procedures, standards, and other provisions of this ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the City's jurisdiction.

## 8.3 Violations

### A. Violations Generally

#### 1. Failure to Comply with Ordinance or Term or Condition of Approval Constitutes Ordinance Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this ordinance, shall constitute a violation of this ordinance punishable as provided in this article.

#### 2. Permits or Permit Approvals only Authorize Development Approved

Permits or permit approvals issued by a decision-making body authorize only the use, arrangement, location, design, density or intensity, and development set forth in such permits or development approvals.

### B. Violation Examples

It shall be a violation of this ordinance to undertake any land-disturbing activity, land-use activity, or construction activity, contrary to the provisions of this ordinance, including, but not limited to, any of the following:

#### 1. Develop without Obtaining or Complying with Appropriate Permits or Approvals

Develop land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.

#### 2. Occupy or Use without Obtaining or Complying with Appropriate Permits or Approvals

Occupy or use land or a structure without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

#### 3. Subdivide without Obtaining and Complying with Appropriate Permits or Approvals

Subdivide land without first obtaining the appropriate permits or development approvals required to engage in subdivision, and complying with their terms and conditions.

### 4. Disturb Land without Obtaining and Complying with Appropriate Permits or Approvals

Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining all appropriate permits and development approvals, and complying with their terms and conditions.

### 5. Removal of Required Trees without Obtaining and Complying with Appropriate Permits or Approvals

Removal of required trees from a site or parcel of land without first obtaining appropriate permits and development approvals, and complying with their terms and conditions.

### 6. Construct Signs without Obtaining and Complying with Appropriate Permits or Approvals

Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permit or permit approval, and complying with their terms and conditions.

### 7. Fail to Remove Abandoned/Expired Signs

Fail to remove any sign installed, created, erected, or maintained in violation of this ordinance, or for which the permit has expired.

### 8. Change Nonconformities

Create, expand, replace, or change any nonconformity except in compliance with this ordinance.

### 9. Reduce Development, Design, or Dimensional Standards

Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this ordinance.

### 10. Increase Intensity or Density

Increase the intensity or density of development, except in accordance with the standards of this ordinance.

### 11. Fail to Comply with Any Other Provision

Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this ordinance.

## 8.4 Responsible Persons

Any owner, tenant, or occupant having control over, or responsibility for, the use or development of the land on which a violation of this ordinance occurs, and any architect, engineer, builder, contractor, developer, agent, or any other person who participates in, assists, directs, creates, causes, or maintains a situation that constitutes a violation of this ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this article.

## 8.5 Enforcement Generally

### A. Responsibility for Enforcement

The Development Services Director shall be responsible for enforcing the provisions of this ordinance in accordance with the North Carolina General Statutes.

### B. Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a complaint. The complaint, stating fully the cause and basis therefore, shall be filed with the Development Services Director, who shall properly record such complaint, investigate, and take appropriate action as provided by this ordinance.

### C. Inspections

On presenting proper credentials, the Development Services Director may enter upon land or inspect any structure to ensure compliance with the provisions of this ordinance. These inspections shall be carried out during normal business hours unless the Development Services Director determines there is an emergency necessitating inspections at another time.

### D. Enforcement Procedure

#### 1. Investigation of Complaint

On receiving a complaint, the Development Services Director shall investigate the complaint and determine whether a violation of this ordinance exists.

#### 2. Notice of Violation

(a) On finding that a violation of this ordinance exists, whether from an investigation of a complaint or otherwise, the Development Services Director shall provide written (initial) notification of the violation, by personal service or certified mail, return receipt requested, to the owner of the property on which the violation exists and the person causing or maintaining the violation. Such notification shall:

(1) Describe the location and nature of the violation;

(2) State the actions necessary to abate the violation; and

(3) Order that the violation be corrected or an administrative hearing be requested within a stated deadline not to exceed ten days.

(b) The final notice of violation (which may also be the initial notice of violation) shall state what course of action is intended if the violation is not corrected or a hearing is not requested within ten days after receipt of the notice of violation. If the final notice of violation identifies the assessment of a civil penalty as a potential intended course of action, the notice of violation shall also serve as a warning citation. The final notice of violation shall also

advise violators of their rights to appeal the notice of violation to the Board of Adjustment in accordance with Section 2.3.M, *Appeal*.

(c) On receiving a written request for extension of the time limit specified in the notice of violation, the Development Services Director may, for good cause shown, grant a single extension of the time limit for up to 30 business days.

(d) If the owner of the property cannot be located or determined, the Development Services Director shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation or a hearing request shall be deemed to begin ten days after the notice is posted.

### 3. Administrative Hearing

If the violator requests an administrative hearing within the deadline set forth in the notice of violation, the Development Services Director shall schedule a hearing with the violator not less than ten days nor more than 30 days after receiving the request, and shall provide the violator written notice of the time and place of the hearing. At the conclusion of the hearing, the Development Services Director shall make a final determination of whether a violation exists and, if finding that a violation does exist, shall order the violator to undertake actions necessary to abate the violation within a stated deadline.

### 4. Appeal of Final Determination

If the violator is not satisfied with the final determination of the Development Services Director, then the violator has the right to appeal to the Board of Adjustment in accordance with Section 2.3.M, *Appeal*.

### 5. Application of Remedies and Penalties

On determining that the violator has failed to correct the violation within the deadline set forth in the final notice of violation or at a subsequent administrative hearing, or has failed to timely appeal the notice of violation or final determination of a violation in accordance with Section 2.3.M, Appeal, the Development Services Director shall take appropriate action, as provided in Section 8.6, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

### 6. Emergency Enforcement without Notice

On determining that delay in abating the violation would pose a danger to the public health, safety, or welfare, the Development Services Director may seek immediate enforcement without prior written notice by invoking any of the remedies or penalties authorized in Subsection 8.6, Remedies and Penalties.

### 7. Repeat Violations

If the same violation is repeated by the same offender over any two-year period, the City may commence the application of remedies or penalties at the stage in the process where the previous violation was resolved.

### 8. Separate Offense

Each individual infraction shall be considered a separate violation. For each day the violation(s) is not corrected, the violator will be guilty of a new and separate offense and subject to additional civil penalties.

# 8.6 Remedies and Penalties

The City may also use any combination of the following remedies and enforcement powers to administer and enforce this ordinance. Also see City Code Chapter 14 regarding nuisance abatement.

## A. Remedies

### 1. Stop Work Order Issuance

Whenever a building or structure is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this ordinance, the Development Services Director may issue a stop work order. The stop work order shall be in writing, directed to the person doing the work and to the property owner, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

### 2. Revocation of Zoning Permit

The Development Services Director may revoke any Zoning Permit by written notification to the permit holder when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this ordinance, or a permit has been mistakenly issued in violation of this ordinance.

### 3. Injunction

When a violation occurs, the Development Services Director may, either before or after the initiation of other authorized actions, apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful action and/or use of the land in question.

### 4. Order of Abatement

In addition to an injunction, the City may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

(a) That buildings or other structures on the property be closed, demolished, or removed;

(b) That fixtures, furniture, or other moveable property be moved or removed entirely;

(c) That improvements, alterations, modifications, or repairs be made; or

(d) That any other action be taken as necessary to bring the property into compliance with this Ordinance.

### 5. Equitable Remedy

The City may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this ordinance. The fact that other remedies are provided under general law or this ordinance shall not be used by a violator as a defense to the City's application for equitable relief.

### 6. Execution of Court Decisions

The Development Services Director may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order.

### 7. Deny or Withhold Permits

The Development Services Director may deny or withhold authorization to use or develop any land, structure, or improvements until an alleged violation and associated civil penalty related to such land, use, or development is corrected.

### 8. Requirement for Replanting

Where landscaped areas or vegetation required by this ordinance is destroyed or disturbed, the Development Services Director may require the violator to replant the site of the removed, destroyed, or disturbed vegetation within 60 days from the date of violation with vegetation meeting the landscaping standards in Section 5.2, *Landscaping*. Such a remedy may be required in addition to imposition of criminal or civil penalties for the violation.

### 9. City Abatement of Dangerous or Unsafe Conditions

On determining that a condition in violation of this ordinance is dangerous or prejudicial to the public health or safety, the Development Services Director may repair, remove, or otherwise correct the condition. On completion of the abatement, the City shall send the violator a bill covering the costs of the abatement. Where the violator is the property owner, the amount of the bill shall become a lien on the property. If the property owner fails to pay the bill within 30 days after receipt of the bill, the City shall collect the amount of the bill in the same manner provided for the collection of delinquent taxes, in accordance with Section 160A-193 of the North Carolina General Statutes. Where the violator is not the property owner, the City may recover the amount of the bill in a civil action in the nature of a debt.

## B. Criminal Penalties

Pursuant to Section 14-4 of the North Carolina General Statutes, any person, firm, or corporation convicted of violating the provisions of this ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed the maximum amount authorized by state law.

## C. Civil Penalties

### 1. General

In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to Section 160A-175 of the North Carolina General Statutes, the standards in this ordinance may be enforced through the issuance of civil penalties by the Development Services Director.

### 2. Citation

Violation of this ordinance subjects the violator to a civil penalty. To impose a civil penalty, the Development Services Director shall first provide the violator a written citation, either by certified mail or personal service. The citation shall describe the violation, specify the amount of the civil penalty being imposed, and direct the violator to pay the civil penalty to the City within a stated time period. Each day the violation continues shall subject the violator to issuance of additional citations.

### 3. Amount of Civil Penalty

The amounts of civil penalties for violation(s) of this ordinance shall be $500.00 per day for each violation(s), for each day the violation(s) exists.

### 4. Recovery of Civil Penalty

If the violator fails to pay the civil penalties or correct the violation within ten days after having been cited, the City may recover the penalties in a civil action in the nature of debt.

## D. Cumulative Penalties

The remedies provided for violations of this ordinance, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

# Article 9: Definitions

# Article 9: Definitions Table of Contents


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# ARTICLE 9: Definitions

## 9.1 Rules for Interpretation

The following rules shall apply for construing or interpreting the terms and provisions of this ordinance.

### A. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.4, *General Purpose and Intent*, and the specific purpose statements set forth throughout this ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in this Article 9: *Definitions*, the specific section's meaning and application of the term shall control.

### B. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

### C. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

### D. Computation of Time

The time in which an act is to be done shall be calculated by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City. References to days are calendar days unless otherwise stated.

### E. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

### F. Delegation of Authority

Where an act is authorized by this ordinance to be carried out by a specific official of the City that act may be delegated and carried out by a professional-level designee of such official. Technical and Nontechnical Terms words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

### G. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of Jacksonville, unless otherwise indicated.

### H. Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

## I. Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. "And" indicates that all connected items, conditions, provisions or events apply; and
2. "Or" indicates that one or more of the connected items, conditions, provisions or events apply.

## J. Tenses and Plurals

Words used in the present tense include the future tense. 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. Words used in the masculine gender include the feminine gender, and vice versa.

## K. Term Not Defined

In the event there is a term used in this ordinance that is not defined in this section, the Development Services Director shall have the authority to provide a definition through the Interpretation procedure (see Section 2.3.M, *Interpretation*) based upon the definitions used in accepted sources, including but not limited to *The Planners Dictionary*, *A Glossary of Zoning, Development*, and *Planning Terms, and A Survey of Zoning Definitions*, published by the American Planning Association.

# 9.2 Rules of Measurement

## A. Measurements, Computations, and Exceptions

### 1. Purpose

The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this UDO. These standards may be modified by other applicable sections of this UDO.

### 2. Distance Measurements, Generally

Unless otherwise expressly stated, distances specified in this UDO are to be measured as the length of an imaginary straight line joining those points.

### 3. Lot Measurements

#### (a) Lot Area

The area of a lot includes the total horizontal surface area within the lot's boundaries.

#### (b) Lot Width

Lot width is the distance between the side lot lines measured along the front building setback line. The front setback line is the edge of the front setback as specified in the zoning district standards in Article 3: *Zoning Districts*.

#### (c) Lot Coverage

Lot coverage (the portion of a site covered by principal and accessory buildings) is determined by calculating the percentage of the total area of land within the boundaries of a lot covered by the sum of the surface areas covered by each principal and accessory building on the lot, measured from their exterior walls at ground level.

### 4. Net Residential Density Measurement

(a) Net residential density (the number of dwelling units per developable acre of land) is determined by dividing the number of dwelling units by the total area of buildable land within the boundaries of a parcel of land, except as otherwise provided in this UDO.

(b) In cases where a site's acreage allows a gross density that exceeds a whole number by 0.51 or more, the total density may be rounded upwards to the next whole number, thus allowing an additional dwelling unit to be located on a site.

### 5. Gross Floor Area

The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

### 6. Floor Area Ratio

The ratio of gross floor area on a lot in relation to the lot's total size.

## 7. Setbacks and Yards

### (a) Measurements

Setbacks refer to the unobstructed, unoccupied open area between the furthermost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall be unobstructed from the ground to the sky except as otherwise expressly allowed in Section 3.4.C.2, *Allowable Encroachment*.

### (b) Yards or Open Area Required for Buildings

A yard or other open area required around a building shall not be included as part of a yard or other open space for another lot or building.

### (c) Front Yard Setback

#### (1) Front Yard Setback and Streets

The front door of the structure shall determine the front yard and thereby the application of the front yard setback, unless the front door is on a yard that does not have access from the street.

Measurement: The front yard setback shall extend the full width of the lot and shall be measured from the street right-of-way line.

#### (2) Double Frontage Lot

A double frontage lot shall provide a front yard setback on both streets. The remaining yards shall meet the side yard setback requirements.

#### (3) Corner Lot

A corner lot is required to provide a front yard setback and a side yard setback. The front yard setback shall be measured from the street upon which the front door of the structure faces.

#### (4) Cul-de-Sac or Curved-Street Lot

For a cul-de-sac lot or a lot abutting a curved street, the front yard setback shall follow the curve of the front property line.

### (d) Side Yard Setback

The side yard setback shall extend from the required front yard setback line to the required rear yard setback line and shall be measured from the side lot line. If no front or rear yard setback is required, the setback shall extend the full depth of the lot.

### (e) Rear Yard Setback

The rear yard setback shall extend the full width of the lot and shall be measured from the rear lot line.

### (f) Corner Side Setback

The corner side setback on a corner lot shall be measured from the edge of the right-of-way of the street towards which the front of the primary structure does not face.

### (g) Building Setback Line

A line parallel to the front property lines in front of which no structure may be built.

## 8. Height Measurement

(a) Building height shall be the vertical distance measured from the finished grade (following grading, excavation, or other land-disturbing activity) at a front corner of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and the ridge of a gable, hip, cone, gambrel, or shed roof.

(b) The ground floor of a mixed-use or nonresidential structure shall maintain a minimum clearance of 15 feet, as measured from the finished grade (following grading, excavation, or other land-disturbing activity.

## 9. Building Story Height

As used in the DTR and DTB districts, a building story is that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above excluding basements and mezzanines. A mezzanine is an intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located. Basements that emerge six feet or less from grade (as measured from the fronting sidewalk) or attics not exceeding six feet at the knee-wall shall not constitute a story. Figure 9.3.9, *Building Stories*, illustrates how stories are measured.

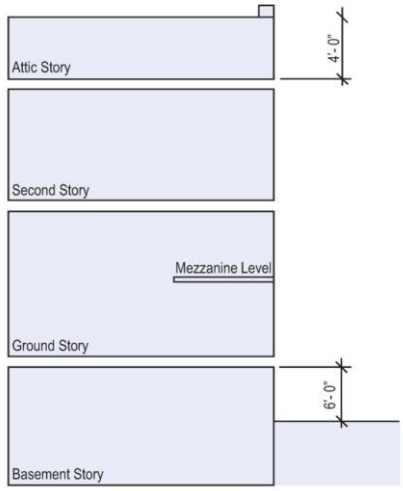


Figure 9.3.9: Building Stories

# 9.3 Use Classifications, Use Categories and Use Types

## A. General

### 1. Purpose

This section is intended to provide a systematic framework for identifying, describing, categorizing, and consolidating or distinguishing land uses in a way that makes it easier to determine how a particular land use activity, or combination of activities, is to be considered in applying the use table and other provisions in this UDO. This section is also intended to provide support in identifying instances where a new or unanticipated land use not identified in the use table is of such a nature, function, or duration that the impact of allowing it in a particular zoning district is so similar to that of a use type already identified in the use table as allowed in the zoning district that allowing the new or unanticipated land use should be interpreted as being consistent with the intent of the zoning district and the use regulations.

### 2. Structure of this Section

#### (a) General

This section identifies each of the five use classifications in Table 4.1.1, *Use Table*, and includes a section under each use classification identifying each use category. There are "characteristics" and "examples" subsections under each use category (individual use types are defined in Section 9.4, *Definitions*).

#### (b) Use Classifications

The use classifications identify broad general classifications of land use and include residential uses, institutional uses, agricultural uses, commercial uses, and industrial uses. Use classifications are further broken down into a series of general "use categories" and specific "use types."

#### (c) Use Categories

The use categories describe the major sub-groups of the respective use classifications, and are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. For example, the Residential Use Classification is divided into the Household Living and Group Living use categories. Use categories are further broken down into a series of individual use types.

#### (d) Use Types

The specific use types are included in the respective use category. They identify the specific principal uses that are considered to fall within characteristics identified in the use category. For example, live/work dwellings, single-family detached dwellings, duplex dwellings, townhouse, multi-family dwellings, and manufactured homes are use types in the Household Living Use Category.

#### (e) Principal Use Characteristics and Accessory Uses

The "characteristics" subsection describes common characteristics of each use category. Principal uses are assigned to the use category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses that, unless otherwise stated in this Ordinance, are allowed in conjunction with a principal use.

### (f) Examples

The "examples" subsection lists common examples of use types included in the respective use category. The names of these sample uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "wholesale sales," but sells mostly to consumers, is included in the Retail Sales and Service Use Category rather than the Wholesale Sales Use Category. This is because the activity on the site matches the characteristics of the Retail Sales and Service Use Category.

## 3. Developments with Multiple Principal Uses

(a) When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the Retail Sales and Service Use Category because all of the development's principal uses are in that use category.

(b) When the principal uses of a development fall within different use categories, each principal use is classified in the applicable use category and each use is allowed subject to applicable regulations for that use category and the district where proposed.

(c) Developments with multiple principal uses shall incorporate only those use types allowed in the applicable zoning district.

(d) Developments that contain multiple principal uses that change based on the time of day (e.g., a restaurant during the day, and a nightclub in the evening) are allowed, subject to compliance with all standards in this UDO.

## 4. Interpretation of Unlisted Uses

### (a) Procedure for Interpreting Unlisted Uses as Permitted

The Development Services Director may interpret a particular land use not expressly listed in the use table as allowed in a particular zoning district, in accordance with the procedure in Section 2.3.N, *Interpretation*, and based on the standards in Section 9.3.A.4.b, *Standards for Interpreting Unlisted Uses as Permitted*.

### (b) Standards for Interpreting Unlisted Uses as Permitted

The Development Services Director shall interpret an unlisted land use as permitted in a particular zoning district only after determining that the nature, function, and duration of the use and the impact of allowing it in the zoning district are so similar to those of a use type or use category allowable in the zoning district that the unlisted land use should be deemed allowable in the same manner as the similar use type or use category. In making such determination, the Development Services Director shall consider the purpose and intent statements in this UDO concerning the zoning district, the character of use types allowable in the district, and all relevant characteristics of the unlisted use, including but not limited to the following:

(1) The volume and type of sales, retail, wholesale, etc.;

(2) The size and type of items sold and nature of inventory on the premises;

(3) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution;

(4) Any dangerous, hazardous, toxic, or explosive materials used in the processing;

(5) The nature and location of storage and outdoor display of merchandise, whether enclosed, open, inside or outside the principal building;

predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);

(6) The type, size, and nature of buildings and structures;

(7) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;

(8) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site;

(9) Trip purposes and whether trip purposes can be shared by other use types on the site;

(10) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity;

(11) The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;

(12) Any special public utility requirements for serving the proposed use type, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and

(13) The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types allowed in the zoning district.

#### (c) Effect of Approval of Unlisted Use

(1) After interpreting an unlisted land use as permitted in a particular zoning district, the Development Services Director shall determine whether the unlisted use is likely to be common or to recur frequently, or whether its omission from the use table is likely to lead to public uncertainty and confusion. On determining that the unlisted use is likely to be common or would lead to confusion if unlisted, the Development Services Director shall initiate an application for a text amendment to this UDO to list the use in the use table. Until final action is taken on the text amendment application, the Development Services Director' interpretation shall be binding.

(2) If after interpreting an unlisted land use as permitted in a particular zoning district, the Development Services Director determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the interpretation shall be binding in accordance with Section 2.3.N.6, *Effect of Interpretation*, without further action or amendment of this UDO.

(3) Appeals of the Development Services Director' decision shall be submitted in accordance with the standards in Section 2.3.O, *Appeal*.

## B. Agricultural Use Classification

### 1. Agriculture

#### (a) Characteristics

The Agriculture Use Category is characterized by activities related to the production of field crops, fruits, vegetables, ornamental and flowering plants, and the breeding, raising, or keeping of livestock, poultry, swine, and other animals for food or other marketable products. The Agriculture Use Category also includes

silvicultural activities related to the planting, management, protection, and harvesting of trees for timber or other forest products. Accessory uses may include offices, storage areas, barns, stables, irrigation systems, and repair facilities related to agricultural and silvicultural activities.

#### (b) Examples

Example use types include farms (arable, dairy, cattle, hog, poultry, and sheep), fish farms, fish hatchery operations, orchards, vineyards, plant nurseries, and timber forests.

### 2. Agricultural Support and Services

#### (a) Characteristics

The Agricultural Support and Services Use Category includes use types that provide support and services to agricultural activities, whether located on or off the site where the agricultural activities take place as well as the breeding, raising, keeping, boarding, and training of horses.

#### (b) Examples

Example use types include agricultural processing for on-site uses, agri-education, agri-entertainment, farm co-op operations, feedlots, agricultural research facilities, animal care businesses, livestock auction arenas, horse stables, equestrian facilities, and fairgrounds.

## C. Residential Use Classification

### 1. Household Living

#### (a) Characteristics

The Household Living Use Category includes use types that provide for the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Accessory uses which are customary, incidental, subordinate to and commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations are accessory uses that are subject to additional regulations (See Section 4.4.C.6, *Home Occupation*).

#### (b) Examples

Example use types include detached residential dwellings (single-family dwellings, two- to four-family dwellings, manufactured homes, mobile home parks, modular homes, and other structures with self-contained dwelling units) and attached residential dwellings (multi-family dwellings, townhouses, and live/work dwellings).

### 2. Group Living

#### (a) Characteristics

The Group Living Use Category includes use types that provide for the residential occupancy of a structure by a group of people who do not meet the definition of "family." Tenancy is normally arranged on a monthly or longer basis. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment in the facility. Common accessory uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.

#### (b) Examples

Example use types include dormitories, fraternity or sorority houses, family care homes, group homes, rooming or boarding houses.

## D. Public and Institutional Use Classification

### 1. Community Services

#### (a) Characteristics

The Community Services Use Category includes use types of a public, nonprofit, or charitable nature that provide a local service to people of the community. Generally, such uses provide ongoing continued service on-site or have employees at the site on a regular basis. Community centers or facilities that have membership provisions that are open to the general public (for instance, any senior citizen could join a senior center) are included in the Community Services Use Category. The use type may provide special counseling, education, or training of a public, nonprofit, or charitable nature. Accessory uses may include offices, meeting, food preparation, parking, health, and therapy areas; and athletic facilities.

#### (b) Examples

Example use types include community centers, cultural facilities, libraries, museums, and senior centers.

#### (c) Exceptions

Parks are classified as Parks and Open Space.

### 2. Day Care

#### (a) Characteristics

The Day Care Use Category is characterized by use types that provide care, protection, and supervision for children or adults or a regular basis away from their primary residence, and typically for less than 24 hours per day. Care can be provided during daytime or nighttime hours. Accessory uses include offices, food preparation, recreation areas, and parking.

#### (b) Examples

Example use types include adult day care centers and child day care centers.

#### (c) Exceptions

The Day Care Use Category does not include drop-in or short-term day care provided in connection with employment or shopping center, recreational facility, religious institution, hotel, or other principal use, where children are temporarily cared for while parents or guardians are employed part-time or temporarily occupied on the premises or in the immediate vicinity. Family child care homes are considered a home occupation.

### 3. Educational Facilities

#### (a) Characteristics

The Educational Facilities Use Category includes use types such as public and private schools at the elementary, middle, or high school level that provide state-mandated basic education or a comparable equivalent. This use category also includes colleges, universities, and other institutions of higher learning such as vocational or trade schools that offer courses of general or specialized study leading to a degree or certification. Accessory uses at schools include offices, play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Accessory uses at colleges or universities include offices, dormitories, food service, laboratories, health and sports facilities, theaters, meeting areas, athletic fields, parking, maintenance facilities, and supporting commercial.

### (b) Examples

Example use types include public and private kindergarten schools, elementary schools, middle or junior high schools, and senior high schools that provide state-mandated basic education, as well as colleges or universities, and vocational or trade schools.

## 4. Government Facilities

### (a) Characteristics

The Government Facilities Use Category includes use types that provide for the general operations and functions of local, state, or federal governments. Accessory uses include maintenance, storage (indoor and outdoor), fueling facilities, satellite offices, and parking areas.

### (b) Examples

Example use types include post offices, government offices, and government maintenance, storage, and distribution facilities.

### (c) Exceptions

(1) Fire, police, and EMS facilities are classified as Public Safety.

(2) Passenger terminals for airports and surface transportation are classified as Transportation.

(3) City, county, and state parks are classified as Parks and Open Areas.

(4) Water, wastewater, gas, electric, and other infrastructure services, whether public or private, are classified as Utilities.

## 5. Health Care Facilities

### (a) Characteristics

The Health Care Facilities Use Category includes use types that provide medical or surgical care and treatment to patients as well as laboratory services. Hospitals and medical treatment facilities offer overnight care, as well as outpatient care. Accessory uses include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, housing for staff or trainees, and limited accommodations for family members.

### (b) Examples

Example use types include hospitals, medical and dental clinics, medical and dental labs, medical treatment facilities, outpatient drug and alcohol treatment facilities, and blood/tissue collection facilities.

### (c) Exceptions

(1) Uses that involve provision of residential care for the elderly or disabled are classified Institutions.

(2) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are in-patients and participants in a program, are considered Institutions.

## 6. Institutions

### (a) Characteristics

The Institutions Use Category includes use types that provide a variety of facilities, including buildings that provide meeting areas for religious activities, civic or fraternal club activities, convention centers or auditoriums, housing and care for the elderly or disabled. Accessory uses include school facilities, limited medical

treatment facilities, kitchens/cafeterias, recreation areas, offices, meeting rooms, parking, and staff residences.

(b) **Examples**

Example use types include auditoriums and convention centers, religious institutions (with cemeteries, columbaria, and mausoleums as accessory uses), private clubs or lodges, nursing homes, assisted living facilities, and halfway houses.

7. **Parks and Open Areas**

(a) **Characteristics**

The Parks and Open Areas Use Category includes use types that focus on open space areas largely devoted to vegetative landscaping or outdoor recreation, and that tend to have few structures. Accessory uses may include club houses, recreational structures, statuary, fountains, maintenance facilities, concessions, parking, and columbaria and mausoleums (as accessory to cemeteries).

(b) **Examples**

Example use types include arboretums or botanical gardens, parks, public squares or plazas, community gardens, docks, marinas, and cemeteries.

(c) **Exceptions**

Golf courses are classified as Recreation and Entertainment.

8. **Public Safety**

(a) **Characteristics**

The Public Safety Use Category is characterized by use types that provide public safety services to the general public.

(b) **Examples**

Example use types include fire and EMS facilities, police stations, substations for fire and police, and fire training facilities, police firing ranges, and correctional facilities. Accessory uses include offices, teaching facilities, meeting areas, lunch rooms and cafeterias, sleeping quarters, storage, parking, and maintenance facilities.

9. **Transportation**

(a) **Characteristics**

The Transportation Use Category includes use types that provide for the landing and takeoff of airplanes and helicopters, including loading and unloading areas. This use category also includes passenger terminals for surface transportation. Accessory uses include freight handling areas, concessions, offices, parking, maintenance, and fueling facilities.

(b) **Examples**

Example use types include airports, private landing strips, helicopter landing facilities, and passenger terminals for ground transportation (train, bus).

(c) **Exceptions**

Transit route facilities such as bus stops, bus shelters, and park-and-ride facilities are classified as Utilities, minor.

### 10. Utilities

#### (a) Characteristics

The Utilities Use Category includes both major utilities, which are infrastructure services that provide regional or community-wide service, and minor utilities, which are infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Telecommunications towers and antennas also are a type of utility. Services may be publicly or privately provided. Accessory uses may include parking and control, offices, monitoring, storage areas, or data transmission equipment.

#### (b) Examples

(1) Examples of major utilities include wastewater treatment plants, potable water treatment plants, and electrical substations.

(2) Examples of minor utilities include water towers, water and sewage pump stations, stormwater retention and detention facilities, telephone exchanges, ground-based electrical/telephone/cable vaults, and transit route facilities such as bus stops, bus shelters, and park-and-ride facilities.

(3) Examples of telecommunications towers include facilities free-standing or collocated equipment for transmitting wireless phones and pager services, and television and radio broadcasting equipment.

#### (c) Exceptions

Landfills, recycling and salvage centers, and waste composing uses are considered Waste-Related Services.

## E. Commercial Use Classification

### 1. Adult Establishments

#### (a) Characteristics

The Adult Establishment Use Category includes use types that sell, distribute, or present material or feature performances or other activities that emphasize the depiction or display of specified sexual activities or specified anatomical areas as defined by the North Carolina General Statutes.

#### (b) Examples

Example Adult Establishment Use Types include adult book stores, adult video stores, adult arcades, and adult motion picture theaters (all distinguished by being largely devoted to selling, renting, or presenting media emphasizing sexually explicit content), as well as adult motels/hotels (motels/hotels largely devoted to providing room occupants films or other visual representations emphasizing sexually explicit content), and adult cabarets or night clubs (featuring live performances or services emphasizing the display of specified sexual activities or specified anatomical areas).

### 2. Animal Care

#### (a) Characteristics

The Animal Care Use Category is characterized by use types related to the provision of medical services, general care, and boarding services for domestic animals.

#### (b) Examples

Example use types include animal shelters, animal grooming, kennels (outdoor and indoor), and veterinary clinics.

3. **Eating Establishments**

(a) **Characteristics**

The Eating Establishments Use Category includes use types that prepare and sell food and beverages for immediate or direct on- or off-premise consumption. Accessory uses may include bars or cocktail lounges associated with the establishment, decks and patios for outdoor seating, drive-through facilities, facilities for live entertainment or dancing, customer and employee parking areas, and valet parking facilities.

(b) **Examples**

Examples include restaurants with indoor and outdoor seating, restaurants with drive-through service, specialty eating establishments (ice cream parlors, bakery shops, dessert shops, juice or coffee houses), and dinner theaters.

(c) **Exceptions**

Bars, night clubs, dance clubs, or cocktail lounges are classified as Retail Sales.

4. **Offices**

(a) **Characteristics**

The Office Use Category includes use types that provide for activities that are conducted in an office setting and generally focus on business, professional, or financial services. Accessory uses may include cafeterias, day care facilities, recreational or fitness facilities, parking, supporting commercial, or other amenities primarily for the use of employees in the business or building.

(b) **Examples**

Example use types include business services, professional services (such as lawyers, accountants, engineers, or architects), financial services (such as lenders, banks, brokerage houses, tax preparers), and sales offices (including real estate agents).

(c) **Exceptions**

(1) Offices that are part of and located with a principal use in another use category are considered accessory to the establishment's primary activity. Headquarter offices that are located in conjunction with or adjacent to a principal use in another use category are considered part of the other use category.

(2) Contractors and others who perform services off-site are not included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

(3) Government offices are classified as Government Facilities.

(4) Medical and dental clinics, medical or dental labs, and blood collection facilities are classified as Health Care Facilities.

(5) Financial institutions offering drive-through or walk-up service to patrons (branch banks or credit unions) are classified as Retail Sales.

5. **Parking**

(a) **Characteristics**

The Commercial Parking Use Category includes use types that provide free-standing vehicular use areas and structures that are not accessory to a specific principal use. A fee may or may not be charged. A parking facility that provides both accessory parking for a specific principal use and regular fee parking for

people not connected to the principal use is also classified as Commercial Parking. Accessory uses may include small shelters for parking attendants.

(b) **Examples**

Example use types include surface vehicular use areas and parking structures (parking decks or garages).

(c) **Exceptions**

(1) Parking facilities that are accessory to a principal use, but charge the public to park for occasional events nearby, are not considered Parking.

(2) Parking facilities that are accessory to a principal use, even if the principal use leases the facility or those parking in the facility are charged a fee, are not considered Parking.

(3) Park-and-ride facilities are classified as Utilities.

6. **Personal Services**

(a) **Characteristics**

The Personal Services Use Category includes uses that are engaged in the repair, care, maintenance, or customizing of personal property that is worn or carried. Such uses may also include the provision of personal finance or educational services.

(b) **Examples**

Example use types include nail salons; beauticians; barber shops; travel agents; laundromats; laundry and dry-cleaning drop-off establishments; photographic studios; mailing or packing service, photocopy and blueprint services; massage therapy; hair, tanning, and personal care services; psychics and mediums; martial arts schools; dance or music classes; repair establishments; tailors; tattoo parlors and body piercing establishments; taxidermists; and funeral homes.

(c) **Exceptions**

(1) Sexually-oriented businesses are considered Adult Uses.

(2) Trade or vocational schools are considered as Educational Facilities.

7. **Recreation/Entertainment**

(a) **Characteristics**

The Recreation/Entertainment Use Category includes use types that are privately owned and provide recreation or entertainment activities in an enclosed structure or structures. Accessory uses may include offices, concessions, snack bars, parking, and maintenance facilities.

(b) **Examples**

Example use types include arenas, stadiums, golf courses, indoor commercial recreation uses (including fitness centers, bowling alleys, game rooms, shooting ranges, dancehalls, skating rinks, indoor swimming pools, racquetball and squash courts, and indoor tennis club facilities), outdoor commercial recreation, and theaters (including cinemas, screening rooms, and stages).

(c) **Exceptions**

(1) Banquet halls that are part of hotels (classified as Visitor Accommodation) or restaurants (classified as Eating Establishments) are accessory to those uses.

(2) Private clubs or lodges are classified as Institutions.

(3) Recreational facilities that are reserved for use by residents of particular residential developments and their guests are accessory to those residential use types.

(4) Uses that involve the sale, distribution, or consumption of alcoholic beverages, billiard/pool halls, and hookah lounges are classified as Retail Sales.

## 8. Retail Sales

### (a) Characteristics

The Retail Sales Use Category includes use types involved in the sale, lease, or rent of new or used products to the general public. They may also provide entertainment or services for consumer and business goods as an accessory use. Other accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, concessions, ATM machines, outdoor display/sales areas, and parking. Use types within this use category have been categorized based on their intensity, scale, and function.

### (b) Examples

Example Use Types include uses from the following groups:

#### (1) Bars, Nightclubs, and Similar Establishments

Establishments primarily devoted to the sale of alcoholic beverages for on-site consumption, "brown-bagging" establishments where patrons furnish their own alcoholic beverages for on-site consumption, along with dancing or other forms of entertainment (including live performances), and in which the sale of food is incidental.

#### (2) Convenience and Drug Stores

Establishments engaged in high-volume direct retail sale of pre-packaged foods, commodities, medical supplies, and other goods directly to consumers on the premises. Such uses may include the sale of gasoline, pharmacies, photographic film processing, and similar accessory uses, as well as drive through service.

#### (3) Gasoline Sales

Uses engaged in the retail sale of gasoline and similar vehicular fuels (gas station or service station) that may or may not provide the range of goods or services associated with a convenience store.

#### (4) Retail Sales Establishments

Stores selling, leasing, or renting consumer, home, and business goods, whether new or used, including art and art supply stores, audio/video stores, bicycle sales, book stores, clothing stores, convenience stores, department stores, dry good sales, electronic equipment stores, fabric shops, furniture stores, florists, garden supply centers, gift shops, grocery stores, hardware stores, home improvement centers, household products, jewelry stores, office supply stores, pet and pet supply stores, pharmacies, plant stores, and stationery shops.

### (c) Exceptions

(1) Laundry and dry-cleaning plants are considered Industrial Services.

(2) Building trade contractors with on-site storage that sell primarily to contractors and do not have a retail orientation are classified as Warehouse and Freight Movement.

(3) Repair and service of automobiles, motorcycles, and light and medium

trucks is classified as Vehicle Sales and Service.

(4) Bakeries, dinner theaters, or entertainment establishments primarily engaged in the sale of food for on-site consumption are considered Eating Establishments.

(5) Cinemas, theaters, concert halls, and stages are considered Recreation/Entertainment.

(6) Uses providing financial, professional, or business services by appointment or with only limited contact with the general public are classified as Offices.

(7) Uses that involve the sales, distribution, or presentation of materials or activities emphasizing sexually explicit content are classified as Adult Establishments.

## 9. Self-Service Storage

### (a) Characteristics

The Self-Service Storage Use Category includes use types that provide individual, self-contained units or areas leased to individuals, organizations, or businesses for self-service storage of household and personal property. The storage units or areas are designed to allow private access by the tenant for storing or removing personal property. Accessory uses include leasing offices, outdoor storage of boats and campers, and living quarters for a resident manager or security guard. Use of the storage areas for sales, service, repair, or manufacturing operations is not considered accessory to Service–Service Storage. The rental of trucks or equipment is also not considered accessory to the use.

### (b) Examples

Example use types include self–service storage establishments, also called "mini-warehouses."

### (c) Exceptions

A transfer and storage business, where there are not individual storage areas, or where employees are the primary movers of property being stored or transferred, is classified as Warehouse and Freight Movement.

## 10. Vehicle Sales and Services

### (a) Characteristics

The Vehicle Sales and Services Use Category include use types involving the direct sales and servicing of automobiles, motorcycles, light and medium trucks, and other consumer motor vehicles intended to transport persons or goods over land or water or through the air, whether for recreation, commerce, or personal transport. Accessory uses include offices, sales of parts, maintenance facilities, parking, outdoor display, and vehicle storage.

### (b) Examples

Example use types include automotive sales or rentals (including the sales and rental of automobiles, motorcycles, light and medium trucks, recreational vehicles, and off-road vehicles); automotive repair and servicing; automotive painting/bodywork; boat and marine sales or rental; car wash and auto detailing; and automotive wrecker services.

### (c) Exceptions

(1) Refueling facilities for vehicles belonging to a specific principal use (fleet vehicles) are considered accessory uses if located on the site of the

principal use.

(2) Storage of inoperable vehicles or parts is considered a Waste-Related Service.

### 11. Visitor Accommodations

#### (a) Characteristics

The Visitor Accommodations Use Category includes use types that provide lodging units or space for short-term stays of less than 30 days for rent, lease, or interval occupancy. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, supporting commercial, meeting facilities, offices, and parking.

#### (b) Examples

Example Use Types include hotels or motels, and bed and breakfast inns facilities.

#### (c) Exceptions

Rooming houses are classified as Group Living.

## F. Industrial Use Classification

### 1. Extractive Industry

#### (a) Characteristics

The Extractive Industry Use Category includes use types involving the extraction, removal, or basic processing of minerals, liquids, gases, or other natural resources. Such uses also include quarrying, well operation, mining, or other procedures typically done at an extraction site. Accessory uses include offices, limited wholesale sales, security or caretakers quarters, outdoor storage, and maintenance facilities.

#### (b) Examples

Example use types include quarries, borrow pits, sand and gravel operations.

### 2. Industrial Services

#### (a) Characteristics

The Industrial Services Use Category includes use types involving the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include limited retail or wholesale sales, offices, parking, warehousing, and outdoor storage.

#### (b) Examples

Example use types include machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, or storage; heavy equipment servicing and repair; building, heating, plumbing, or electrical contractors; fuel oil or bottled gas distributors; research and development facilities; laundry, dry-cleaning, and carpet cleaning plants; and flex space.

#### (c) Exceptions

Contractors and others who perform services off-site are included in the Offices Use Category if equipment and materials are not stored outside and no fabrication, services, or similar work is carried on at the site.

## 3. Manufacturing and Production

### (a) Characteristics

The Manufacturing and Production Use Category includes use types involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. The use category also includes custom industries (establishments primarily engaged in the on-site production of goods by use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, such sales are a subordinate part of total sales. Relatively few customers come to the manufacturing site. Accessory uses may include retail or wholesale sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, fueling facilities, security and caretaker's quarters.

#### (1) Heavy Manufacturing

Heavy Manufacturing is the manufacture or compounding process of raw materials. These activities may involve outdoor operations as part of their manufacturing process.

#### (2) Light Manufacturing

Light Manufacturing is the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

### (b) Examples

#### (1) Heavy Manufacturing

Example use types of heavy manufacturing include, but are not limited to: the manufacture or assembly of textiles, machinery, equipment, instruments, vehicles, and appliances; rendering; concrete production; asphalt plants; glass and plastic production; cardboard fabrication; and petroleum refining.

#### (2) Light Manufacturing

Example use types of light manufacturing include: production or repair of small machines or electronic parts and equipment; sewing or assembly of textiles into consumer products; woodworking and cabinet building; publishing and lithography; computer design and development; communications equipment, precision items and other electrical items; research, development, and testing facilities and laboratories; sign making, assembly of pre-fabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations, and any similar item.

### (c) Exceptions

(1) Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales if the manufacturing area does not exceed 35 percent of the development's gross floor area.

(2) Manufacturing and production of goods from salvage material is classified

as Waste-Related Services.

(3) Manufacturing and production of goods from composting material is classified as Waste-Related Services.

## 4. Warehouse and Freight Movement

### (a) Characteristics

The Warehouse and Freight Movement Use Category includes use types involving the storage or movement of goods or equipment for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses include offices, truck fleet parking, outdoor storage, and maintenance areas.

### (b) Examples

Example use types include separate storage warehouses (used for storage by retail stores such as furniture and appliance stores); distribution warehouses (used for distribution by trucking companies; cold storage plants, including frozen food lockers; outdoor storage (as a principal use); and parcel services.

### (c) Exceptions

(1) Contractor's offices that do not include storage yards are classified as Offices.

(2) Use Types that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related Services.

## 5. Waste-Related Services

### (a) Characteristics

The Waste-Related Services Use Category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This Use Category also includes use types that receive hazardous wastes from others. Accessory uses may include offices, outdoor storage, recycling of materials, and repackaging and trans-shipment of by-products.

### (b) Examples

Example use types include recycling and salvage centers, land application of wastes, landfills, tire disposal or recycling, waste composting, incinerators, salvage yards and junkyards, hazardous waste collection sites; and recycling drop-off centers.

### (c) Exceptions

Wastewater treatment plants and potable water treatment plants are classified as Utilities.

## 6. Wholesale Sales

### (a) Characteristics

The Wholesale Sales Use Category includes use types involving the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Accessory uses may include offices, product repair,

warehouses, minor fabrication services, outdoor storage, and repackaging of goods.

(b) **Examples**

Example use types include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, plants and landscaping materials, auto parts, and building hardware.

(c) **Exceptions**

(1) Firms that engage primarily in sales to the general public or on a membership basis are classified as Retail Sales.

(2) Firms that are primarily storing goods with little on-site business activity are classified as Warehouse and Freight Movement.

## 9.4 Definitions

The following words, terms, and phrases, when used in this UDO, shall have the meaning ascribed to them in this section.

### A. -

**Abutting Lots**

The condition of two adjoining lots having a common property line or boundary including cases where two or more lots adjoin a corner, but not including cases where adjoining lots are separated by a street or alley.

**Accessory Dwelling Unit**

A secondary dwelling unit established in conjunction with and clearly subordinate to and incidental to a principal dwelling unit, whether part of the same structure as the principal dwelling unit, or as a detached structure on the same lot.

**Accessory Structure**

A structure that is customarily incidental and subordinate to, in use, square footage, and mass to a principal structure or permitted use.

**Accessory use**

A use customarily incidental and subordinate to the principal use of the land or building located on the same lot with such principal use of the land or building.

**Active Recreation Uses**

Uses or structures intended for specific active recreational uses such as play grounds, ball fields, tennis courts and other similar uses typically located in open space set-aside areas.

**Addition**

Any walled and roofed expansion to the perimeter of a building that is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered "new construction."

**Addition (to an existing building)**

An extension or increase in the floor area or height of a building or structure.

**Adjacent**

A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

**Administrative Adjustment**

A permit reviewed and approved, approved with conditions, or denied by the Development Services Director in accordance with Section 2.3.J, *Administrative Adjustments*.

## Administrative Manual

An optional document maintained by the Development Services Department that serves as a user's guide to this UDO. Administrative manual may contain copies of application forms, fees, schedules, contact information as well as interpretations of the intent behind the standards of this UDO.

## Adult Day Care Center

A program operated in a structure other than a single-family dwelling that provides group care and supervision on a less than 24-hour basis, and in a place other than their usual place of abode, to adults 18 years or older who may be elderly, physically or mentally disabled, and which is certified or approved to operate by the State of North Carolina.

## Adult establishment

1. Any business, club, or other establishment which permits any employee, member, patron or any person on its premises for any form of consideration, to exhibit any specified anatomical areas (as defined) before any other person(s).

2. Any business, club, or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing or exhibiting specified anatomical areas (as defined) or relating to specified sexual activities (as defined) is permitted on its premises for any form of consideration.

Adult establishments shall include, but are not limited to adult arcades, adult taverns/bars, adult theaters, adult nightclubs/dance halls/discotheques, sadomasochism centers, adult bookstores, adult retail establishments, and adult motion picture theaters, as defined by this ordinance.

## Adverse Impact

A significant negative impact to land, water, associated resources or public facilities resulting from development. The negative impact includes increased risk of flooding; degradation of water quality; increased sedimentation; reduced groundwater recharge; negative impacts on aquatic organisms; negative impacts on wildlife and other resources; inadequate capacity for traffic, potable water, wastewater, police, fire, and EMS services and threatened public health.

## Affected Party

The owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from the proposed development or any other "affected party" as established by the State of North Carolina.

## Aggrieved party

A person, with a legally recognized interest (i.e., fee simple ownership) and standing to appeal, that is injuriously affected by a decision from any decision-making body of the City, including any officer or agent of the City.

## Agricultural Support and Services

Uses related to or associated with agricultural operations, but which do not consist of direct agricultural activities.

## Agriculture

Uses characterized by general active and on-going agricultural activities, including agronomy, animal husbandry, aquaculture, biotechnical agriculture, forestry, fisheries, honey production, horticulture, silviculture (including the harvesting of timber), and similar uses. Agriculture does not include a grocery store or the retail or wholesale sale of products related to the production of agricultural products. Agriculture does not include preparatory functions such as grading or creation of planting beds through stockpiling of dirt or other means when such preparations do not result in an active and on-going agricultural activity within thirty (30) days. Accessory uses may include offices, storage areas and repair facilities related to agriculture uses.

## Airport

Any area of land or water designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

## Amphitheatre

See "Arena."

## Amateur Ham Radio or TV Antenna

See "Antenna."

## Animal Care

Any place or establishment, public or private, where animals are housed, cared for, groomed, or otherwise assisted.

## Antenna

A device used to transmit and/or receive radio or electromagnetic waves between land based or orbiting uses.

## Appeal

An appeal of an administrative decision-maker's interpretation or decision that is reviewed and approved, approved with conditions, or denied by the Board of Adjustment in accordance with Section 2.3.ON, *Appeal*.

## Applicant

The owner of land, or the authorized representative of the landowner, applying for a development approval or permit.

## Application

The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate City department, board, or commission as part of the development review processes.

## Arboretum or Garden

A place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational, or passive recreational purposes, not including the harvest of plants or their produce.

## Arborist, Certified

A person who is licensed (combination of either a professional certification or International Society of Arboriculture Certified Arborist) to perform arboricultural work in the City of Jacksonville.

## Arcade

A use, whether principal or an accessory, conducted solely indoors, where person(s) of any age group can utilize electronic machines or devices, including but not limited to computers or terminals, and gaming consoles, to conduct or participate in electronic or video gaming; where cash, merchandise or other items of value are NOT redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term does not include, but is not limited, to internet cafes, internet sweepstakes, beach sweepstakes or cybercafés or any others as defined by North Carolina General Statutes. This does not include any lottery approved by the State of North Carolina.

## Arcade, Adult

A use, whether principal or an accessory, conducted solely indoors, where person(s) that are required by management to be 18 years or older, utilize electronic machines or devices, including but not limited to computers or terminals, and gaming consoles, to conduct or participate in electronic or video gaming; where cash, merchandise or other items of value are NOT redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term does not include, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes, cybercafés, or any others as defined by North Carolina General Statutes. This does not include any lottery approved by the State of North Carolina. In addition, if a substantial or significant portion (over twenty five percent of total gaming space) of its stock in trade, and offers for rent or sale, for any consideration, one or more of the following: 1) books, magazines, periodicals, other printed matter, photographs, films, motion pictures, video cassettes, CD-ROM, computer software, slides, other visual representations, or related merchandise that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities (as defined) or specified anatomical areas (as defined) is considered Adult Establishment and shall follow the standards found in this ordinance.

## Architectural Details

Decorative features on a building or structure including, but not limited to sills, beltcourses, cornices, butrices, bay windows, pilasters, and similar features.

## Architectural Lighting

Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.

## Area of Environmental Concern

An area of natural importance that may be easily destroyed by erosion or flooding, or with environmental, social, economic or aesthetic values that make it valuable to the public and the state.

## Arena

A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings. Such uses may or may not include lighting facilities for illuminating the field or stage area, concessions, parking facilities, and maintenance areas.

## Art Gallery

An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art.

## As-Built Plans

A set of engineering or site drawings that delineate the specific permitted development as actually constructed.

## Assessed Value

The monetary price that a parcel of land, portion of land, improvement on land, or other commodity assigned by the Onslow County Tax Office for the purposes of taxation.

## Assisted Living Facility

A building, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, health care assistance, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or proprietor. Accessory uses may include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility.

## Athletic Field or Court

An open field, area of grass, or paved court used for organized or unorganized sporting events or recreational activity.

## Auditorium

A building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings, all occurring inside a structure typically limited to a capacity of 500 or fewer seats.

## Authorized Agent

A person with express written consent to act upon another's behalf.

## Automated Teller Machine, Walk Up

A mechanized device operated by a bank or financial institution that allows pedestrian customers to perform banking or financial transactions at locations remote from the controlling bank or financial institution. An ATM may be considered an accessory use to the principal use(s) of the location.

## Automotive Sales or Rentals

Premises on which new or used passenger automobiles, motorcycles, trailers, recreational vehicles, or light trucks in operating condition are displayed for sale, lease, or rental.

## Automotive Painting/Body Shop

Repair of automobiles, vehicles, or trailers, including bodywork, framework, welding, and major painting service.

## Automotive Parts and Installation

The on-site sale and subsequent installation of various automobile parts and accessories, including but not limited to tires, mufflers, brakes, batteries, audio systems, and lubricants such as engine oil. Such uses do not include the sale of gasoline or other fuels.

## Automotive Repair and Servicing

General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including bodywork, framework, welding, and major painting service.

## Automotive Wrecker Service

An establishment operated for the purpose of temporary storage on-site of fewer than ten automobiles or trucks.

## Awning

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.

## Axis

The centerline of a structure that divides the structure into two halves.

# B. -

## Bakery

An establishment primarily engaged in the retail sale of baked goods for consumption on or off site. The baked products may be prepared either on or offsite.

## Bar, Nightclub, Lounge, or Tavern

An establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises, and which sets a minimum age requirement for entrance, consistent with state law. The primary source of revenue for such use is derived from alcohol sales, and the secondary source from the serving of food. Such uses may also provide on-site entertainment in the form of live performances, dancing, billiards, or other entertainment activities. Performances related to the display of specified anatomical areas (as defined by Section 14-202.10 of the North Carolina General Statutes) are classified as Adult Establishment uses.

## Bed and Breakfast

A private residence, generally a single-family residence, engaged in renting one or more dwelling rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to breakfast for guests only.

## Berm

An elongated earthen mound typically designed or constructed on a site to be part of the overall landscaping plan for the purpose of separation, screening, or buffering adjacent uses and/or rights-of-ways..

## Billiard or Pool Hall

A business establishment that provides billiard tables for customer's use.

## Block

A parcel of land entirely surrounded by streets or by any combination of streets, parks or railroad right-of-way.

## Block Face

The land adjacent on one side of a street and lying between the two nearest intersecting or intercepting streets, railroad right-of-way, watercourse, or un-subdivided land.

## Blood or Tissue Collection Facility

A facility where blood or related materials are either withdrawn or collected from patients or assembled after being withdrawn or collected elsewhere from patients for subsequent delivery to a clinical laboratory for examination. A collection facility is maintained at a separate physical location not on the grounds or premises of the main licensed laboratory or institution which performs the testing.

## Board of Adjustment

A quasi-judicial board appointed by the City Council and Onslow County Board of Commissioners.

## Boat and Marine Rental or Sales

Premises on which new or used boats, trailers, and other marine vessels are displayed for sale, lease, or rental.

## Boat Repair and Servicing

A premise or site featuring construction, maintenance, repair, or restoration services for boats and other marine vessel.

## Bonding

The process whereby a subdivider, owner, or developer of land posts a performance guarantee, usually in the form of cash or a letter of credit which is available for use by the City to install and/or repair required public or private improvements agreed to as part of the Site Plan or Subdivision, or other permit approval if the subdivider, owner, or developer fails to install or repair such facilities.

## Botanical Garden

A garden having documented collections of living plants for the purposes of scientific research, conservation, display, or education.

## Building

A structure with a roof, intended for shelter, housing, business, or enclosure.

## Building Façade

See "Facade."

## Building Footprint

The area of a lot or parcel of land included within the surrounding exterior walls and/or outermost projection of the roof of a building or portion of a building, exclusive of courtyards

## Building, Heating, Plumbing, Or Electrical Contractor

Offices for building, heating, plumbing, or electrical contractors, and related storage facilities.

## Building Permit

A permit reviewed and approved, approved with conditions, or denied by the Development Services Director in accordance with Section 2.3.I, *Building Permit.*

## Building Wall

The entire surface area, including windows and floors, of an exterior wall of a building.

## Bulb-Out

A rounded portion of a sidewalk that extends out into a street to provide safe haven for pedestrians seeking to cross the street.

# C. -

## Caliper

A horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inches in diameter, 12 inches above the ground for trees greater than four inches and up to ten inches in diameter, and at breast height (4½ feet) for trees ten inches or greater in diameter.

## CAMA Land Use Plan

The land use plan adopted by the City Council in accordance with guidelines established by the North Carolina Coastal Resources Commission pursuant to the Coastal Area Management Act (CAMA). The land use plan contains policies that address growth management issues and guide the City in the development, amendment, and administration of this Ordinance and other actions related to physical growth and development within the City's planning jurisdiction.

## Canopy

A permanent, but not completely enclosed structure that may or may not be attached to a building for the purpose of providing shade or shelter to people or automobiles, or a decorative feature on a building wall. A canopy is not a completely enclosed structure.

## Canopy Tree

A tree that has an expected height at maturity greater than 30 feet and which produces significant shade because it has a crown that is oval, round, vase-shaped, or umbrella-shaped.

## Caretaker's Quarters

An accessory dwelling unit located on the premises of another principal use for the occupancy of a caretaker, security guard, or other person charged with oversight and/or protection of the principal use.

## Carport

An open-sided shelter for an automotive vehicle, usually formed by a roof projecting from the side of a building.

## Car Wash

An establishment providing the interior or exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes or driven into bays and washed by hand.. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants.

## Cemetery

Uses intended for the burial of the dead and dedicated for cemetery purposes. This Use Type may include a mortuary, mausoleum, or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.

## Certificate of Occupancy

A document issued by the Development Services Director allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Ordinance and all other applicable regulations.

## Change of Use

The change in the use of a structure or land, for which a certificate of occupancy is required. Change of use shall include a change from one use to another use in the list(s) of permitted uses, and shall also include a change from one use to another use within any broad category of uses, such as from one use listed in the commercial use category to another use listed in the commercial use category, as herein defined.

## Changeable Copy

A copy that is or can be changed manually in the field or through mechanical or electronic means; e.g., readerboards with changeable letters.

## Child Day Care

An arrangement or program where, at any one time, six or more children under the age of 13 receive child care for a fee in a building other than a residence on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption. Such uses may also involve the primary educational services in preparation for elementary school.

## Citation

As used in Article 8: *Enforcement*, a formal notice to a person that he or she is charged with a violation of this Ordinance, and that penalty is due.

## City

The City of Jacksonville, North Carolina

## City Council

The City Council of the City of Jacksonville, North Carolina.

## City of Jacksonville Thoroughfare Plan

The thoroughfare plan for the City of Jacksonville, as amended, adopted by the City Council

## Club or Lodge

A building and related facilities owned and operated by a corporation, association, or group of individuals established for fraternal, social, educational, recreational, or cultural enrichment of its members and primarily not for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

## Cluster Subdivision

The division of a tract of land into two or more lots, building sites, or other divisions along with additional land area set aside as open space for conservation, agriculture and/or recreation purposes in accordance with Section 2.2.3.F.5, *Sketch Plats*, and Section 6.2, *Conservation Subdivision*.

## Coastal Area Management Act

An act by the NC State Legislature that establishes a cooperative program of coastal area management between the state and the local governments located within the state's coastal counties. The Act permits the state to designate areas of environmental concern and review and approve coastal area management land use plans required from local governments.

## Cold Storage Plant

A building, structure, machinery, appurtenances, appliances and apparatus occupied and used in the business of freezing food products or storing frozen food products.

## College or University

A public or private, non-profit institution for post-secondary education offering courses in general or technical education which operates within buildings or premises on land owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, and other facilities which further the educational mission of the institution. In no event shall this definition prohibit a college or university from engaging in an activity historically conducted by such institutions.

## Commercial Motor Vehicle

A vehicle used for commercial purposes as defined by North Carolina General Statutes.

## Common Open Space

Portion of a proposed development required for reservation as permanent open space by Section 5.3Open Space Set-Asides.

## Commercial Recreation, Indoor

A private indoor (entirely within an enclosed structure) use providing for sport and recreation activities that are operated or carried on primarily for financial gain. Examples of indoor commercial recreation uses include, but are not limited to, fitness centers, bowling alleys, dancehalls, skating rinks, indoor commercial swimming pools, and racquet and tennis club facilities (indoor).

## Commercial Recreation, Outdoor

A private outdoor use providing facilities for sport activities, which is operated or carried on primarily for financial gain, outdoors. Examples of outdoor commercial recreation uses include, but are not limited to, miniature golf facilities, outdoor commercial tourist attractions, and privately owned active sports facilities such as ball fields and basketball courts, racquet and tennis club facilities (outdoor), and drive-in theatres.

## Community Center

A public building to be used as a place of meeting, recreation, or social activity and not operated for profit.

## Community Dock, Major

A private nonprofit boating facility including a dock, pier, and/or launching ramp on property which has water frontage, the use of which is intended to serve 11 or more residential lots or units, to include any private nonprofit boating facility, dock, pier and/or launching ramp. The right to use such facility must be conferred by an easement appurtenant to the residential lot it is intended to serve. No commercial activities of any kind, including commercial letting of slips to parties who are not residents of the waterfront subdivision, shall be allowed within the confines of the facility.

## Community Dock, Minor

A private nonprofit boating facility including a dock and/or pier on property which has water frontage, the use of which is intended to serve ten or less residential lots or units. The right to use such facility must be

conferred by an easement appurtenant to the residential lot it is intended to serve. No commercial activities of any kind, including commercial letting of slips to parties who are not residents of the waterfront subdivision, shall be allowed within the confines of the facility.

## Community Garden

A private or public facility for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person.

## Concrete or Asphalt Plants

A plant for the manufacture or mixing of concrete, cement, and concrete and cement products, and/or asphalt, including any apparatus and uses incident to such manufacturing and mixing.

## Conditional Rezoning

The classification of land on the Official Zoning Map subject to conditions of approval proposed by an applicant that are accepted or denied by the City Council in accordance with Section 2.3.C, *Conditional Rezoning*.

## Condominium

A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).

## Connectivity

The relative degree of connection between streets, sidewalks, or other means of travel.

## Construction

The erection of any building or structure or any preparations (including land disturbing activities) for the same.

## Contiguous

Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public utility right-of-way.

## Convenience Store

A retail establishment, typically 4,000 square feet or less and which offers for sale, primarily, the following types of articles: bread, milk, cheese, canned and bottled foods and drinks, tobacco products, beer, wine, candy, papers and magazines, and general hardware articles. Gasoline and/or fast food may also be offered for sale but only as a secondary activity of a convenience store.

## Convention Center

A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on–premise consumption. Similar structures with a capacity of less than 500 people are auditorium or conference center uses.

## Cornice

Any horizontal member, structural or nonstructural, of any building, projecting outward from the exterior walls at the roof line, including eaves and other roof overhang.

## Correctional Facility

Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. Such uses may include cafeterias, housing for facility staff, outdoor storage and maintenance areas, recreational areas, agricultural facilities, and facilities for the production of goods or materials produced for sale.

## County

Onslow County, North Carolina.

## Crematory

A facility containing furnaces for the reduction of dead bodies to ashes by fire.

## Cross Access

Vehicular access provided between the vehicular use areas of two or more development sites or parcels of land intended to allow travel between the sites without the use of a public or private street.

## Crosswalkway

A right-of-way dedicated to public use which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

## Cul-de-Sac

See "Street, Cul-de-sac"

## Cultural Facility

Establishments such as zoological gardens, conservatories, planetariums, or other similar uses of an historic, educational, or cultural interest, which are not operated for profit.

## Cupola

A domelike structure on top of a roof or dome, often used as a lookout or to admit light and air.

# D. -

## Developer

The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

## Development

The initiation, construction, change, or enlargement of any use or structure, the disturbance of land through the removal of trees or ground cover, or the division of land into two or more parcels. "Development" shall include, but not be limited to, the following:

Construction, enlargement, or façade changes to a building or structure;

Change in the type of use of a building, structure, or land;

Material increase in the intensity of use of land, such as an increase in the number of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;

Commencement or expansion of resource extraction, agricultural, horticultural, or forestry activities on a parcel of land;

Demolition of a structure or the removal of trees from a parcel of land;

Deposition of refuse, solid or liquid waste, or fill on a parcel of land;

Alteration, either physically or chemically, of the shore, bank, or channel of any stream, lake, or other body of water or alteration of any wetland; and

Any land disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

## Development Agreement

An agreement between the City and an applicant approved, approved with conditions, or denied by the City Council in accordance with Section 2.3.P, *Development Agreement*.

## Diameter at Breast Height (DBH)

The measurement of the diameter of a tree trunk over ten inches in diameter taken at a height of four-and-one-half feet above the ground. Trees with multiple trunks should be treated as multiple trees and the DBH for each trunk added to aggregate diameter measurement.

## Diseased Trees

Those trees that may constitute a hazard to life and property or harbor insects or disease which represent a potential threat to other trees within the City.

## Development Services Director

The Development Services Director of the City of Jacksonville or a designee.

## District, Base

An area delineated on the Official Zoning Map which sets forth standards and guidelines for all development within the prescribed district.

## District, Overlay

A zoning district that encompasses one or more underlying zoning district and that imposes additional requirements above that required by the underlying zoning district.

## Drainage

General terms applied to the removal of surface or resurface water from a given area either by gravity via natural means or by systems constructed so as to remove water, and is commonly applied herein to surface water.

## Drainage, Positive

An area that has been graded or shaped to prevent pooling of stormwater runoff.

## Drive-through Facility

An establishment that dispenses products or services to patrons who remain in vehicles.

## Driveway

A private way, beginning at the property line of a lot abutting a public or private road or other easement.

## Drug and Alcohol Treatment Facility

Inpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.

## Drug Store or Pharmacy

A freestanding establishment that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics, and related supplies.

## Dwelling, Duplex

A single-family dwelling unit attached to one other single-family dwelling unit by a common vertical wall. Each dwelling unit may be located on its own lot, or both may be located on a single lot.

## Dwelling, Live/Work

A structure or portion of a structure combining a residential living space for one or more persons with an integrated work space principally used by one or more of the residents.

## Dwelling, Mansion Apartment

Two or more dwelling units located within a single structure designed and constructed to appear as a large single-family detached home. Such structures may have a common entrance or separate entrances to each dwelling unit.

## Dwelling, Manufactured Home

A structure built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, fabricated in an offsite manufacturing facility after June 15, 1976 in one or more sections, which includes the plumbing, heating, air conditioning, and electrical systems contained therein, with each section bearing the HUD Code Seal certifying compliance with the Federal Manufactured Home Construction and Safety Standards Act, designed to be transported for installation or assembly at the building site.

## Dwelling, Mobile Home

A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent home and designed to permit the occupancy thereof as a dwelling place for one or more persons. Even if structure rests on a permanent foundation, with wheels, tongue, hitch and axle or lug bolts permanently removed, it shall be construed as a mobile home. This structure is constructed in accordance with the rules and regulations as set forth in "Mobile Homes, Modular Dwelling Units and other Factory Building Structures", 1970 Edition published by the North Carolina Department of Insurance, and lacks the certification indicating compliance with the National Manufactured Housing Construction And Safety Standards Act.

### Dwelling, Modular

A dwelling unit constructed and/or assembled off-site, that contains a North Carolina Validation Stamp, not the U.S. Department of Housing and Urban Development's standards.

### Dwelling, Multi-family

A dwelling containing three or more individual dwelling units, with the units often stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors and ceilings.

### Dwelling, Single-Family, Detached

A residential building containing not more than one dwelling unit to be occupied by one family, not physically attached to any other principal structure. For regulatory purposes, this term does not include manufactured homes, recreational vehicles, or other forms of temporary or portable housing.

### Dwelling, Townhouse

A type of multifamily dwelling, in which three or more individual dwelling units are located on individual lots, but attached by one or more common party walls which are shared by one or more unit. The habitable spaces of different dwelling units are typically arranged on a side-by-side rather than a stacked configuration.

### Dwelling, Two- To Four-Family

A residential building containing two, three, or four individual dwelling units located on a single lot. Such units are designed and configured to appear as one single-family detached dwelling.

### Dwelling, Upper Story

A dwelling unit located on the second floor or higher of a building with nonresidential uses located on the ground or street level.

## E. -

### Eave

The projecting lower edges of a roof that overhangs the wall of a building.

### Easement

A grant by a landowner to another landowner or to the public, for the right to occupy or use designated land for specific purposes, such as access, drainage, conservation, the location of public improvements, or other specified purpose. An easement does not constitute fee simple ownership of the land.

### Electric Motor Repair

An establishment that repairs electric motors for compensation.

### Elevation

The front, side, or rear of a structure.

### Encroachment

The portion of a structure or building that intrudes into a required yard, right-of-way, setback, open space, or the point at which a driveway accesses a public street.

### Encroachment Agreement

A legally binding agreement signed by the owners of two adjoining properties where an encroachment exists stating the agreed upon resolution to the encroachment, which becomes binding between the two properties.

### Entertainment Establishment

Indoor continuous entertainment activities such as game arcades, video and pinball parlors, pool halls, indoor firing ranges, and similar types of uses.

### Elevated Building

A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings, slab, or columns.

### Energy Recovery Plant

Any public or private recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

## Erect

To assemble, build, construct, raise, install, attach, hang, place, suspend, affix, post, create, paint, draw, apply or in any other way bring into being or establish.

## Erosion

The wearing away of land surface by the action of wind, water, gravity, ice, or any combination of those forces.

## Existing Manufactured Home Park or Manufactured Home Subdivision

A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

## Expansion

An increase in the size of an existing structure or use, including physical size of the land, building, parking, and other improvements or structures.

## Extractive Industry

A use involving on-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operations, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use.

# F. -

## Facade

The entire exterior wall of a building facing a lot line measured from the grade to the eave or highest point of a flat or mansard roof parallel to the frontage line or the street that fronts the parcel on which the building is located. Facades may be on the front, side, or rear elevation of the building.

## Fair Market Value

The monetary price that a parcel of land, portion of land, improvement on land, or other commodity will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus.

## Family

An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than three persons not related by blood, marriage, or adoption living together as a single housekeeping unit, as in a family care home.

## Family Care Home

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities in accordance with Chapter 168, Article 21(1) of the North Carolina General Statutes

## Family Day Care (In Home)

A program or arrangement located in a residence where, at any one time, more than two but less than six preschool-age children, and up to an additional three school-age children under the age of 13, receive child care on a regular basis from persons other than their guardians, full-time custodians, or persons related to them by blood, marriage, or adoption.

## Farm Market

An occasional or periodic market held in a structure or open area where farmers sell their produce or farm products.

## Fence

A structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening. May also be used as an architectural feature.

## Financial Institution

An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide Automated Teller Machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walk-up customers only.

## Fire or EMS Facility

A facility for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles, and equipment and facilities for the housing and feeding of emergency personnel while on duty.

## Fire or Police Substation

Any building or part of a building that is designated by the chief of police or sheriff to be used as a police or sheriff's station or substation and at which duly authorized officers perform law enforcement functions.

## Flea Market

A market held in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables, and other edible items. A farmer's market, where food items predominate, is different than a flea market. This also differs from a garage sale or yard sale that is conducted on a residentially developed lot by members of a household, or civic groups selling primarily donated items.

## Flex Space

Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

## Floor

The top surface of an enclosed area in a building (including the basement), such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction. A floor is also the distance between the finished floor and the ceiling of a unit.

## Footcandle

The amount of light that falls onto a surface as emitted by an exterior lighting device.

## Food Vendor, from Cart

An accessory use featuring food and beverages sold from a portable structure from a nonpermanent location.

## Front Facade

The side or elevation of a structure that contains the structure's architectural front, or the portion of the structure facing the street from which the structure derives its street address.

## Frontage

The width in linear feet occupied by each separate business or other use or the width in linear feet of a lot which fronts on a public street. Each building or lot front shall, for purposes of sign copy area allowed, be separately calculated.

## Frontage, Building

The linear length of only that portion of a building used by an individual tenant on a separate lot or by an individual tenant in a multiple tenant development and which faces a public street or alley.

## Fuel Oil or Bottled Gas Distributor

An establishment that distributes fuel oil or bottled gases such as propone or liquid petroleum for compensation.

## Functionally Dependent Facility

A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

## Full Cut-Off Lens

An artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

## Funeral Home

An establishment that provides human funeral services, including embalming and memorial services.

# G. -

## Garage

An outbuilding or accessory structure with a roof and walls for the purpose of parking vehicles. A carport has a roof, but does not have walls, like a garage.

## Gasoline Sales

Buildings and premises where gasoline, oils and greases, batteries, tires and automobile accessories may be supplied and dispensed at retail (or in connection with a private operation where the general public is excluded from use of facilities), and where in addition, the following services may be rendered and sales made, and no other:

Sale and service of spark plugs, batteries, and distributors and distributor parts;
Tire servicing and repair, but not recapping or regrooving;
Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
Radiator cleaning and flushing;
Washing and polishing, and sale of automotive washing and polishing materials;
Greasing and lubrication;
Providing and repairing fuel pumps, oil pumps, and lines;
Minor servicing and repair of carburetors;
Emergency wiring repairs;
Adjusting and repairing brakes;
Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
Provision of road maps and other informational material to customers; and
Provision of restroom facilities.

## General Industrial Service

Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

## Glare

The reflection or harsh, bright light and the physical effect resulting from high luminances or insufficiently shielded light sources to cause annoyance, discomfort, or loss in visual performance and visibility.

## Glazing

The portion of an exterior building surface occupied by glass or windows.

## Golf Course

A tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards. A golf course, public or private, may include a clubhouse (with or without eating facilities), shelters, a driving range, putting green, maintenance facilities, an irrigation system, and outdoor storage of materials and equipment.

## Good and Substantial Progress

Good and substantial progress takes place when an applicant makes on-going and continuous incremental efforts to obtain all required development approvals. On-going and continuous efforts may be undertaken by an applicant, an applicant's representative, or personnel employed by the applicant, and shall be directly related to pursuit of required inspections, permits, or other approvals. Such actions include expenditure on services or materials, delivery and short-term storage of materials, assembly or installation of required features, repairs, maintenance, construction, surveying, clearing, grading, or similar land disturbing activities.

## Government Maintenance, Storage, and Distribution Facility

A facility housing government shops, maintenance and repair centers, equipment, and outdoor storage yards.

## Government Office

An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.

## Grading

Excavating, filling (including hydraulic fill) or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

## Greenway

A linear greenbelt linking various types of development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and area immediately adjacent to the pathway.

## Grocery Store

An establishment engaged in retail and/or wholesale sale of food, foodstuffs, sundries, or other common household items to members of the public.

## Gross Leasable Space

The portion of a retail development expressed in total floor area or square footage designed for tenant occupancy and exclusive use,

## Ground Cover

Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.

## Group Home

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for between 7 and 15 resident persons with disabilities—i.e., persons 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. The definition does not include family care homes, hospitals, rest homes, nursing homes, boarding homes, homes for orphans or aged, sub-acute-care detoxification centers, or halfway house/mainstreaming facilities.

## Growing Season

See "Planting Season."

# H. -

## Halfway House

A licensed home for juveniles or adult persons on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling is provided to assist residents back into society, enabling them to live independently.

## Heavy Equipment Sales, Rental, or Storage

An establishment engaged in the display, sale, leasing, or rental of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

## Heavy Equipment Servicing and repair

An establishment engaged in the servicing and repair of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

## Helicopter Landing Facility

An area, either on ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and which may include auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

## Hedge

A group of shrubs planted in line or in groups that forms a compact, dense, living barrier that demarcates an area from on-site or off-site views.

## Home Occupation

A limited business activity which is clearly secondary and incidental to the primary use of the residential dwelling for living purposes by a family. Occupational activity is intended to allow employment on an extremely limited basis to occur within the residential structure. A home occupation must therefore be clearly incidental to and subordinate to the primary use of the building as a residence.

## Hookah Lounge

Any business which primarily serves tobacco or non-tobacco products (e.g., fruit, vegetables) whereby patrons, who are eighteen (18) years of age or older, share the tobacco or non-tobacco products from a communal hookah, water pipe, or similar device.

## Homeless Shelter

A facility providing temporary housing for one or more individuals who are otherwise homeless. This definition includes uses such as Transitional Homes.

## Horse Stable

A building in which horses are sheltered; may be accessory to a residential or other use or a freestanding principal use.

## Hospital

An institution specializing in giving clinical, temporary, and emergency services of a medical or surgical nature to human patients and injured persons, that is licensed by state law to provide facilities and services in surgery, obstetrics, or general medical practice. Such institutions may include in-patient medical or surgical care for the sick or injured and related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

## Hotel, Motel

Hotel and motel are to be considered synonymous uses. A hotel or motel means a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or a rooming house. Such uses may include microwaves and refrigerators for each guest unit

# I. -

## Ice House

A manned or unmanned facility, located on or off-site, selling packaged ice manufactured off-site to members of the public at retail or wholesale.

## Impervious Surface

Buildings; parking areas; driveways; streets; sidewalks; areas of concrete, asphalt, gravel, or other compacted aggregate; and areas covered by the outdoor storage of goods or materials which do not absorb water.

## Incinerator

A facility that burns refuse at high temperatures to reduce the volume of waste. (See also Resource Recovery Plant.)

## Industrial Service

Establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products, or by-products. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

## Infill Development

Development or redevelopment of land that has been bypassed, remained vacant, and/or is underused as a result of the continuing urban development process. Generally, the areas and/or sites are not particularly of prime quality; however, they are usually served by or are readily accessible to infrastructure, services, and facilities.

## Interpretation

An interpretation of this ordinance made in writing by the Development Services Director or designee in accordance with the standards in Section 2.3.M, *Interpretation*.

# K. -

## Kennel, Indoor or Outdoor

A facility where more than four and less than 21 dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. The facility may have an indoor or outdoor component.

# L. -

## Land

The earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

## Land Application of Wastes

The application or disposal of effluents or sludges on, above, or into the surface of the ground through spray irrigation, land spreading, or other methods.

## Landfill, Construction Debris

A solid waste disposal facility consisting of an area of land or an excavation used for disposal of solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures.

## Landfill, Land Clearing and Inert Debris

A solid waste disposal facility consisting of an area of land or an excavation used for disposal of solid waste generated solely from land clearing activities and/or solid waste consisting solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.

## Landfill, Sanitary

A solid waste disposal facility consisting of an area of land or an excavation used for disposal of any solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. A sanitary landfill does not include disposal of hazardous waste, sludge, industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste for management of that waste, or solid waste from mining or agricultural operations.

## Landowner

Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner. The person shown on the records of the register of deeds of the county shall be presumed to be the person in control of the property.

## Laundromat

A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

## Laundry, Dry Cleaning, And Carpet Cleaning Plant

A facility used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents.

## Library

A public facility for the use, but not sale, of literary, historical, scientific, musical, artistic, or other reference materials.

## Liquor Store

An establishment licensed by the state exclusively for the retail sale of alcoholic beverages, excluding beer and wine, in original packages for consumption off the premises where sold.

## Livestock

Generally accepted outdoor farm animals (i.e., cows, goats, horses, pigs, barnyard fowl, etc.) not to include cats, dogs, and other house pets.

## Loading Space, Off-Street

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles, and not considered as part of the minimum required off-street surface parking.

## Logo

A business trademark or symbol.

## Lot

A unit of land or any combination of several units of land occupied or intended to be occupied by a principal use or structure, together with any accessory uses or structures and such accessways, parking areas, yards, and open spaces required in these regulations.

## Lot of Record

A lot that is part of a subdivision, a plat of which has been recorded in the Onslow County Register of Deed's Office prior to the effective date of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the effective date of this ordinance.

## Lowest Floor

The subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

## Lumen

A unit of luminous flux. One footcandle is one lumen per square foot. Lumen output values shall be the initial lumen output ratings of a lamp.

# M. -

## Machine Shop

An establishment where metal is cut and shaped by machine tools.

## Mansard

A sloped roof or roof-like facade architecturally comparable to a building wall.

## Marina

A facility for the docking, mooring, berthing, or storage of marine vessels. Such uses may include a wide variety of accessory uses such as boat fuel sales, sales of boating supplies and equipment, boating related services, laundries, boat repair and rental, and dry storage of boats.

## Massing

Massing refers to the organization, size, and appearance of a particular building's façade, relative to the other facades around it.

## Mobile Home Park

A parcel of land under single ownership or management which is operated as a business engaged in providing a place where mobile homes are installed for non-transient living or sleeping purposes and where sites or lots are set aside or offered for lease for use by manufactured homes for living or sleeping purposes. Accessory uses to manufactured home parks include caretaker quarters, laundry facilities, and facilities for parks and recreation.

## Mobile Home Unit Space Area

The portion of a manufactured home park reserved for the placement of a single manufactured home and any related accessory structures.

## Manufacturing, Heavy

Manufacturing uses include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants.

## Manufacturing, Light

The mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

## Map Amendment (Rezoning)

A type of zoning district change reviewed and approved, approved with conditions, or denied by the City Council in accordance with Section 2.3.B, *Rezoning or Text Amendment*.

## Marina

Waterfront establishment whose business is offering the sale or rental of boats and marine sporting equipment and the servicing, repair, or service of the same.

## Marquee

A permanent roof-like structure other than a roof attached to, supported by, and projecting from a building, providing protection from natural elements over the ground, sidewalk or walkway.

## Maximum Extent Practicable

No feasible or practical alternative exists, as determined by the Development Services Director, and all possible efforts to comply with the standards or regulation or minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining "maximum extent practicable."

## Mean Sea Level

For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

## Medical or Dental Clinic

An establishment where patients are admitted for examination and treatment by one or more physicians, dentists or psychologists and where patients are not usually lodged overnight.

## Medical Treatment Facility

A small-scale facility which may or may not be located in a converted dwelling or residence for the short term care and treatment of typically up to 20 chronically or terminally ill patients on an overnight basis. Such facilities may include sleeping rooms for care workers and members of patient's families.

## Mixed-Use Development

A tract of land or structure developed for two or more different uses, such as, but not limited to, residential, office, retail, institutional, public, or entertainment. Such uses are functionally integrated and share vehicular use areas, ingress/egress, and pedestrian access.

### Model Sales Home

A residential structure constructed for the ultimate purpose of serving as dwelling unit that is temporarily used as a sales office for the sale of other lots or dwellings within the same development.

### Motor Vehicle Stop

Curbing, wheel stop, or other ground-mounted device located at the head of an off-street parking space that is intended to prevent the front or back end of an automobile from interfering with required vehicular use area landscaping or pedestrian access.

### Museum

A building serving as a repository for a collection of natural, scientific, historical, or literary curiosities or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the limited retail sale of goods, services, or products such as prepared food to the public.

## N. -

### Neighborhood Recreation Center

A facility providing recreation facilities and/or meeting rooms, that is typically oriented to addressing the recreational needs of the residents of a neighborhood or community area.

### Nonconforming Lot of Record

A lot of record that met all legal requirements when it was platted, but does not comply with the current minimum lot area or minimum lot width requirements of this ordinance, or a subsequent amendment of this ordinance.

### Nonconforming Sign

A sign that does not comply with all the current sign standards and requirements of this ordinance, or a subsequent amendment of this ordinance.

### Nonconforming Site Feature

Any off-street parking, landscaping, perimeter buffer, or screening that does not comply with all the current off-street parking, landscaping, perimeter buffer, or screening standards and requirements of this ordinance, or a subsequent amendment of this ordinance.

### Nonconforming Structure

A structure, the size, dimensions, or location that does not comply with all the current size, dimensional, or location standards and requirements of this ordinance, or a subsequent amendment of this ordinance.

### Nonconforming Use

An actual and active use of any land, building, sign, or structure not otherwise abandoned, that does not comply with all the use standards and requirements of this ordinance, or a subsequent amendment of this ordinance. If the property or structure is vacant or unused on the effective date of this ordinance or subsequent amendment, it shall be conclusively presumed that the property or structure is subject to the provisions of this ordinance or the amendment.

### Nonconformity

A nonconforming use, structure, lot of record, site feature, or sign.

### Non-Encroachment Area

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

### North Carolina General Statutes

The laws created by the State of North Carolina legislature, which the City of Jacksonville is required to uphold.

### North Carolina State Building Code

The minimum building codes for the State of North Carolina.

## Notice of Violation

A notice issued by the Development Services Director to one or more of the persons responsible for a violation of a provision of this ordinance that identifies the nature and location of the violation and orders corrective action. A final Notice of Violation also identifies enforcement actions the City may take if the ordered corrective action is not taken.

## Nursing Home

Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more non-related individuals, including facilities known by varying nomenclature or designation such as rest homes, convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries.

# O. -

## Office, Business Services

A room, or group of rooms used for conducting the affairs of a general business establishment, other than financial services and professional services. Examples of business services office uses include offices for retail and wholesale establishments.

## Office, Professional Services

A room or group of rooms used for conducting the affairs of a business, profession, or service industry. Examples of professional services offices include offices for lawyers, accountants, engineers, architects, doctors, dentists, and similar professions.

## Office, Financial Services

A room or group of rooms used for conducting the affairs of a business offering financial services, such as banking services, investment banking, stock brokerage, investment services, credit card services, and the like.

## Office, Sales

A room or group of rooms used for conducting the affairs of a business engaged in the buying and/or selling of real or personal property, services, or other products, such as real estate sales, artwork, artifacts, or other specialized services.

## Official Zoning Map

The official zoning map upon which the boundaries of various zoning districts are drawn and that is an integral part of this UDO.

## Opacity

A measurement indicating the degree of obscuration of light or visibility.

## Open Space

Space suitable for passive recreation, gardens or landscaping which may include areas left in their natural state, trails, ponds, stream banks, recreation areas, areas of excessive slopes, low-lying areas, marshland, environmentally-sensitive areas, and required landscaping areas. Such space must be free of automobile traffic and parking, and be readily accessible to all those for whom it is required.

## Open Space, Active

Space suitable for active forms of recreation, including athletic fields, playgrounds, swimming pools, courts, tracks, and similar uses that are well served by streets, parking facilities, spectator areas, restroom facilities, and exterior lighting where appropriate.

## Open Space, Common

An open space area owned privately or in common for use by all members of the public.

## Open Space, Passive

Required open space areas designated for passive recreation uses including walking trails, pathways, gazebos, picnic areas, fountains and pools, plazas, and similar areas. Such areas may also include undisturbed natural vegetation.

### Open Space, Payment in lieu of

A financial contribution to a recreation/park reserve fund to help provide recreation/park space for the additional residences being developed within a subdivision.

### Open Space, Private

Space on each building lot that is for the private use of inhabitants.

### Open Space Set-Aside

Portion of a proposed development required for reservation as permanent open space by Section 5.3, *Open Space Set-Aside*.

### Order of Abatement

A notice issued by a court of competent jurisdiction identifying a violation of this ordinance and ordering the violator to abate the violation and take action to correct it.

### Ordinance

A document of regulations enforceable as municipal law. The term, "this ordinance," refers to the officially adopted Unified Development Ordinance of the City of Jacksonville, North Carolina.

### Outdoor Display or Sales

The placement of products or materials for sale outside the entrance of a retail or wholesale sales establishment.

### Outdoor Storage

The keeping, in a covered or uncovered area, of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the principal use of the land where located or as an accessory use to another principal use.

### Outpatient Facility

A facility where patients, who are not lodged overnight, are admitted for examination and treatment by one person or a group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, or any such profession, the practice of which is regulated by the state.

## P. -

### Parapet

A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

### Parcel Services

Retail sales or business services establishment to facilitate the transmittal and receipt of parcels.

### Park

Land used for recreation, exercise, sports, education, rehabilitation, or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks.

### Parking, Deferred

A portion of the required off-street parking associated with a use that is not installed at the time of construction, but delayed or deferred until a parking demand study can be completed to determine if the additional required parking is needed (see Section 5.1.I.4.)

### Parking, Off-Site

An off-street parking area provided on a different parcel than the use it is intended to serve.

### Parking, On Street

A location or area within the right-of-way of a public or private street that is reserved for the parking of vehicles. Such areas may or may not be formally designated with signage, striping, or parking meters.

## Parking, Shared

Off-street parking facilities shared by two or more uses that are in close proximity to one another and the parking area, and that have different operational characteristics such that use of the parking facilities by one use will not generally overlap with the use of the parking area by the other use(s). (See Section 5.1.I.2.)

## Parking, Tandem

A parking space within a group of two or more parking spaces arranged one behind the other.

## Parking Bay

The parking module consisting of one or two rows of parking spaces or stalls and the aisle from which motor vehicles enter and leave the spaces.

## Parking Demand Study

An analysis of the total number of parking spaces required in order to accommodate the maximum number of vehicles for parking purposes by a particular use or site at any given time, including the parking requirements for all employees, occupants, clients, and visitors.

## Parking Space, Accessible

A space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

## Parking Space, Off-Street

A space that is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way, or parking aisle.

## Parking Structure

A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.

## Passenger Terminal

A facility that receives and discharges passengers and at which facilities and equipment required for their operation are provided. Examples include terminals for bus, trolley, taxi, railroad, shuttle van, or other similar vehicular services.

## Pawn Shop

A business that offers secured loans to people, with items of personal property used as collateral.

## Peak Business Period

The portion of the day when a business receives most of its vehicular traffic from customers.

## Pedestrian

A person traveling on foot under their own locomotion.

## Performance Guarantee

Any form of surety acceptable to the City Attorney, Finance Director and City Manager. Said surety is provided by an applicant in lieu of completing the construction/installation of public infrastructure or required private site features before application for or issuance of a building permit, certificate of occupancy, final plat, or other development approval.

## Personal Services Establishment

An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Examples include; laundry and dry-cleaning drop-off establishments; photographic studios; mailing or packing service, photocopy and blueprint services; hair, tanning, and personal care services; psychics and mediums; martial arts schools; dance or music classes; taxidermists; and mortuaries.

## Person

For the purposes of enforcing this ordinance in accordance with Article 8: *Enforcement*, "person" includes any individual, corporation, government agency, government official, business trust, partnership, two or more persons having a joint interest, or any other legal entity. Persons subject to the remedies and penalties established in Article 8: *Enforcement*, for violating this ordinance shall include: an architect, engineer, builder, contractor, developer, agent, or any other person who participates in, assists, directs,

creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the land on which the violation occurs.

For all other purposes, "person" means any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

## Pervious Materials

Materials used for paving or surfacing that allow water to penetrate through the material to the ground below due to their porous nature, spaces between paving elements, or voids in the material.

## Picket Fence

A fence comprised of two or more horizontal rails that support a series of pickets spaced at least 4 inches apart.

## Planned Development

A tract of land that is planned and developed as an integral unit in accordance with a PD master plan, statement of terms and conditions, and flexible development standards that illustrate and address land uses, circulation, utilities, parking, setbacks, housing densities, land coverage, landscaping and buffers, open space, and similar features of the project (see Section 2.3.D, *Planned Development*).

## Planning Advisory Board

The City of Jacksonville Planning Advisory Board, established by ordinance in accordance with North Carolina General Statues 160A-361 and 160A-362.

## Plant Nursery

The growing, storage, storage, and sale of garden plants, shrubs, trees, vines, groundcovers, and other related landscaping materials for resale, typically occurring as wholesale or retail sales directly to landscaping professionals. Such uses may include limited incidental retail sales to members of the general public. Such uses may include greenhouses; outdoor storage of goods, materials, and equipment; irrigation systems; and caretaker's dwelling.

## Planting Strip

Areas intended for the placement of vegetation within the interior of vehicular use areas or along street right-of-way edges, typically between the back of the curb and the inside edge of the sidewalk.

## Planting Season

The dormant time of the year for trees beginning with leaf drop and ending with bud break; generally late fall to early spring.

## Plat, Final

A type of subdivision approval prepared by a surveyor and reviewed and approved or denied by the Technical Review Committee in accordance with Section 2.3.F.7, *Final Plat*.

## Plat, Preliminary

A type of subdivision approval reviewed and approved, approved with conditions, or denied by the Technical Review Committee in accordance with Section 2.3.F.6, P*reliminary Plat*.

## Plat, Sketch

A type of subdivision approval reviewed and approved, approved with conditions, or denied by the Technical Review Committee in accordance with Section 2.3.F.5, *Sketch Plat*.

## Plaza

An open space that may be improved, landscaped, or paved, usually surrounded by buildings or streets.

## Police Station

A building or part of a building that is designated by a chief of police or sheriff to be used as a police or sheriff's station and at which duly authorized officers perform law enforcement functions.

## Porch

A roofed structure not more than 75 percent enclosed by walls, attached to the main building, and not heated or cooled.

## Portable Shipping Container

A container, typically intended for transport by large truck, train, or ship, that is used for the temporary storage and or transport of personal property.

## Post Office

A facility designated or licensed by the federal government to sell U.S. postage stamps and U.S. postal products and accept mail and packages for delivery.

## Premises

A lot or parcel of real property where a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity or use exists or is conducted, manufactured, sold, offered, maintained or takes place.

## Preliminary Concept Plan

Initial sketch or concept drawing associated with a pre-application conference that displays an applicant's general development concept but does not include detailed, measured depictions of a proposal.

## Present Use Value

A designation used by the County Property Appraiser to identify land which is being used for agricultural purposes.

## Primary Drive Aisle

The main aisle(s) that extends from the street right-of-way, or from the driveway entrance(s) serving a development along the front of the building it serves.

## Primary Entrance

The place of ingress and egress to a building, parcel, or development used most frequently by the public.

## Principal Use

The primary or predominant use of any lot or parcel.

## Private landing Strip

An airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guests and by commercial aviation activities in connection with permitted uses of the land.

## Produce Stand

A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants grown on the same parcel of land where the stand is located. Such use may also involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold. Such uses also include "pick your own" establishments where customers gather their own produce from the fields for purchase and off-site consumption.

## Professional Services

See "Office, Professional Services."

## Protest Petition

A petition stating opposition to a proposed Map Amendment (Rezoning), Conditional Rezoning, or Planned Development that is signed by adjacent landowners in accordance with minimum requirements established by the North Carolina General Statutes.

## Public Hearing

A meeting open to the public and advertised in advance in the local printed media, or as otherwise required by statute, that concerns proposed ordinances, amendments, or other official City business for which public participation and input is required or desired.

## Public Hearing, Quasi-Judicial

A formal evidentiary public hearing on a development application or request that involves the legal rights of specific parties and is conducted by the City Council, the Board of Adjustment, or a Hearing Officer to obtain and establish a record of evidence and sworn testimony upon which the decision-making body bases its findings of fact, conclusions, and decision on the application or request.

## Public Hearing, Standard

A public hearing on a development application or request, other than a quasi-judicial public hearing, that is conducted by the City Council or other City board to obtain public comment that the decision-making body may consider in making its decision on the application or request.

## Public Land

For the purposes of the tree protection standards, land owned by the City, or by any other governmental entity or agency thereof.

## Public Square or Plaza

Open space generally open and readily accessible to the public and used by pedestrians for passive recreation and as an outdoor meeting or gathering place. Such uses may be provided with amenities such as shelters, seating, fountains, art, and landscaping.

# Q. -

## Quorum

The minimum number of board members that must be present at a meeting for the board to conduct official business or take official action.

# R. -

## Real Estate Sales Office

An office use engaged in the offer and sale of real estate.

## Recreational Vehicle (RV)

A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities include but are not limited to travel trailer, camping trailer, truck camper and motor home, as defined below:

Camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite.

Motor home. A vehicular unit built on a self-propelled motor vehicle chassis.

Park Model. A recreational vehicle limited to 400 square feet or smaller that are not labeled by HUD manufacturing program.

Travel trailer. A vehicular portable unit, mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle.

Truck camper. A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck. Truck campers are of 2 basic types, as defined below:

Slide-in camper. A portable unit designed to be loaded onto and unloaded from the bed of a pickup truck.

Chassis-mount camper. A portable unit designed to be affixed to a truck chassis.

## Recreational Vehicle Rental or Sales

An establishment engaged in the retail sales or rental of recreational equipment including recreational vehicles, travel trailers, and similar items.

## Recycling and Salvage Center

A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

## Recycling Drop-Off Center or Station

A small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection trucks.

## Redevelopment

Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot or site. Redevelopment also includes changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

## Reference Level

The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within special flood hazard areas designated as Zone A1-A30, AE, A, A99 or AO, the reference level is the top of the lowest floor or bottom of lowest attendant utility including ductwork, whichever is lower.

## Religious Institution

A structure or place in which worship, ceremonies, rituals, and education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained, and controlled under the direction of a religious group. Religious institutions include churches, mosques, synagogues, temples, and cemeteries. Accessory uses may include school facilities, parking, caretaker's housing, pastor's housing, and group living facilities such as convents.

## Repair Establishment

An establishment primarily engaged in the provision of repair services for TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including tailor; locksmith; and upholsterer.

## Repair of Scientific or Professional Instruments

An establishment primarily engaged in the provision of repair services for scientific or professional instruments for businesses.

## Replacement Value

The cost for replacement of a structure, including all materials and labor, based upon the structure's current tax valuation from the Onslow County Tax Assessor.

## Research and Development

A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

## Resource Recovery Plant

A facility that recovers materials or energy from solid waste, excluding those materials or solid waste under the control of the Nuclear Regulatory Commission.

## Restaurant, With Indoor or Outdoor Seating

An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on the premises as established in the North Carolina General Statutes. Such a facility may include indoor and outdoor seating, but no drive-through service.

## Restaurant, With Drive-Through Service

An establishment where provision is made on the premises for the ordering, selling, dispensing, or serving of food, refreshments, or beverages as established in the North Carolina General Statutes to persons driving by the structure in their motor vehicles.

## Retail Sales Establishment

Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Examples include stores selling, leasing, or renting consumer, home, and business goods such as art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, food sales,

hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary, and videos.

### Retail Establishments, Adult or Book Stores, Adult

An establishment having as a substantial or significant portion (over 25 percent of total retail space) of its stock in trade, and offers for rent or sale, for any consideration, one or more of the following: 1) books, magazines, periodicals, other printed matter, photographs, films, motion pictures, video cassettes, CD-ROM, computer software, slides, other visual representations, or related merchandise that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities (as defined) or specified anatomical areas (as defined); or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities or specified anatomical areas (as defined).

### Right-of-Way (ROW)

An area owned or maintained by the City, County, the State of North Carolina, federal government, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, streets, pedestrian walkways, utilities, or railroads.

### Road Address

The combination of numbers and road names assigned by the Development Services Director which uniquely identifies the location of a particular building, lot, or parcel.

### 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 projection.

### Rooming or Boarding House

Any building or portion thereof for providing lodging, either with meals (boarding house) or without meals (rooming house), where rent is paid to the owner or proprietor.

## S. -

### Salvage and Junk Yard

An establishment where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, and the like, are brought, sold, exchanged, baled, packed, disassembled, stored, or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places where salvaged house wrecking or structural steel materials are stored, handled, and sold.

### Satellite Dish

A round or parabolic antenna and its supporting structure for the purposes of sending and/or receiving radio or electromagnetic signals. Satellite dishes with a diameter up to 39 inches are typically considered as "small" satellite antenna dishes, while any such use with a diameter of more than 39 inches is typically considered as a "large" satellite dish antenna.

### School

A public or private school offering general, technical, or alternative instruction at the elementary, middle, and/or high school levels that operates in buildings or structures or on premises on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

### Seasonal Agricultural Sales

The temporary sale of goods or products associated with the season or a cultural event, such as the sale of Christmas trees, pumpkins, or seasonal produce. Such sales typically take place in locations not devoted to such sales for the remainder of the year.

### Self-Service Storage

A building divided into sections for use for storage of items, either temporary or long-term, and not to be used for any other purpose (such as small offices, garages, etc.).

## Senior Center

A facility typically for use by citizens of 62 years of age, or older, dedicated to the provision of services, activities, or facilitation of interaction between older citizens and the community at large. Such centers may be publicly or privately-owned, but are not operated for a profit.

## Severe Pruning

The pruning, cutting, or otherwise damaging of the natural form of a tree or shrub, whether existing or planted, such that a significant or noticeable portion of the crown system is removed (i.e. 25 percent of the crown removed from a tree, or the continued cutting/trimming of trees previously pruned illegally, or pruning of trees that must grow naturally to meet the landscaping requirements), and/or if more than one-third of the overall circumference of a tree is exposed by pruning cuts.

## Shared Parking

See "Parking, Shared."

## Shoebox-Style Lighting Fixture

An exterior lighting device in the shape of a box that is typically mounted on a pole and constructed to direct illumination to a constrained area directly beneath the lighting fixture.

## Shopping center

A grouping of retail business and service uses with common parking facilities, common ingress/egress. Uses in a shopping center may or may not share signage.

## Shrub

A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

## Sight Triangle

The triangle area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the edge of a driveway), each point being a certain distance from the intersection, and the two intersecting right-of-way lines (or a right-of-way line and driveway). On some occasions, the NC State Department of Transportation or the City may require additional sight zones as deemed necessary to provide adequate safety (see Manual of Specifications, Standards and Design).

## Sign

Any form of publicity directing attention to an individual, business, commodity, service, activity, or product, by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, or other pictorial matter designed to convey such information, and displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or other structures or supports.

## Sign, Above-roof

A sign attached to a building that is displayed above the peak or parapet of the building.

## Sign, Awning

A sign that is printed on or attached to or supported by an awning

## Sign, Banner

A sign that is printed upon fabric, paper, vinyl, or other lightweight material, and meets the definition of "temporary sign," as provided in this section.

## Sign, Billboard

A type of freestanding sign which publicizes and directs attention to a business, profession, commodity, activity, product, service or entertainment not conducted, sold or offered upon the premises where such sign is located.

## Sign, Development Entrance Sign

Sign identifying or advertising a residential subdivision, multi family development, office park, industrial park, shopping center, any building with more than one tenant, or similar development.

## Sign, Flashing

Any sign which contains a light source and maintains the same appearance or copy display for 29 seconds or less. Electronic message boards whose copy display or message does not change more frequently than every 30 seconds shall not be considered flashing.

## Sign, Freestanding

A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a freestanding sign. If the message is removed from a structure that was originally designed and used as a freestanding sign, this structure shall still be considered a sign.

## Sign, Internally Illuminated

Signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source. Without limiting the generality of the foregoing, signs that consist of or contain tubes that:

1. Are filled with neon or some other gas that glows when an electric current passes through it; and
2. Are intended to form or constitute all or part of the message of the sign, rather than merely providing illumination to other parts of the sign that contain the message, shall also be considered internally illuminated signs.

## Sign, Monument

A freestanding sign which stands directly on the ground and where supporting poles or structures and cabinet, if any, are fully enclosed by decorative covers from the top of the sign to the ground.

## Sign, Painted-on-building

A sign that is painted directly upon the wall, roof, or other portion of a building.

## Sign, Portable

A sign that is not permanently attached to the ground, structure or a building that is designed not to be attached to the ground or a building (e.g. such as a mobile sign on wheels).

## Sign, projecting

A sign that projects from a wall or parapet of a building or structure, with the sign face being perpendicular to the building.

## Sign, Roof

A sign which is displayed above the eaves and under the peak.

## Sign, Temporary

A sign that:

1. Is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign; or

2. Is intended to remain on the location where it is erected or placed for a period of not more than 15 days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

## Silviculture

The farming of trees in accordance with the State of North Carolina Forestry Commission requirements.

## Site-Specific Development Plan

A plan submitted as part of an application for approval of a Type I Site Plan, Type II Site Plan, Type III Site Plan, Preliminary Plat, or Special Use Permit that describes, with reasonable certainty, the type and intensity of use for a specific parcel or parcels of property, the approval of which establishes a vested right in accordance with the North Carolina General Statutes. Determination of whether an application for approval of a Type I Site Plan, Type II Site Plan, Type III Site Plan, Preliminary Plat, or Special Use Permit

includes a site specific plan is made by the City Council, following a public hearing, in accordance with Section 2.3.O, *Vested Rights Determination*.

## Site Plan, Type I

A permit for construction reviewed and approved, approved with conditions, or denied by the Technical Review Committee in accordance with Section 2.3.E.4, *Type I Site Plan Procedure*.

## Site Plan, Type II

A permit for construction reviewed and approved, approved with conditions, or denied by the City Council in accordance with Section 2.3.E.5, *Type II Site Plan Procedure*.

## Special Event

A planned, temporary activity.

## Special Use Permit & Site Plan, Type III

A permit for construction reviewed and approved, approved with conditions, or denied by the City Council in accordance with Section 2.3.G, *Special Use Permit & 2.3.E.6*.

## Specialty Eating Establishment

Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to: ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

## Specified Anatomical Areas

1. Less than completely and opaquely covered: (l) human genitals, pubic region, (2) buttock, and (3) female breast below a point immediately above the top of the areola; or
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

## Specified Sexual Activities

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy; or
3. Fondling or other erotic touching of human genitals, pubic region, buttock(s) or female breast(s).

## Square or Plaza

An open space that may encompass an entire block, is located at intersections of important streets, and is set aside for civic purposes, with landscapes consisting of paved walks, lawns, trees, and monuments or public art.

## Stabilization

The installation of vegetative or structural measures to establish a soil cover to reduce soil erosion by stormwater runoff, wind, ice, and gravity.

## Stacking or Standing Area

A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development. Parking or storage of vehicles is not permitted within the stacking/standing area.

## Stadium

See "Arena."

## State

The State of North Carolina.

## Stoop

A platform, without a roof, located at the entrance of a building with sufficient area to facilitate the ingress and egress to the building.

## Storage or Parking of Major Recreational Equipment

Premises used for the storage or parking recreational vehicles, boats and boat trailers, combinations thereof and other similar equipment, and cases and boxes used for transporting recreational equipment, whether occupied by such equipment or not.

## Stormwater Runoff

Direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following the precipitation.

**Street (or Road)**

A public or private right-of-way or easement that is designed, dedicated, or used principally for vehicular traffic, and provides access for abutting properties.

**Street, Alley**

Alleys provide side or rear access to individual parcels that front on a higher order street. They are characterized by narrow right-of-way and travel widths to accommodate passenger vehicles and residential services at slow speeds. Alleys generally connect at both ends to local or collector streets. In some instances, dead end alleys are permissible with a vehicle turnaround at the terminus of the travel way. No permanent parking is allowed.

**Street, Arterial (Principal)**

A road or street of exceptional continuity designed to route traffic traveling on important federal-state highway systems through or around the City. Arterial road systems provide a higher speed, high volume network for travel between two points of interest. The design covers a broad range of roadways, from two lane to multi lane, and is oriented more towards efficient mobility rather than property access.

**Street, Collector**

Collectors serve a dual purpose, collecting traffic for movement between arterial and local streets and providing limited access to abutting properties. These streets not only serve traffic movements between arterials and local streets, but through traffic within local areas. Collector streets are public facilities that are free of gates or other obstructions. Collector streets shall intersect with existing or planned collector or arterial streets. Driveway cuts serving individual property are discourages and shall be minimized. Collector streets include sidewalks on one or both sides or the travel way and often include sidewalks on one or both sides of the travel way and often include bicycle facilities such as bike lanes or off-road multi-use paths.

**Street, Cul-de-Sac**

A short street open at one end that is planned, constructed, and operated for the sole purpose of property access. Cul-de-sacs shall include a turnaround at the closed end of the street to permit reverse direction. In the interest of public service delivery response, the total length of the cul-de-sac shall be minimized (See Manual of Specifications, Standards, and Designs).

**Street, Feeder**

A road or street providing access to arterial streets, primary major streets and/or secondary major streets. A feeder street functions as a connector away from residential and commercial areas with high access towards higher system facilities with efficient mobility rather than property access.

**Street, Local or Minor**

A local service road or street designed primarily for access to abutting properties and connections to higher order systems. Local streets provide access to parcels and may be planned, constructed, and operated for the function of property access and limited through traffic. Traffic volumes are largely shorter trips where local streets connect with major streets or highways of higher classifications.

**Street, Primary Major**

A road or street or highway of considerable continuity, designed primarily as a radial or crosstown traffic artery for inter-communication between various sectors of the City or its metropolitan area.

**Street, Residential**

A local service street designed primarily for access to abutting residential properties.

**Street, Secondary Major**

A road or street serving as a connecting link between two primary major or arterial streets or serving as a part of the system of secondary county roads maintained by the state highway agency.

**Street, Private**

A vehicular way, with a street name approved by the City; maintained by a private entity, individual, corporation, or homeowner's association; properly platted for individual dwelling unit ownership; certified; and recorded with required disclosures in accordance with the standards in this Ordinance.

**Street Jog**

An offset of two or more roads or streets at their intersection where the centerlines of at least two of the street segments are not in alignment with one another on opposing sides of the intersection.

## Street Stub

A nonpermanent dead end road or street intended to be extended in conjunction with development on adjacent lots or sites. Street stubs are dedicated right-of-way that about undeveloped property for the purpose of allowing future access, connectivity, or to logically extend the street system into the surrounding area. All street stubs designated as public or private shall be paved to the property line I order to be counted toward road connectivity requirements. Temporary access bulbs to facilitate adequate turnaround consisting of an all weathered surface may be required. Wings of bulb shall be removed when adjoining land is developed. No gates or obstructions will be permitted. However, adequate signage installed by the developer to warn motorists of dead end shall be required.

## Street Tree

A canopy tree planted or existing within or along either side of a street right-of-way.

## Street Vista

A distant view, especially one seen through an opening, as between rows of buildings or trees, or at the terminus of streets. Examples of buildings that traditionally terminate street vistas are schools, churches, and government buildings.

## Structure

Anything constructed, installed, or portable, the use of which requires a location on the land, or attachment to something having a fixed location on the 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 similar accessory construction.

## Stop Work Order

An order directing a person responsible for a land disturbing activity or other act to cease and desist all or any portion of the activity that violates the provisions of this ordinance.

## Subdivider

Any person, firm, or corporation who subdivides land or develops land deemed to be a subdivision.

## Subdivision

The division of a tract of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, or any division of land involving the dedication of a new street or a change in an existing or proposed street or stress unless the division of land is determined by the Development Services Director to be exempt from this ordinance's subdivision regulations in accordance with Section 2.3.F.4, *Subdivision Exemption*. Where appropriate to the context, "subdivision" may relate to the process of subdividing land or to the land or area subdivided.

## Subdivision, Major

A subdivision that does not quality as a Minor Subdivision.

## Subdivision, Minor

A subdivision where the tract to be subdivided is ten acres or less in area, no more than five lots would result from the subdivision, and no new public or private streets, right-of-way dedications, or utility extensions are involved.

## Subdivision Exemption

A determination by the Development Services Director that a proposed division of land is not a subdivision subject to the subdivision standards of this ordinance, in accordance with Section 2.3.F.4, *Subdivision Exemption* and the North Carolina General Statutes.

## Substantial Compliance

With respect to public notification, consistency with the major requirements pertaining to the group of persons subject to notification, the timing of notification, and the primary facts related to the hearing or decision.

## Substantial Damage

Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement." Substantial damage

also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

### Substantial Reconstruction

Major repairs to a fence or a wall, including repair or replacement of foundations, supporting posts, or structural members.

### Sweepstakes Establishment

Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games, including but not limited to sweepstakes and video poker, and/or where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This use does not include any lottery approved by the State of North Carolina.

### Swimming Pool

An above- or below-ground structure that is filled with water and used for swimming.

## T. -

### Tattoo Parlor/Piercing Establishment

A commercial use involving the marking of skin of persons with a design by a process of pricking or ingraining an indelible pigment or by raising scars, or similar method.

### Taxicab Operation

An establishment engaged in the provision of taxi services to members of the general public. Such uses may also include vehicle storage and on-site minor repairs.

### Technical Review Committee

A group of City staff and other agency officials who serve as the Technical Review Committee for the City of Jacksonville, North Carolina.

### Telecommunications Antenna, Collocation

Any structure or device used for the purpose of collecting and/or transmitting electromagnetic waves for commercial purposes, where two or more different telecommunication service providers place communication antennas and/or other communications equipment on a common antenna-supporting structure (building, tower, or other stationary device).

### Telecommunications Tower, Freestanding

Any tower or antenna structure and its appurtenances erected on the ground and used primarily for the support of communication antennas used by commercial, governmental, or other public or quasi-public users. The term includes microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the FCC.

### Temporary Use

A use of limited duration that is discontinued upon the expiration of a set time period and does not involve the construction or alteration of any permanent building or structure.

### Text Amendment

An amendment to the language of this ordinance approved, approved with conditions, or denied by the City Council in accordance with Section 2.3.B, *Rezoning or Text Amendment*.

### Theater

A building, or part thereof, which contains an assembly hall with or without stage which may be equipped with curtains and permanent stage scenery or mechanical equipment adaptable to the showing of plays, operas, motion pictures, performances, spectacles, and similar forms of entertainment.

### Thoroughfare

See Street, Arterial

**Tire Disposal or Recycling**

A facility that disposes of or recycles waste tires or waste tire residuals.

**Topping**

The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree.

**Tool Repair**

An establishment that repairs tools for compensation.

**Traditional Neighborhood Development**

A form of development that encourages mixed-use, compact development with integrated land uses centered on public spaces, and a strong emphasis on pedestrian orientation.

**Tree, Deciduous**

A tree that drops its foliage annually before becoming dormant.

**Tree, Evergreen**

A tree with foliage that is not dropped, or that remains green throughout the year.

**Tree, Shade**

See "Canopy Tree."

**Tree, Small**

See "Understory Tree."

**Tree, Street**

See "Street Tree."

**Tree, Ornamental**

See "Understory Tree."

**Travel Lanes**

Portions of a public or private street intended solely for the movement of vehicles, not parking or standing.

**Truck and Trailer Rental/Sales**

An establishment where new or used trucks are displayed for sale, lease, or rental.

**Truck or Freight Terminal**

A use where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

**Turning Radius**

The arc of a public or private street where it intersects with another street.

## U. -

**Understory Tree**

A tree that has an expected height at maturity of no greater than 30 feet.

**Unified Development Ordinance**

This ordinance, the officially adopted Unified Development Ordinance of the City of Jacksonville, North Carolina.

**Use**

The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

**Utility, Major**

Infrastructure services providing regional or community-wide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, and electrical substations.

### Utility, Minor

Infrastructure services that need to be located in or near the neighborhood or Use Type where the service is provided. Examples of Minor Utilities include water and sewage pump stations, storm water retention and detention facilities, telephone exchanges, and surface transportation stops such as bus stops and park-and-ride facilities.

## V. -

### Variance

The allowance of a deviation from one or more dimensional standards of this ordinance upon a demonstration that, because of special circumstances or conditions peculiar to the land and beyond the landowner's control, the literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. Applications for variances are reviewed and approved, approved with conditions, or denied by the Board of Adjustment in accordance with Section 2.3.K, *Variance*.

### Vegetation

All plant growth, including trees, shrubs, mosses, and grasses.

### Vegetation, Native

Any indigenous tree, shrub, ground cover or other plant adapted to the soil, climatic, and hydrographic conditions occurring on the site.

### Vehicle or Property Maintenance Facility

Accessory buildings or other structures used for storage of materials or equipment necessary for the day-to-day operations of a principal use. Such facilities may also include a limited area for actual maintenance activities such as cleaning, repair, or assembly.

### Vehicle Storage

The retention of one or more vehicles either within a structure or in the open for a 24-hour period or longer.

### Vehicular use area

The portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes, and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.

### Vehicular Use Area Drive Aisle

A vehicular accessway located within an off-street parking or vehicular use area which serves individual parking stalls and driveways.

### Vested Right

The right to undertake and complete a development or use of property under the terms and conditions of a Vested Rights Determination, or as otherwise allowed by law.

### Vested Rights Determination

A determination by the City Council that a development application includes a site specific development plan establishing a statutory vested right, in accordance with Section 2.3.O, *Vested Rights Determination*.

### Veterinary Clinic

A facility for the care and treatment of animals, including household pets and larger domesticated animals. Such facilities may be entirely indoors or may have both indoor and outdoor components.

### Vocational or Trade School

A specialized instructional school operating for or not for profit that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair.

## W. -

### Wall, Parapet

A low protective or decorative wall or railing along the edge of a raised structure such as a roof or balcony.

**Warehouse (Distribution)**

A use engaged in distribution of manufactured products, supplies, and equipment.

**Warehouse (Storage)**

A use engaged in storage of manufactured products, supplies, and equipment excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

**Warranty**

Cash escrow, letter of credit, or other security provided by an applicant during the warranty period for infrastructure site feature before acceptance of public facility by the City.

**Waste Composting**

Uses where solid wastes are composted using composting technology. Accessory uses may include offices and repackaging and transshipment of by-products.

**Waste Receptacle**

Waste and recycling receptacles capable of holding eight or more cubic yards of material.

**Water Surface Elevation (WSE)**

The height, in relation to mean sea level (existing grade in case of Zone AO), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Watercourse**

A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Wholesale Establishment**

Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers. Wholesale establishment does not include contractor's materials or office or retail sales of business supplies/office equipment.

**Works of Art**

Aesthetic objects that do not advertise merchandise, a product or a service or draw attention to a particular merchandise, product or service.

**Workshop**

An accessory use, typically associated with residential uses, established for the purposes of construction or assembly of housewares, furniture, electronics, toys, or similar features.

## Z. -

**Zoning Permit**

A permit authorizing the various activities which are approved, approved with conditions, or denied by the Development Services Director in accordance with Section 2.3.H, *Zoning Permit*.