



Kenly

UNIFIED DEVELOPMENT
ORDINANCE



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Chapter 1 - General Provisions

SECTION 1-100 ENACTMENT PREAMBLE

This is an ordinance to establish comprehensive zoning regulations for the Town of Kenly, North Carolina, and provide for the administration, enforcement, and amendment thereof, and to repeal ordinances in conflict herewith, in accordance with the North Carolina General Statutes. Therefore, be it and the same is hereby enacted by the people of the Town of Kenly, North Carolina:

SECTION 1-101 TITLE

The title of these regulations shall be “The Unified Development Ordinance of the Town of Kenly, North Carolina” and may be referred to as the “UDO” or “this Ordinance”.

SECTION 1-102 AUTHORITY

1-102-1 General Authority

This ordinance is adopted under the authority granted by the General Assembly of North Carolina under the General Statutes (GS), Article 19, Chapter 160D and other relevant laws of the State of North Carolina.

1-102-2 Reference to North Carolina General Statutes

When this Ordinance refers to a section of the General Statutes that is later amended or superseded, this Ordinance shall be deemed to refer to the amended section or the section that most nearly corresponds to the superseded section.

SECTION 1-103 PURPOSE AND INTENT

The purpose of this Ordinance is to protect the public health, safety, and general welfare of citizens and landowners of Kenly, and to implement the policies of the Comprehensive Plan. The intent of this Ordinance is more specifically:

- (A) To accomplish a coordinated, balanced, and harmonious development of land within the planning jurisdiction of the Town of Kenly in a manner that will best promote the health, safety, morals, convenience, order, prosperity, and general welfare of the people;
- (B) To provide for efficiency and economy in the process of development;
- (C) To make adequate provisions for traffic;
- (D) To secure safety from fire, panic, and other hazards;
- (E) To provide for light and air;
- (F) To prevent the overcrowding of land;
- (G) To avoid undue concentration of population;
- (H) To facilitate the provision of adequate transportation, water, sewerage, schools, parks, and other public facilities;
- (I) To promote desirable living conditions and the sustained stability of

neighborhoods;

(J) To protect property against blight and depreciation.

SECTION 1-104 APPLICABILITY AND JURISDICTION

1-104- 1 Jurisdiction

Unless exempted by a specific provision of this Ordinance, these regulations shall apply to lands and structures within the planning jurisdiction of the Town of Kenly, which includes its municipal boundary and its duly adopted extraterritorial jurisdiction (ETJ).

1-104- 2 Compliance with This Ordinance

No land or structure shall be used or occupied, and no part of a structure shall be constructed, erected, altered, or moved except in conformance with these regulations. No change of use shall be established except in compliance with the standards of this Ordinance.

1-104- 3 Bona Fide Farm Exemption

A bona fide farm located within the ETJ shall be exempted from these regulations as provided in North Carolina General Statutes (NCGS)160D-903 until such time it ceases to be used for bona fide farm purposes.

SECTION 1-105 CONFLICTS WITH OTHER LAWS

1-105- 1 Conflicts with Other Town Codes

If the provisions of this Ordinance are inconsistent with one another or conflict with other Town regulations, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

1-105- 2 Conflicts with State or Federal Law

If the provisions of this Ordinance are inconsistent with state or federal law, the more restrictive provision shall control to the extent permitted by state or federal law.

1-105- 3 Conflicts with Private Agreements

The existence of private easements, covenants, or restrictions less stringent than the UDO does not excuse development from compliance with the Ordinance. The Town shall not be responsible for monitoring or enforcing private covenants and restrictions, although the Town may inquire as to whether land is subject to covenants and restrictions.

1-105- 4 Existing Agreements or Vested Rights

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

SECTION 1-106 TRANSITIONAL PROVISIONS

- 1-106- 1 Effective Date
The effective date of this Ordinance is December 9, 2024 as adopted by the Kenly Town Council. On the effective date, all uses, structures, and establishments of lots must comply with this Ordinance.
- 1-106- 2 Repeal
This Ordinance, upon the effective date, shall repeal the Kenly Zoning Ordinance (as amended).
- 1-106- 3 Violations to Continue
A violation of the previous Zoning Ordinance shall continue to be a violation until resolved unless such violation now complies with this Ordinance.
- 1-106- 4 Review of Pending Applications
- (A) Pending Applications
Applications submitted prior to the adoption of this Ordinance shall be reviewed and decided in accordance with the standards and procedures in effect when it was accepted pursuant to state law.
 - (B) Withdrawal of Application
Applicants who wish to proceed under the standards of this Ordinance shall withdraw their application and submit a new application in accordance with the standards in this Ordinance.
- 1-106- 5 Approved Permits
Permits approved before this Ordinance was adopted shall remain valid until their expiration date. Re- application for an expired permit must comply with this Ordinance.
- 1-106- 6 Approved Conditional or Special Use Permits
Conditional or Special Use Permits approved prior to the effective date of this Ordinance shall continue to be subject to the terms of the approved permit, even if the use is permitted by right under this Ordinance.
- 1-106- 7 Vested Rights
- (A) Statutory Vesting
Pursuant to NCGS 160D-108 and 160D-108.1 and notwithstanding other provisions of this Ordinance, a property owner shall be entitled to develop land in accordance with a site-specific development plan approved pursuant to UDO Section 2-104-1.
 - (B) Phased Development
When a phased development is involved, common law vesting applies only to that phase of the project in which development has started at the time of the ordinance change unless expenditures cannot be allocated by phases. The remaining phase not under construction may apply for statutory vesting under

a Site-specific Development Plan.

(C) Effects of a Vested Right

Except as permitted under state law, no amendment shall be applicable or enforceable without the consent of the owner on property where a vested right is legally established.

SECTION 1-107 STATUTES OF LIMITATIONS

Pursuant to NCGS 160D-1405, a cause of action as to the validity of this Ordinance or amendment thereto, shall accrue upon adoption and shall be brought within 1 year from the time that the party filing such action gain standing to challenge the ordinance or subsequent amendment. A challenge on the basis of an alleged defect in the adoption process shall be brought within three years after the date of adoption.

SECTION 1-108 SEVERABILITY

If any part of this Ordinance is declared invalid by a court of competent jurisdiction in the State of North Carolina, the remaining parts shall remain valid and in full effect.

SECTION 1-109 REVOCATION OF APPROVALS

A development application or zoning permit may be revoked if false statements and misrepresentation were made in securing the approval; work associated with an approved permit is a substantial departure from the standards of the UDO and the approved permit, or a permit was mistakenly approved in violation of the UDO. A written notice of revocation shall be provided to the applicant.

Chapter 2 - Applications & Authority

SECTION 2-100 PURPOSE

The purpose of this Article is to define the role and authority of Town boards and officials to administer the provisions of the UDO consistent with State law. In addition, it establishes procedures for filing, reviewing, and deciding zoning requests. The intent is to protect individual rights of due process to fair and timely decisions while ensuring that the use and development of land conform to Town standards.

SECTION 2-101 ADMINISTRATIVE AUTHORITY

2-101- 1 Town Council

The Town Council is established in accordance with the Town Charter with the following Authority:

- (A) Specific Authority
 - (1) To hear and decide zoning amendments.
 - (2) To hear and decide Site-Specific Development Plans.
 - (3) To act as the Board of Adjustment.
- (B) Schedule of Fees

To adopt a resolution annually as part of the Town's budget update which sets a schedule of fees for reviewing zoning applications.
- (C) Other Actions

To take any other action that the Town Council deems desirable and necessary to implement the UDO and the Comprehensive Plan.

2-101- 2 Planning Board

The Planning Board is established in accordance with the Town Charter with the following Authority:

- (A) Specific Authority
 - (1) To advise on zoning text amendments and map amendments (Rezoning).
 - (2) To advise on Site-Specific Development Plans
- (B) Other Powers and Duties

To carry out other powers and duties delegated by the Town Council consistent with State law.
- (C) Planning Staff

The Town Manager or designee shall serve as the staff liaison and provide administrative support to the Planning Board.
- (D) Membership

Membership of the Planning Board is described in Section 32.16 of the Town Charter.

2-101- 3 Board of Adjustment

The Board of Adjustment is hereby established in accordance with NCGS 160D-302 with the following authority, composition, and administration:

(A) Specific Authority

- (1) To hear and decide applications for variances to the UDO.
- (2) To hear and decide administrative appeals.
- (3) To hear and decide Special Use Applications.
- (4) To hear and decide Subdivision waiver applications.

(B) Other Powers and Duties

The Board of Adjustment shall carry out any other powers and duties delegated by the Town Council.

(C) Membership

- (1) The Town Council shall serve as the Board of Adjustment.
- (2) The term of office for the Board of Adjustment shall be consistent with the Town Council's election schedule and follow each members term.
- (3) The composition of the Board of Adjustment shall be consistent with NCGS 160D-302 (a).

(D) Officers

- (1) The Board of Adjustment shall elect a Chair, Vice Chair, and Secretary from its members on an annual basis.
- (2) In the absence of the Chair and Vice Chair, the Board of Adjustment shall vote to determine who shall chair the meeting.

(E) Meetings and Hearings

- (1) The Board of Adjustment shall meet when necessary unless no business is pending before the board.
- (2) The Secretary shall keep detailed minutes of proceedings, which shall contain relevant testimony, evidence, transactions, findings and determinations; votes, abstentions and attendance of members. The Secretary may the Town Manager or designee to prepare minutes. Minutes shall be signed by the Secretary and Chair and shall be a public record.

(F) Quorum

Attendance by a majority of membership of the Board of Adjustment (four members) shall constitute a quorum. No official business shall be conducted without a quorum.

(G) Necessary Vote

The concurring vote of four-fifths of qualified members of the Board of

Adjustment is required to approve a variance request. All other matters shall be approved by the affirmative vote of a simple majority. Vacant positions on the board and members disqualified from voting shall not be considered when calculating the requisite majority. No member shall be disqualified from voting except as provided under NCGS 160D-109(d).

(H) Rules of Proceedings

The Board of Adjustment may adopt other rules to govern its organization and proceedings that do not conflict with the UDO.

(I) Right to Judicial Appeal

Any person who has standing under NCGS 160D-1402(c) may file a judicial appeal with the Johnston County Superior Court.

2-101- 4 Town Manager

(A) Administration of the UDO

The Town Manager or designee shall administer the UDO including the authority described below.

(B) Specific Authority

(1) To review and decide applications for the following:

- (a) Zoning Permits.
- (b) Temporary Use Permits.
- (c) Sign Permits.
- (d) Certificate of Compliance.

(2) To enforce the UDO.

(3) To hire outside professionals as needed to review applications. The costs of which shall be paid by the applicant when required.

(C) Other Powers and Duties

(1) To establish application forms and content requirements.

(2) To establish a submission schedule for review of applications and appeals.

(3) To advise decision-making bodies through staff reports.

(4) To maintain the Official Zoning Map and related materials.

(5) To maintain a record of applications and approvals on file and make copies available upon request.

(D) Notice of Decisions

The Town Manager or designee shall provide written notice of all decisions or recommendations to the applicant, the subject property owner (if different); and others entitled to receive notice in accordance with State law and the UDO.

SECTION 2-102 ZONING APPLICATIONS

2-102- 1 Zoning Permits

A Zoning Permit is required to verify that a proposed use and development will comply with the UDO before any development activity subject to these regulations can begin on a lot. Authority to file shall be as stated for each specific application or request. No application is required for requests initiated by the Town Council.

(A) Purpose and Applicability

The following are subject to a zoning application to be reviewed and approved administratively:

- (1) Individual single-family residential units;
- (2) Additions or modifications to individual single -family residential lots;
- (3) Two-family residential units;
- (4) Parking lot expansions where there is no increase in excess of five percent of floor area of the principal structure;
- (5) Amenity facilities, and park and open area uses in approved subdivisions;
- (6) Non-residential or multifamily buildings, structures, or additions with a gross floor area of 3,000 square feet or less;
- (7) Expansion of a conforming structure by no more than 5% of the gross floor area or number of units; or
- (8) Sign Permits

(B) Applications

All Zoning Permit applications shall be filed with the Town Manager or designee on a form approved by the Town. Applications shall include a site plan sufficient details to show substantial compliance with all applicable zoning regulations and shall include the following:

- (1) Setbacks
- (2) Location and floor area of structures
- (3) Easements
- (4) Lot area
- (5) Lot width & length
- (6) Elevations of structures
- (7) Height of structures

(C) Administrative Review and Decision

Applications shall be reviewed and decided by the Town Manager or designee. The Town Manager or designee shall approve the permit upon finding that the application and plans show compliance with the zoning regulations applicable

to the proposed use and lot and any quasi-judicial approval.

(D) Effective Date

A Zoning Permit shall be effective for 12 months from the date issued. During the effective period, the applicant may apply for a Building Permit or Certificate of Compliance as applicable. Approval of a Zoning Permit does not guarantee approval of any other licenses or permits (local, state, or federal) required to develop and establish the approved use. The applicant shall prominently post a copy of the permit on the subject property and shall verify such posting with the Town Manager or designee.

(E) Administrative Appeal

Appeals shall be filed pursuant to UDO Section 2-114.

2-102- 2 Zoning Permit for Temporary Use

(A) Application Authority

Applications shall be filed by the operator of the temporary use and with the written consent of the property owner.

(B) Administrative Review and Decision

Applications for a Zoning Permit for temporary uses shall be reviewed and decided by the Town Manager or designee. A Zoning Permit shall be issued upon finding that the applicant has demonstrated compliance with the standards applicable to the proposed temporary use.

(C) Effective Date

The effective date of approval shall begin on the date the permit is issued and for the duration specified on the permit. The effective date shall not extend beyond the period allowed for the specified temporary use. The applicant shall post a copy of the permit on the site subject to the permit and shall verify posting with the Town Manager or designee.

(D) Amendments or Modifications

Modifications to a permit for a temporary use shall be approved under the same procedures used for the original application.

SECTION 2-103 CERTIFICATE OF COMPLIANCE

(A) Purpose and Applicability

A Certificate of Compliance is required to verify that the development and use authorized under a Zoning Permit complies with the terms and conditions of all site specific plans and any quasi-judicial approvals. A Certificate of Compliance serves as a final check on a development's compliance with the requirements of the UDO.

- (B) Application Procedures
Applications shall be filed in conjunction with the Zoning Permit application. No building, structure, or land shall be occupied and no use shall begin until a Certificate of Compliance is issued by the Town Manager or designee.
- (C) Administrative Review and Decision
The Town Manager or designee shall conduct a final inspection of the site upon notice from the applicant that the activities required to occupy the building or lot and establish the use are complete. The Town Manager or designee shall issue the certificate upon finding that the proposed use and development complies substantially with the approved permit.
Administrative appeals shall be filed pursuant to UDO Section 2-114.
Issuance of a Certificate of Compliance does not preclude responsibilities to obtain any other regulatory licenses and approvals.

SECTION 2-104 SITE SPECIFIC DEVELOPMENT PLAN

2-104- 1 Site Specific Development Plans

- (A) Purpose and Applicability
A Site Specific Development Plan is required to verify that the development, the standards, and the use meet the requirements of the UDO.
- (B) Minor Site Development Plan
The minor site development plan review process is required for single-family homes and non-residential or multifamily buildings, structures, or developments with a gross floor area of 3,000 square feet or less for sites located within the planning and regulation jurisdiction of the Town of Kenly. Minor site plans are subject to the following process and are reviewed and approved administratively by the Town Manager or designee:
 - (1) Conceptual Site Plan Required.
A conceptual site plan shall be required for all minor site development plan review requests. The conceptual site plan shall contain the following:
 - (a) Property boundaries;
 - (b) Parcel ID number;
 - (c) Location of adjacent streets and utility easements;
 - (d) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated;
 - (e) Location of existing and proposed driveways and/or streets;
 - (f) Number of stories and overall height of all structures (existing and proposed);
 - (g) Other information determined by the Town Manager or designee as

necessary to evaluate the request.

- (2) Submittal of fees, as established by the Town of Kenly
- (3) Submittal of Application

(C) Major Site Development Plan

The major site development plan review process is required for development projects located within the planning and regulation jurisdiction of the Town of Kenly. This review process is established to assure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the Town as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the major site development plan review process.

- (D) New construction and changes of use.
- (E) Non-residential or multifamily buildings, structures, or developments with a gross floor area of more than 3,000 square feet.
- (F) Site Plan Submittal
- (G) Conceptual Site Plan Required.

A conceptual site plan shall be required for all major site development plan review requests. The conceptual Site Plan shall contain the following:

- (h) Property boundaries with dimensions;
- (i) Parcel ID number;
- (j) Location of adjacent streets and utility easements;
- (k) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated;
- (l) Location and number of parking spaces;
- (m) Location and size of buffer and landscape areas;
- (n) Location of existing and proposed driveways and/or streets;
- (o) Location of all flood zones (if applicable to the property);
- (p) A list of adjoining properties, names and mailing address of the owners, and the zoning and use of these properties;
- (q) Number of stories and overall height of all structures (existing and proposed);
- (r) Location of proposed storm water detention facilities, if required under the Neuse River Rules;
- (s) Location of existing and proposed dumpster and recycling containers;
- (t) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other

water bodies, steep slopes, areas covered by tree canopy, etc.;

(u) Common sign plan (if applicable); and

(v) Other information determined by the Town Manager or designee as necessary to evaluate the request.

(H) Preparation by Professional

Site Plans for developments requiring major site development plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the specified work.

(I) Fees

Fees as established by the Town of Kenly shall be due and payable upon submittal of the application for major site plan review.

(J) Submittal of Application

Complete applications for major site development plan review, with the required copies of the conceptual Site Plans, shall be submitted to the Town Manager or designee at least twenty-five (25) days prior to the Planning Board meeting at which they will be presented.

(K) Public Notification

The Town Manager or designee shall prepare a public notice as described herein below which indicates the Planning Board hearing of a development project. This will serve to encourage public involvement in development projects in Kenly. This notice for publication shall include the following:

(L) Brief description of the major site development project proposed;

(M) The time, date, and place at which the project will be available for public review; and

(N) Contact information for staff receiving comments concerning the proposed major site development project.

The notice shall be posted in a conspicuous place at Town Hall, on the Town's website, or a combination of these two, at least fifteen days prior to the date the complete application will be presented as part of an informational meeting before the Planning Board.

(O) Site Plan Review Procedures

(P) Review by Town Manager

Plans for development requiring major site development plan review shall be reviewed by the Town Manager or designee for compliance with the requirements of this chapter prior to submittal to the Planning Board and Town Council.

(Q) Planning Board Recommendation

The Town Manager or designee shall present Site Plans for developments requiring major site development plan review to members of the Planning Board for review and comment at their next available regular meeting. The Planning Board shall review the Site Plans for compliance with the

requirements of the UDO and other applicable Ordinances and laws. This review shall include submitted comments by any other agencies or officials as required.

(R) Town Council Decision

Comments and recommendations from the Planning Board shall be forwarded to the Town Council and scheduled for their decision.

(S) Permit Validity

Approval of Site Plans and permits for developments requiring major site development plan review shall be valid for one (1) year from the date of approval. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the site development plan approval void. The applicant may request a single extension of this period of up to one year from the Town Council upon submittal by the applicant of sufficient justification for the extension.

(T) Violations

Violations of the approved site development plan shall be considered a violation of the UDO and subject to the enforcement and penalty provisions of the Town's Code of Ordinances.

(U) Application Fees

Applications fees shall be set by resolution of the Town Council to defray the cost of processing an application. A schedule of fees shall be maintained by the Town Manager or designee. No application fees shall be required for zoning requests initiated by the Town.

(V) Findings of Completeness

- (1) The Town Manager or Designee shall accept an application as complete when: (1) It is submitted on the properly executed form; (2) It contains the required information and documentation; and (3) it is accompanied by the appropriate fees. Applications must be complete to initiate the review process.
- (2) If an application is incomplete, the Town Manager or designee shall send a written notice of deficiencies to the applicant within 5 working days of submittal.

2-104-4 Official Record

The record shall consist of the application and associated testimony, exhibits, advisory and technical reports, meeting minutes, written findings and decisions, and vote of reviewing bodies. The official record shall be available for public review upon request. The Town Manager or designee may charge a reasonable fee to cover associated costs of transcription or duplication.

2-104-5 Establishment of a Statutory Vested Right

- (A) A vested right shall be established upon approval of a site specific development plan. An application for site specific development plan can

be submitted on the following approvals.

- (1) Special Use Application
 - (2) Zoning Permit
 - (3) Preliminary Plat
 - (4) Minor Subdivision Final Plat
- (B) Applications shall be filed with the written consent of the property owner. The application shall include a written statement that specifies that a vested right is being requested pursuant to this section. Applications shall be reviewed at a quasi-judicial hearing pursuant to UDO Section 2-113. Notice of hearing shall be provided as set forth under UDO Section 2-112 .
- (C) Standards for Approval
The Town Council may approve a site-specific development plan upon such terms and conditions as may reasonably be needed to protect the public health, safety, and welfare. A site-specific development plan shall be approved with a simple-majority vote of the Town Council.
- (D) Duration:
- (1) A zoning vested right shall be vested for 2 years after the effective date of an amendment that would adversely affect an applicant's right to develop the property as approved in the site development plan. The duration may be extended if specified in the motion to approve the plan. In no case shall the vested period exceed 5 years.
 - (2) An approved site-specific development plan shall contain the following notation: "Approval of this site specific development plan establishes a vested right under NCGS 160D-108.1. Unless terminated at an earlier date, the vested right shall be valid for 2 years [or as approved by Town] after the date of approval."
- (E) During the vesting period, the landowner shall retain the right to undertake and complete the development and to use said property under the terms and conditions of approval and subject to the provisions of NCGS 160D-108.1.
- (F) Any development requiring construction, re-construction, or improvement of a driveway, street, road, or highway shall comply with the latest version of the North Carolina Dept. of Transportation Policy on Street and Driveway Access to North Carolina Highways manual.

2-104-6

Common Sign Plan

- (A) Applicability
- (1) Except as listed below, the owners or developers of 2 or more contiguous lots, or any multi-tenant site shall submit a common signage plan for approval as part of the site plan application. Other applicants may voluntarily submit a common signage plan in accordance with the standards of this section. Such developments may increase the amount of signage otherwise permitted by a maximum amount of 25% subsequent to approval of the common

- signage plan.
- (2) Applications for temporary sign permits shall not be required to submit an approved common signage plan.
- (B) Application Requirements
- (1) When the signs in a multi-tenant site or two or more contiguous lots are proposed, a sign application package shall be submitted to include sign materials, colors, illumination, dimensions and locations.
 - (2) Where an application for site plan review is also required, the common signage plan shall be submitted concurrently with the site plan.
- (C) Action by Town Manager
- (W) Following completion of the technical review, the Town Manager or designee shall approve the common signage plan provided the plan meets all requirements of this section.
- (D) Compliance
- (1) It shall be the responsibility of the applicant and/or property owner to enforce the terms of the common signage plan, and a current copy of such plan, including any amendments, must be kept on file in the Planning Department.
 - (2) If any new or amended common signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within 3 years, all signs not conforming to the proposed amended plan or to the requirements of this chapter in effect on the date of submission.
 - (3) After approval of a common signage plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provisions of this chapter. In case of any conflict between the provisions of such a plan and any other provision of this chapter, this chapter shall control.
- (E) Appeal
- Final action on a common signage plan may be appealed to the Board of Adjustment in accordance with UDO Section 2-114.

SECTION 2-105 SPECIAL USE APPLICATIONS

- (A) Purpose and Applicability
- Special Uses are uses that may be permitted in a particular zoning district provided that special standards, safeguards, and procedures are in place to ensure compatibility with adjacent uses. Therefore, these uses require individual quasi-judicial review and approval by the Board of Adjustment.

This section shall apply to all applications for Special Uses.

- (B) **Application Authority**
An application for a Special Use shall be filed with the written consent of the property owner.
- (C) **Quasi-judicial Hearing Required**
After notice is given pursuant to UDO Section 2-112, a quasi-judicial hearing shall be held pursuant to UDO Section 2-113. Additionally, the required mailed notice shall be sent to owners of property within a 500-foot radius of subject parcel boundary lines.
- (D) **Voting**
The affirmative vote of a simple majority of qualified board members is required to approve a Special Use Application. Reasonable and appropriate conditions may be imposed to ensure compliance with the UDO or mitigate adverse impacts on the site and adjacent properties. Conditions for approval, if any, shall be specified in the motion and on the permit.
- (E) **Required Findings**
An application for a Special Use Application shall be approved if the Board of Adjustment finds that each of the following are met:
 - (1) The proposed use and development comply with applicable regulations of the UDO.
 - (2) The proposed use and improvements are compatible with the character of the surrounding area and the capacity of neighboring lands to develop as permitted in the applicable zoning district.
 - (3) The proposed use will have minimal adverse impact on surrounding land with regard to service delivery, traffic circulation, aesthetics, odor, noise, glare, and vibration.
 - (4) The proposed use will not deteriorate or otherwise adversely impact water, air, scenic, and other natural resources.
 - (5) The proposed use will maintain safe ingress and egress to the site.
 - (6) The proposed use will be served by adequate road and infrastructure to support development of the site.
 - (7) The proposed use will protect property values and preserve public safety and welfare of the surrounding area and community at-large.
 - (8) The proposed use complies with other applicable town, state, and federal laws regulating development of land within the Town's jurisdiction.
- (F) **Effective Date and Extensions**
 - (1) A Special Use Permit shall expire within 12 months from the effective date (date of permit issuance) unless a completed application for a Zoning Permit is filed by the applicant and approved by the Town.

- (2) At least 30 days before the expiration date, the applicant may file a written request to extend the effective period. The request shall state the reason for the extension and the proposed duration. Such a request shall be reviewed as a modification to the original permit. Lapse of time from the expiration period shall be suspended while the final decision is pending.
- (G) Modifications to a Special Use Application
A request to modify a Special Use Application shall be reviewed as a new application.
- (H) Judicial Appeal
Judicial appeals shall be filed pursuant to UDO Section 2-107-7.

SECTION 2-106 VARIANCE

- (A) Purpose and Applicability
The Town may allow certain deviations from standards of the UDO when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions or the length, depth, acreage, or 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 exercised sparingly and only in rare instances and under exceptional circumstances to relieve undue hardships to the landowner. No change in permitted uses or increase in maximum allowable development intensity may be authorized by a variance.
- (B) Application Authority
Applications for a variance shall be filed with the written consent of the property owner.
- (C) Quasi-Judicial Hearing and Notice
The Board of Adjustment shall hold a quasi-judicial hearing pursuant to UDO Section 2-113. Notice of the hearing shall be provided as set forth in UDO Section 2-112.
- (D) Voting
The affirmative vote of a four-fifths majority of qualified members of the Board of Adjustment shall be required to grant a variance. In granting a variance, the Board of Adjustment may attach safeguards and conditions as is necessary, appropriate, and reasonably related to the circumstances that gave rise to the need for the variance.
- (E) Required Findings
The Board of Adjustment shall grant a variance upon finding each of the following:
 - (1) An unnecessary hardship will result from the strict application of the UDO.

- (a) The hardship results from site conditions (length, depth, acreage, shape, or topography) peculiar to the lot and not from personal circumstances of the applicant and is not financial in nature; and
 - (b) The hardship did not result from the actions taken by the applicant or property owner.
- (2) The variance is consistent with the spirit, purpose, and intent of the UDO such that public safety is secured and substantial justice is achieved.
 - (a) The variance will have minimal adverse effect on surrounding property values, the use and enjoyment of property in the neighborhood or district, or on public improvements;
 - (b) The variance is the minimum needed to adequately mitigate the hardship; and
 - (c) The variance will not allow a use that is not permitted under the applicable zoning and use regulations, extend or enlarge a nonconformance, or otherwise effectively change the zoning of the property.
- (F) **Effective Date**
 A variance shall become effective as provided under UDO Section 2-106. A variance shall allow the applicant to secure a permit consistent with the approved application. A variance approved as a condition of a quasi-judicial permit shall not take effect until a Zoning Permit is issued.
- (G) **Judicial Appeal**
 Judicial appeals shall be filed pursuant to UDO Section 2-107-7

SECTION 2-107 ZONING TEXT OR MAP AMENDMENT

- (A) **Purpose and Applicability**
 Amendments to the text of the UDO and the Official Zoning Map shall be adopted consistent with Article 6 of NCGS 160D and in accordance with this Section.
- (B) **Application Authority**
 A text amendment may be initiated by motion of the Town Council, Planning Board, Board of Adjustment, or member of the public. A map amendment (rezoning) may be initiated by motion of the Town Council, Planning Board, or by application filed with the written consent of the affected property owner.

2-107- 1 Planning Board Advisory Review

- (A) The Planning Board shall advise and comment on whether the proposed amendment is consistent with the adopted Comprehensive Plan and approve a statement that addresses plan consistency and other matters deemed appropriate. The Board shall provide its written recommendation

and statement of plan consistency to the Town Council.

- (B) When initiated by application, the proposed amendment shall be referred to the Planning Board at its first regular meeting held at least 10 days after an application is filed and accepted for review. If a written recommendation is not received within 30 days after referral, the Town Council may consider the amendment without the written recommendation.
- (C) A member shall be disqualified from voting on a recommendation to amend the UDO where the outcome on the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on that member.

2-107-2 Legislative Hearing and Notice Requirements

- (A) Before the Town Council can adopt a zoning amendment, it shall first hold a public hearing to solicit public input pursuant to the Council's rules of procedure. Notice of hearing shall be provided pursuant to UDO Section 2-112. Additionally, the required mailed notice for map amendments shall be sent to the owner of adjacent parcels within a 500-foot radius of the entire boundary of the affected parcel.
- (B) Pursuant to NCGS 160D-601(d), third-party down zoning applications are prohibited and shall not be heard by the Town Council.

2-107-3 Decision of the Town Council

- (A) After close of the public hearing, the Town Council may decide on the proposed amendment as follows:
 - (1) For a Map Amendment, the Council may vote to approve, deny, or defer the request.
 - (2) For a Text Amendment, the Council may vote to approve, deny or defer the request.
- (B) Voting and Conflicts
 - (1) The affirmative vote of a simple majority of the Town Council shall be required to approve a zoning amendment.
 - (2) Vacant seats and disqualified members of the Council shall not count towards the calculation of the requisite majority. A member shall be disqualified from voting on a zoning amendment where the outcome on the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

2-107-4 Considerations for Approval

- (A) When deciding on an amendment, the Town Council shall approve a statement describing whether its action is consistent with an adopted Comprehensive Plan and briefly explain why the action taken is reasonable and in the public interest pursuant to NCGS 160D-605(a).
- (B) In making a determination of plan consistency and reasonableness, the

Board shall be guided by the following principles:

- (1) The proposed amendment is consistent with the purposes stated in the UDO, or with the adopted goals and objectives or the future land use map of the Comprehensive Plan.
- (2) The potential impacts of the proposed amendment are compatible with existing and permissible uses surrounding the subject land.
- (3) Conditions in the general area of the proposed rezoning have changed since the property was last rezoned to an extent that would warrant an amendment.
- (4) The proposed amendment will not permit development that will adversely impact the natural environment and traffic patterns in the area, nor may it result in development that is inadequately served by public services and infrastructure.
- (5) The proposed amendment is consistent with a community goal or need identified in the Comprehensive Plan or other relevant plans.

2-107-5 Citizen Comments

Any resident or property owner in the Town may submit a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance or the Official Zoning Map to the Clerk at least two business days prior to the proposed vote on such change. The Clerk shall deliver such written statements to the Town Council.

2-107-6 Resubmission

No application for rezoning shall be considered for property that was a part of the same or a similar rezoning request within the previous 12 months.

2-107-7 Judicial Appeal

Appeal of the Town Council's decision may be filed with the Clerk of the county's Superior Court. Appeal of an ordinance to adopt a text amendment shall be filed within 1 year from the date that the aggrieved party first has standing to appeal. Appeal of an ordinance to adopt a map amendment shall be filed within 2 months from the date of adoption.

SECTION 2-108 MINOR SUBDIVISION

(A) Purpose and Applicability

- (1) The procedure for approval of a minor subdivision plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review. A minor subdivision shall be a tract or parcel of land in single ownership, shall be subject to NCGS160D-802, and shall meet the following:

- (a) The tract or parcel to be divided is not exempted under UDO Section 2-109 of this chapter.
- (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (c) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (d) After division, no more than three lots result from the division.
- (e) After division, all resultant lots comply with all of the following:
 - i. All lot dimension size requirements of the applicable land-use regulations, if any.
 - ii. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - iii. A permanent means of ingress and egress is recorded for each lot.

- (2) Subdivision that does not meet the requirements of (1), above, may be submitted and reviewed as a major subdivision.

(B) Application Requirements

All applications for minor plat review shall be submitted in accordance with this Chapter and §160D-802 of the North Carolina General Statutes.

(C) Action by Town Manager

- (1) Upon submission of a completed application, the Town Manager or designee shall review the plat for consistency with the requirements of this chapter. The Town Manager or designee shall determine whether the plat conforms to the standards of a minor subdivision.
- (2) If the minor subdivision plat is determined not to be in conformance with the requirements for a minor subdivision, the applicant may proceed with preliminary plat approval.

(D) Action Following Approval

Upon minor preliminary plat approval, the applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this chapter, and other applicable regulations of the Town, Johnston or Wilson County, and the state. The final plat may be recorded in the County Record of Deeds.

(E) Continuing Validity of Minor Subdivision Plats

Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

(F) Minor Plat Approval Criteria

Minor subdivision plats shall be approved only when the Town Manager or designee finds that all of the following conditions exist:

- (1) The plat is consistent with the adopted plans and policies of the Town;
- (2) The plat complies with the standards of UDO Section 7-102 and any other applicable requirements of this chapter;
- (3) The plat indicates that all subject lots will have frontage on existing approved streets;
- (4) New or residual parcels conform to the requirements of this chapter and other applicable regulations;
- (5) No new streets are required or are likely to be required for access to interior property;
- (6) No drainage or utility easements will be required to serve interior property;
- (7) No extension of public sewerage or water lines will be required;
- (8) The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property; and
- (9) No waivers from UDO Section 7-102 have been requested.

SECTION 2-109 PRELIMINARY PLAT APPROVAL (MAJOR SUBDIVISIONS ONLY)

(A) Purpose and Applicability

A preliminary plat shall be required for all subdivisions that do not meet the definition of a minor subdivision as set forth in this chapter. Subdivision regulations shall be applicable to all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this section:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed UDO subdivision standards.
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NC General Statutes.

(B) Application Requirements

- (1) All applications for preliminary plat review shall be submitted in accordance with UDO Section 2-109.
- (2) A traffic impact analysis may be required if the proposed subdivision meets the thresholds established in UDO Section 2-111.
- (3) An application for a waiver from any of the provisions of UDO Section 7-102 shall be submitted in writing by the applicant at the time the preliminary plat is filed. The application shall state the grounds for the waiver and all the facts relied upon by the applicant.
- (4) Notice and public hearings. The Town shall hold all required public hearings and give notice in accordance with UDO Section 2-112.

(C) Actions

- (1) Upon submission of a completed application, the Town Manager or designee shall review the preliminary plat for consistency with the requirements of this chapter.
- (2) The Town Manager or designee will determine the reviewer of the preliminary plat. The following agencies may be given an opportunity to review the proposed plat as needed:
 - (a) County Superintendent of Schools;
 - (b) County Health Department;
 - (c) State Department of Transportation District Engineer;
 - (d) State Department of Natural Resources and Community Development; and
 - (e) Other agencies and officials as the Town Manager or designee may deem necessary or desirable.
- (3) Once the preliminary plat has been administratively reviewed, the application will be scheduled for the following meetings:
 - (a) Planning Board for a recommendation
 - (b) Town Council for approval, denial, or a request for additional information.

SECTION 2-110 FINAL PLAT REVIEW (MAJOR AND MINOR SUBDIVISIONS)

(A) Purpose and Applicability

A final plat shall be required for all subdivision of land in the Town of Kenly and its extraterritorial jurisdiction.

(B) Application Requirements

All applications for final plat review shall be submitted.

- (1) Upon submission of a completed application, the Town Manager or

- designee shall review within 60 days.
- (2) Upon completion of the technical review and determination that the application is compliant with the UDO, the Town Manager or designee shall schedule the final plat for the next available Planning Board meeting.
 - (3) The Planning Board may approve the final plat, deny the final plat, or send the plat back for additional information.
 - (4) If the final plat is disapproved by the Planning Board, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply.
- (C) Final Plat Approval Criteria
- Final plats shall be approved when the following conditions exist:
- (1) Consistency with the adopted plans and of policies of the town.
 - (2) The plat substantially complies with the approved minor plat or preliminary plat, as applicable.
 - (3) The plat complies with the applicable requirements of this chapter;
 - (4) New and residual parcels will conform to the requirements of this chapter and other applicable regulations;
 - (5) All necessary right-of-way has been offered for reservation or dedication; and
 - (6) All necessary drainage easements have been provided.
- (D) Endorsements on Final Plats
- (1) Minor Plats
All minor subdivision final plats shall contain the following certificates:
 - (a) Certificate of Ownership;
 - (b) Certificate of Survey and Accuracy;
 - (c) Certificate of Approval by the Town Manager or designee; and
 - (d) County Plat Review Officer's Certificate.
 - (2) Major Plats
All major subdivision final plats shall contain the following certificates:
 - (a) Certificate of Ownership and Dedication;
 - (b) Certificate of Survey and Accuracy;
 - (c) Certificate of Approval of Water Supply and Sewage and Disposal Systems (County);
 - (d) Certificate of Approval of the Design and Installation of Streets, Utilities, and other Required Improvements;
 - (e) Certificate of Approval by the Town Manager, as applicable; and
 - (f) Johnston County Plat Review Officer's Certificate.
 - (3) All final plats located outside the corporate limits of the Town, but within the planning jurisdiction, shall contain the following certificates:
 - (a) NCDOT Engineer Certificate; and
 - (b) Certificate of Approval of Non-Municipal Water Supply and Sewage Disposal Systems.
 - (4) When required by the federal government, all final plats shall contain a certificate for a federally funded project.
- (E) Action After Approval
- (1) The applicant shall file the approved final plat with the County Register of Deeds for recording within 60 days after the date of approval. The Town

Manager or designee, upon receipt of a written request, may extend this date an additional 30 days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this chapter.

- (2) The approval of a final plat shall not be deemed to constitute or affect the acceptance or affect the acceptance by the town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance or dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the town shall not place on the town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

SECTION 2-111 TRAFFIC IMPACT ANALYSIS

- (A) Purpose and Applicability.
 - (1) A traffic impact analysis may be required to be submitted in conjunction with an application for a preliminary plat, major site plan, or special use permit.
 - (2) Unless exempted in (B) below, a traffic impact analysis shall be required for projects which can be anticipated to generate at least 100 vehicle trips at peak hour from the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
- (B) Exemptions
The following projects shall not be required to submit a traffic impact analysis:
 - (1) Developments approved prior to the effective date of this chapter that have valid preliminary plats, major site plans or special use permits.
 - (2) Redevelopment of any site on which the additional traffic at peak hour represents an increase of less than 100 trips from the previous development, where the redevelopment is initiated within 12 months of the completion of demolition of the previous project.
 - (3) Minor site plans.
- (C) Waiver Authorized
 - (1) The Town Manager or designee may waive the requirement to submit a traffic impact analysis.
 - (2) An applicant who obtains a waiver under this section must mitigate adverse effects of the traffic generated from a proposed development.
 - (3) The traffic generated from a proposed development for which the requirement to submit a traffic impact was waived may not:
 - (a) In combination with existing traffic, exceed the desirable operating level established in Section G below; or

(b) Endanger the public safety.

(D) Application Requirements

A traffic impact analysis prepared by a professional engineer licensed in the State of North Carolina shall be submitted. The traffic impact analysis must conform with the requirements of this section. The traffic impact analysis report must describe the study methodology, the data used, and the study findings and provide recommendations based on the results.

(E) Definition of Impact Area

The Town Manager or designee shall determine the geographic area to be included in a traffic impact analysis. Identification of the points of access and key streets and intersections to be affected by development of the subject parcel shall be required. Traffic recorder and turning movement assessment locations may also have to be determined. The study area shall not extend beyond the point where the project traffic at build-out is less than 10% of the capacity of the roadway or intersection.

(F) Consultants

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

- (1) The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
- (2) The applicant shall provide an amount equal to the cost estimate to the Town, which shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest. If the estimated or actual cost increases during the review from the town's initial cost estimate, the applicant immediately shall provide an amount equal to the increased cost to the Town, which the Town shall deposit in the escrow or special account. The final approval of any application requiring a traffic impact analysis by the town shall be contingent upon the full payment of all consultant costs incurred for the analysis.
- (3) The Town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

(G) Desirable Operating Levels for Certain Streets

Traffic on a residential local or collector street is operating at a desirable level if it does not exceed the following levels:

Pavement Width

Vehicles Per Day

Less than 30 feet	1,200
30 feet to less than 40 feet	1,800
40 feet or wider	4,000

(H) Action on application.

- (1) The Town Manager or designee may deny an application if the results of a traffic impact analysis demonstrate that a proposed development may overburden the Town's street system.
- (2) The Town Manager or designee shall deny an application if the traffic impact analysis demonstrates that:
 - (a) The projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in UDO Section 211, Subsection G above in the traffic impact analysis study area; or
 - (b) The project endangers the public safety.

(I) Application Modification Based on Traffic Analysis

An applicant may modify an application to minimize the traffic-related effects identified in a traffic impact analysis. Modifications may include:

- (1) Design or operational changes that reduce the projected vehicle trips per day;
- (2) The dedication of additional right-of-way;
- (3) The rerouting of traffic and a proposed access and egress point;
- (4) Participation in the funding of a traffic signal or intersection improvement; and
- (5) Other modification determined to be necessary.

(J) Appeals

- (1) An applicant may appeal the Town Manager or designee's denial per UDO Section 2-114.
- (2) The Town Council may approve the traffic impact analysis if:
 - (a) Applicant has satisfactorily mitigated adverse traffic effects; or
 - (b) Additional traffic from the project has an insignificant effect on the Town's streets.

(K) Period of Validity

A traffic impact analysis shall be valid for a specific site for no more than 10 years, so long as no significant modifications to the development approved for the site are made.

SECTION 2-112 REVIEW AND PUBLIC HEARINGS

(A) Review Requirements and Hearings

The decision-making and recommending authorities shall review each zoning request for compliance with the UDO before taking final action. When a public hearing is required, the date of the hearing shall allow reasonable time for the reviewing authorities to receive needed advisory reports and give reasonable notice to affected parties. Table 2-1, below, summarizes the types of review required for each type of zoning decision.

Table 2-1: Review Required for Zoning Decisions

Zoning Decisions	Town Council	Planning Board	Board of Adjustment	Town Manager or Designee
Text Amendments	L	R		
Map Amendments	L	R		
Special Use Permits			Q	
Variance Request			Q	
Administrative Appeal			Q	
Site-Specific Plan	L	R		
Zoning Permit				A
Certificate of Compliance				A
Subdivision Waivers			Q	
Major Plats – Preliminary	L	R		
Major Plats – Final		L		
Minor Plats				A
L=Legislative Review Q=Quasi-judicial Review A=Administrative Review R=Recommendation				

(B) Notice of Hearings**(1) Minimum Notice Summary**

The minimum notice required for zoning hearings are set forth in the Table 2-2, below:

Table 2-2: Notice Required for Quasi-Judicial and Legislative Hearings

Application Type	Published	Mailed	Posted
Text Amendments	X		
Map Amendments	X	X	X
Special Use Permits		X	X
Variance Request		X	X
Administrative Appeal		X	X
Site-Specific Development Plan & Plats			X
Subdivision Waivers	X		

(2) Contents of Notice

In addition to the requirements of NCGS 160D-601, the required notice shall provide sufficient information to alert interested parties of the date, time, and location of the hearing; the location of the subject property, which may include a map; the nature of the decision being considered; how interested parties can give input or take action; and how to obtain more information on the subject matter.

(3) Published Notice

When a published notice is required, it shall appear once a week for two consecutive calendar weeks in a newspaper with general circulation in the area where the subject property is located. The notice shall be published the first time not less than 10 days nor more than 25 days before the date

scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(4) Mailed Notice

When a mailed notice is required, it shall be sent by first class certified mail with return receipt requested to the applicant and the subject property owner (if not the applicant). Mailed notice must be deposited at least 10 but not more than 25 days before the date of the hearing. The day notice was mailed shall not be counted but the day of the hearing shall be counted. In the absence of evidence to the contrary, the Town may rely on the latest Johnston County tax listing to determine the name and address of property owners entitled to notice. At the hearing, the person who sent the notice shall certify that the notice was mailed as required, which shall be deemed conclusive in the absence of fraud.

(5) Notice for Large-scale Rezoning

If a proposed map amendment directly affects more than 50 properties owned by at least 50 different owners, the Town may give an expanded published notice in place of the required mailed notice to property owners who reside in the general circulation area of the publishing newspaper. In such cases, the advertisement shall be at least one-half of a newspaper page and shall include the information described under paragraph (2) above. Property owners who reside outside of the newspaper circulation area shall be sent a mailed notice pursuant to paragraph (4) above.

(6) Posted Notice

When a posted notice is required, the applicant shall place a waterproof sign at a point on the site legible from the nearest street or streets on which the property fronts. When multiple parcels are affected, a posting on individual parcels is not required, but shall be in sufficient areas to provide reasonable notice to interested persons. The sign shall be posted during the period allotted to send the mailed notice and remain until the date of the hearing. The applicant shall certify to the Town Manager or designee that the sign was posted as required.

SECTION 2-113 QUASI-JUDICIAL REVIEW AND DECISIONS

This section shall apply to all quasi-judicial decisions.

(A) Quasi-judicial Hearings

(1) Hearing

Before making a final decision on a quasi-judicial request, the decision-making body shall hold an evidentiary hearing. The applicant, or his or her attorney representing the applicant, must be present at this hearing. Affected persons may present evidence and cross-examine witnesses pursuant to the rules of the reviewing body. Witnesses shall testify under oath administered by the chair or clerk of the reviewing body. The presiding officer may subpoena witnesses and compel the production of evidence; and may exclude evidence that is immaterial or unduly

repetitious. Evidence shall be part of the official hearing record.

(2) Continuance

The decision-making body may continue a hearing to allow sufficient time to gather additional evidence as needed to make a finding and final decision.

(B) Quasi-judicial Decisions

(1) Decisions

After close of the hearing, the decision-making board shall make a finding on the contested facts and vote on a final decision. Findings shall be based on competent, material, and substantial evidence in the hearing record. Each decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the findings required for zoning approval. The written decision shall be signed by the chair or other authorized member of the board and filed with the Town Manager or designee.

(2) Voting

Quasi-judicial decisions shall be made by a majority vote of qualified members of the decision-making board, however variance decisions shall be made by a four-fifths majority vote of the Board of Adjustment. For purposes of voting, vacant positions and disqualified members shall not be considered as members of the board when calculating the requisite majority if no qualified alternates are available to take the place of such members. In all other cases, failure to vote by a member without an impermissible conflict shall be recorded as an affirmative vote.

(3) Conflict

A member shall not participate in or vote on a quasi-judicial matter in a manner that would violate affected parties right to an impartial decision-maker. Impermissible conflicts include having: (i) a fixed opinion prior to the hearing that is not susceptible to change, (ii) an undisclosed ex parte communication, (iii) a close familial, business, or other associational relationship with an affected person, or (iv) a financial interest in the outcome of the matter. If an objection is made to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(4) Notice of Decision

Within 10 business days following the effective date of the decision, the Town Manager or designee shall send by personal delivery, electronic mail, or first class certified mail with return receipt requested, a notice of the findings and decision to the applicant, the subject property owner (if the property owner is not the applicant) and each person who has filed a written request for notice with the Town Manager or designee before the effective date of the decision.

(5) Judicial Appeal

Any person with standing may file a petition for appeal with the Clerk of Superior Court pursuant to NCGS160D-1402(c). The property owner or

applicant shall have 30 days after receipt of the written notice of decision to file a petition. Any other person with standing shall have 30 days after receipt of any actual or constructive notice of the decision to file an appeal. When first-class mail is used to deliver the notice, three days shall be added to the time to file the petition.

SECTION 2-114 ADMINISTRATIVE APPEAL

- (A) Purpose and Authority
The Board of Adjustment shall hear and decide appeals of any final or binding determination of the Town Manager or designee charged with the enforcement of the UDO or any development regulation pursuant to State law and this section.
- (B) Application Authority (Notice of Appeal)
 - (1) Any person, including Town Council or any Town board or official, with standing as defined by State law may file a Notice of Appeal. The property owner shall have 30 days from receipt of written notice of decision to file an appeal. Any other person with standing shall have 30 days from receipt of any constructive notice of the decision to file an appeal. Constructive notice may include the landowner posting a sign containing the words “Zoning Decision” and meeting the specifications of NCGS 160D-403(b). The landowner shall certify such posting with the Town Manager or designee.
 - (2) The notice shall identify the applicant, state the grounds for the appeal, cite the relevant section of the UDO to be considered, and describe how the action taken is in error. Upon receipt of a Notice of Appeal, the administrative official who made the decision shall transmit all administrative records related to the appeal to the Board of Adjustment. A copy of the record must also be provided to the appellant and landowner, if different from the applicant.
- (C) Stay of Proceedings
An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies that, because of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property or that because the violation is transitory in nature, a stay would seriously interfere with the effective enforcement of the UDO. In that case, proceedings shall not be stayed except by a restraining order granted by the reviewing body or a court, issued on application of the party seeking the stay, for due cause shown, with copy of notice to the officer from whom the appeal is taken.
- (D) Quasi-Judicial Hearing Required
After giving the required notice as set forth in this chapter, the Board of Adjustment shall hold a quasi-judicial hearing. If any party or the Town would be unduly prejudiced by presentation of matters not presented in the Notice of Appeal, the Board of Adjustment shall continue the hearing.

(E) Required Findings and Voting

In order to reverse or modify a contested decision or determination of an administrative official, the Board of Adjustment must find that said official erred in the interpretation or application of the UDO. The affirmative vote of a simple majority of the members of the Board of Adjustment is required to reverse or modify an administrative decision.

(F) Judicial Appeal

Judicial appeals shall be filed pursuant to UDO Section 2-107-7.

Chapter 3 – District Regulations

SECTION 3-103 ZONING DISTRICT REGULATIONS

3-103- 1 Application

The provisions of this section shall apply to uses, lands, and structures within the residential and nonresidential zoning districts established in this Section.

3-103- 2 Zoning District Purpose

- (A) R-20/AR | Single-Family Residential-20/Agriculture. This district is comprised of low- density, single family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture.
- (B) R-11 | Single-Family Residential-11. Established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density which include multifamily dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.
- (C) R-6MH | Manufactured Home Residential – 6. The purpose of this district is to accommodate planned manufactured housing developments and to allow for other selected uses which are compatible with the intended single-family residential character of this district.
- (D) O-I | Office-Institutional. Intended to permit offices, institutions and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and instructional uses should be located along major roadways, adjacent to commercial uses to act as a buffer between such roadways and residential uses.
- (E) B-1 | Central-Business. Intended to foster a vibrant, safe, town center by encouraging residential development while retaining and further developing a broad range of commercial, office, institutional, public, cultural and entertainment uses and activities. The district is intended to define and promote the town center as a desirable place to live, work and recreate.
- (F) B-2 | Neighborhood-Business. Provides for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive and conducted at a scale and

density compatible with the surrounding neighborhood. There is a relatively low demand on public services, transportation and utilities.

- (G) B-3 | Highway-Business. Provides locations of offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares and, therefore, accessible to and serve the entire community. Site design and buffering mitigate impacts of traffic, operations and scale on adjacent businesses and residential neighborhoods.
- (H) I-1 | Industrial-Light. Promotes the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries, that by their nature, may create some nuisance to surrounding properties.
- (I) I-2 | Industrial-Heavy. Promotes the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.
- (J) CF | Community Facilities. Intended for locations at which facilities are provided to serve public purposes. Such purposes include government facilities and offices, community centers, parks, and farmers markets.

3-103- 3 Table of Permitted Uses

- (A) Land and structures in the zoning districts established in this section shall be used as permitted in the following table of permitted uses, and pursuant to the standards and procedures established in this Ordinance.
- (B) Explanation of Table of Permitted Uses Structure:
 - (1) **Permitted Uses:** The letter “P” denotes a use that requires a Zoning Permit but does not require a public hearing.
 - (2) **Special Uses:** The letter “S” denotes a use that requires a Special Use (SUP).
 - (3) **Reference:** Indicates a use that is subject to additional requirements applicable to the specific use (see Article 4, Specific Use Standards).

(4) Uses Not Listed:

- (a) If the Town Manager or designee finds that a proposed use is not listed, the applicant may appeal to the Board of Adjustment pursuant to UDO Section 2-114. A determination on whether the proposed use is substantially similar to a listed use shall be based on such criteria as the nature of the use, aesthetics, traffic generated, potential impact on property values, and other objectionable impacts on public health and safety.
- (b) If an unlisted use is found to be substantially similar to a listed use, the proposed use shall comply with the standards that apply to the similar use. If the proposed use is not substantially similar to a listed use, the applicant may request an appropriate amendment pursuant to UDO Section 2-107.

(5) Table of Permitted Uses:

	R-20 / AR	R-11	R6- MH	CF	O-1	B-1	B-2	B-3	I-1	I-2	Reference
Residential Uses											
Single-family	P	P									
Duplex		P									4-101(13)
Townhouse		S			S	S					4-101(34)
Multifamily		S			S	S					4-101(25)
Upper-story residential		S			P	P	P				
Manufactured home	S		S								4-101(22)
Manufactured home park	S										4-101(23)
Family Care Home (2-6)	P	P									
Non-Residential Uses											
Adult care home (21+ people)					S	S	S				
Adult care home (7 to 20 people)	S	S			S	S	S				
Adult establishment										S	4-101(1)
Agriculture (livestock)	P									P	
Agriculture (sales)	P	P								P	
Amusement center/indoor or outdoor	S					S	S	S	S		4-101(2)

	R-20 / AR	R-11	R6- MH	CF	O-1	B-1	B-2	B-3	I-1	I-2	Reference
Artist studio		P			P	P	P	P			
Auction Sales							S	S			4-101(3)
Bed & Breakfast Inn	P	P			P	P	P				
Billboards								P	P	P	4-101(4)
Carwash							S	S			4-101(6)
Cemetery	P	P						P			4-101(7)
Chicken Coops	A	A	A								
Childcare center	S	S			P	P	P	P			4-101(8)
Church/Religious Institution											4-101(9)
Civic club	S				P	P	P	P			4-101(10)
Club, private						S	S	S			4-101(10)
Coffee shop					P	P	P	P	P		
Community Center	S			P	P	P	P	P			4-101(11)
Construction Trailer	S	S	S		S	S	S	S	S	S	4-101(5)
Contractor											4-101(12)
Crematorium									P	P	
Electric Vehicle Charging Station	S	S	S		S	S	S	S	S	S	4-101(14)
Electric Vehicle Charging, Residential	A	A	A								
Electronic Gaming Operations										S	4-101(15)
Farmers Market				P							
Funeral home					P	P	P	P			
Gas station						P	P	P	P	P	
Government facilities	P	P	P	P	P	P	P	P	P	P	
Hospital					P			P	S		4-101(16)
Hotel, motel					S	S	S	P			4-101(17)
Intensive Livestock Operation	S										4-101(18)
Junkyards									S		4-101(19)
Kennels	S										4-101(20)
Landing strips and runways	S										4-101(21)
Manufacturing, Heavy										P	
Manufacturing, Light							S	S	P	P	4-101(24)
Mini-warehouse (self-storage)								P	P		

	R-20 / AR	R-11	R6- MH	CF	O-1	B-1	B-2	B-3	I-1	I-2	Reference
Museum, library		P			P	P	P	P			
Nursing home	S	S			P		S	P			4-101(26)
Office					P	P	P	P	P		
Open space	P	P			P	P	P	P	P	P	
Personal service						P	P	P			
Place of worship	P	P						P			
Portable storage container	S	S	S								4-103 (3)
Public facilities	P	P		P	P	P	P	P	P	P	
Public park	P	P		P	P	P	P	P	P	P	
Research and development					P			P	P	P	
Restaurant					P	P	P	P	P		
Retail						P	P	P			
RV Park	S		P								4-101(27)
School (public or private)	P	P		P	P			S			4-101(28)
Shooting Range (indoor)									S	S	4-101(29)
Solar farms	S				S	S	S	S	S	S	4-101(30)
Tattoo parlor						S	S	S			4-101(31)
Technical or trade school	S	S			S			P	P	P	4-101(32)
Telecommunication Facilities	S	S	S	S	S	S	S	S	S	S	4-101(33)
Telecommunication Facility, Freestanding	S	S	S	S	S	S	S	S	S	S	4-101(33)
Theater					P	P	P				
Truck Stops								P	P		
Vape Shops								P			
Vehicle body shop						P		P	P	P	
Vehicle repair shop								S	P	P	4-101(35)
Vehicle sales								P	P	P	
Veterinary care	S				S		P	P	P		4-101(36)
Warehouse/freight								S	P	P	4-101(37)
Wholesale operations								S	P	P	4-101(38)
Wind Energy Facility	S			S							4-101(39)
Wireless facility	S	S	S	S	S	S	S	S	S	S	4-101(40)
P = Permitted, S= Special Use, Blank = Not Permitted, A= Accessory											

(A) Accessory Use Table

	R-20 / AR	R-11	R6- MH	CF	O-1	B-1	B-2	B-3	I-1	I-2	Ref.
Ammunition Sales						A	A	A	A	A	
Chicken Coops	A	A	A								
Electric Vehicle Charging, Residential	A	A	A								
Home Occupations	A	A	A								
Outdoor Display Area	A	A	A								
Outdoor Storage	A	A	A								
Shooting Range (indoor accessory to sporting goods store)						A	A	A			4- 101(29)
Solar Power	A	A	A								

SECTION 3-104 MEASUREMENTS AND EXCEPTIONS.

3-104-1 General Requirements & Measurements.

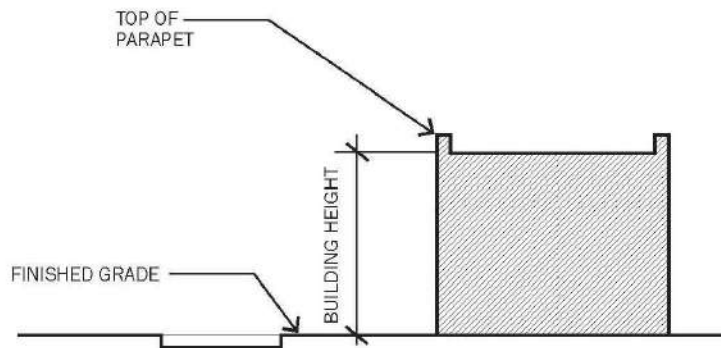
- (A) General. No lot, even though it may consist of 1 or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and building coverage requirements, maximum impervious area, height, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.
- (B) Variances for measurements including lot area, lot width, yard and building requirements, maximum impervious area, and height are allowable subject to UDO Section 2-106.
- (C) Gross floor area. The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings and shall include the following areas:
- (1) The area of each floor of the structure;
 - (2) All attic space used for active commercial space; and
 - (3) All outside storage areas as permitted by UDO Section 4-102
- (D) Lot Area. Lot area shall be measured from interior property line to interior property line of a site.
- (E) Substandard sized residential lots. Residential lots that were existing lots of record prior to the adoption of the UDO can be developed utilizing R11

minimum dimensional requirements. A variance may be requested for reductions in dimensional requirements subject to UDO Section 2-106.

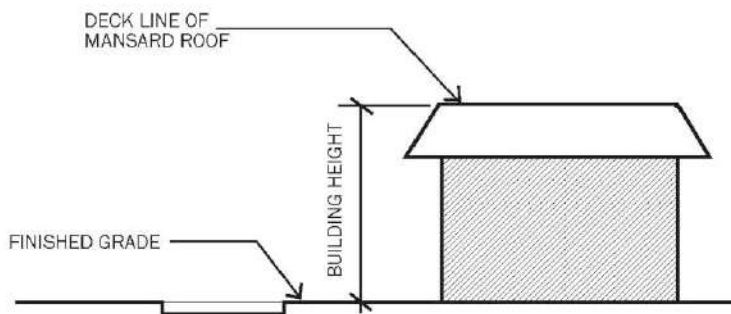
(F) Height. The vertical distance measured from the main level of the finished grade along the front of a building to the highest point of the roof surface of a flat roof, excluding a parapet, to the deck line of a mansard roof, or to the mean height level between eaves and ridge of gable, hip, or gambrel.

(a) For structures such as spires, belfries, cupolas, domes not intended for human occupancy, monuments, water tanks/towers, transmission and telecommunication towers, chimneys, flagpoles, aerials or antennas, or other similar structures which, by design or function, must exceed established height limits of the district in which it is to be located may be approved by the Board of Adjustment during the site development application process.

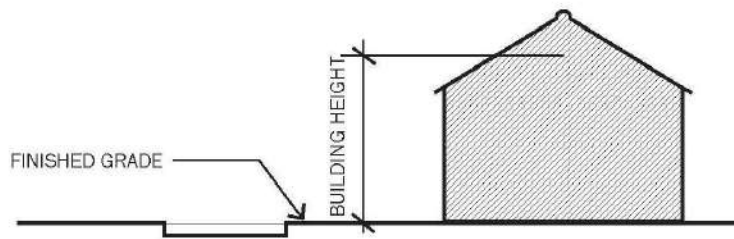
(b) The following graphics describe how height is measured:



Flat Roof

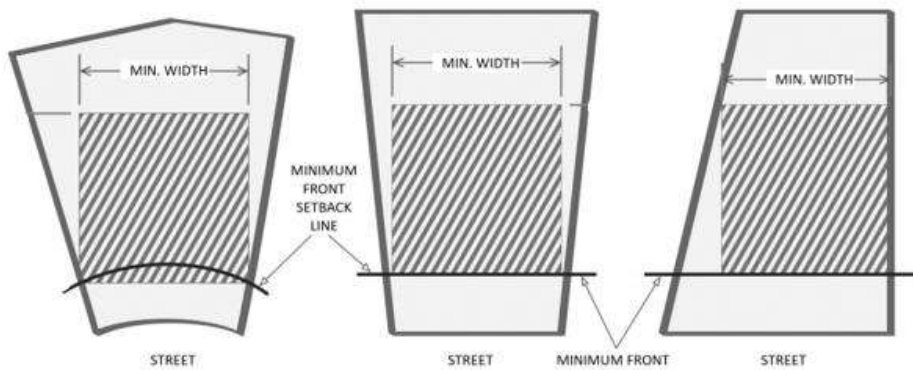


Mansard Roof



Gable, Hip, or Gambrel Roof

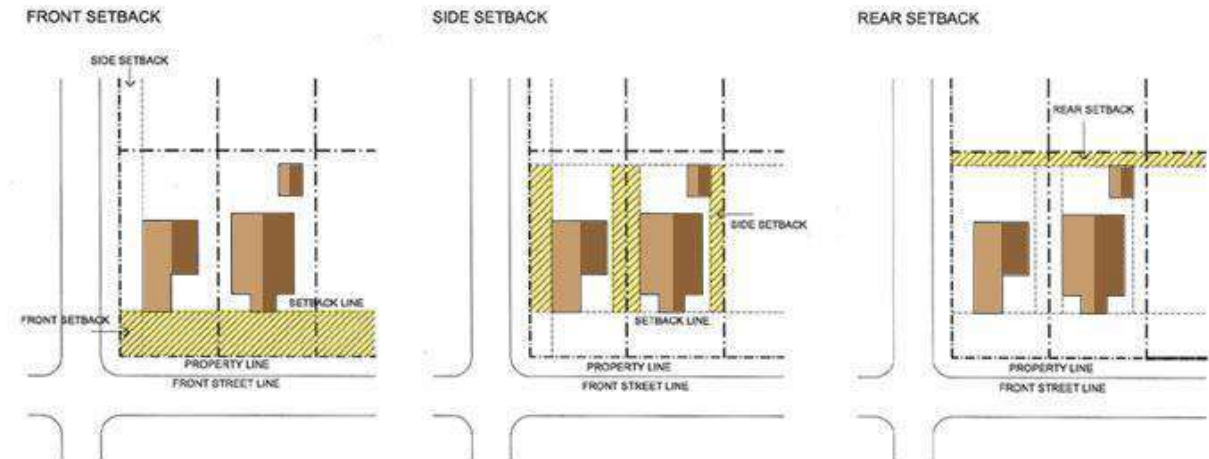
(G) Lot Width. Lot width shall be measured by the distance between the side lot lines measured by drawing a straight line at the front setback line as depicted in the following graphic.



(H) Yards and setbacks.

(1) General.

- (a) All setbacks shall be measured from the property line.
- (b) For residential lots where the average street yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street are less than the minimum required street yard, the street yard on such lots may be less than the required street yard, but not less than the adjacent dwelling with the greatest street yard depth.
- (c) Double frontage lots shall be considered to have two front yards and the front yard setback will be applicable to both yards.
- (d) Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this chapter.



- (2) Yard encroachments. The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:
- (a) Parking structures may extend into the rear yard of a dwelling unit.
 - (b) Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of 4 feet into a required yard, provided such extension is at least 3 feet from the property line.
 - (c) Building eaves or roof overhangs may extend up to 24 inches into a required yard; provided that such extension is at least 3 feet from the property line, its lower edge is at least 7½ feet above the ground elevation, and it is located at least 5 feet from any other building or eave.
 - (d) Sills and ornamental features may project up to 24 inches into any required yard.
 - (e) Signs may extend into required yards in conformance with standards found in UDO Section 5-100-4 (D)(3).
 - (f) Security gates and guard stations may be located within any required yard, but not within a required landscape buffer.
 - (g) Unenclosed patios, decks or terraces may extend up to 4 feet into any required side yard, or up to 8 feet into any required rear yard, provided such extension is at least 3 feet from the property line.
 - (h) Covered porches may encroach a maximum of 20% of the required street yard setback depth, provided that such extension is at least 3 feet from the property line.
 - (i) Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least 4 feet from the property line.
 - (j) Bay windows, entrances, balconies, and similar features that are less than 10 feet wide may extend up to 18 inches into any required yard, but shall remain at least 6 feet from the property line.
 - (k) Structures below and covered by the ground may extend into any required yard.

- (l) Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than 2 feet from the property line.
- (m) Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard and may be no closer than 1 foot from the property line subject to visibility restrictions.
- (n) Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

(I) Density

Density shall be allocated to each development parcel as follows:

- (1) Density shall be calculated by dividing 1 acre of lot area (43,560 square feet) by a dwelling unit.
- (2) Density shall be a gross calculation and shall include all public and private rights-of-ways within the lot area and drainage areas, except as provided below:
 - (a) Fifty percent of the district density shall be calculated for any resource conservation areas.
 - (b) Public or private recreation or amenity areas shall be excluded from the density calculation. Said recreation areas shall be delineated on the site plan and be for active recreation.

(J) Yards and setbacks.

- (1) General.
 - (a) All street yard and side yard (street) setbacks shall be measured from the edge of the right-of-way.
 - (b) The minimum street yard requirements of this chapter for residential dwellings shall not apply on any lot where the average street yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required street yard. In such cases, the street yard on such lots may be less than the required street yard, but not less than the adjacent dwelling with the greatest street yard depth.

(K) Recreation and open space requirements.

- (1) Applicability. Recreation and open space is an integral part of residential subdivisions. The minimum recreation and open space requirement is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

- (2) All residential subdivisions.
- (a) All residential development, except minor subdivisions, shall be required to provide open space within the development, which shall be maintained by a homeowners or property management organization.
 - (b) At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas. The Town Council reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication, in order that the town shall use such payment for the acquisition or development of recreation and open space sites.
 - (c) Location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the town shall be considered in determining whether to accept dedication or payment-in-lieu. The decision shall be made by the Town Council in approval of preliminary subdivision plans or site plan.
 - (d) The recreation and open space shall be improved uses such as playgrounds, trails, plazas, or similar.

3-104- 4 Dimensional Standards

- (A) Lots and buildings shall meet the following dimensional standards.

Table 3-3: Minimum Dimensional Requirements for Lots in Specified Zoning Districts

Use District	Minimum Lot Area	Impervious area	Minimum Lot Width (feet)	Minimum Setback			Maximum Building Height (feet)
				Front Yard(feet)	Side Yard (feet)	RearYard (feet)	
R-20/AR	20,000 sq ft	50%	50	50	20	30	35
R-11	11,000 sq ft Single Family & two-family use 20,000 sq ft Multi-family and Non-residential use	50%	50	30	10 (Interior side) 20 (street side)	25	35
R-6MH	6,000 sq ft	50%	50	25	10 (Interior side) 15 (street side)	10	35

Use District	Minimum Lot Area	Impervious area	Minimum Lot Width (feet)	Minimum Setback			Maximum Building Height (feet)
				Front Yard(feet)	Side Yard (feet)	Rear Yard (feet)	
O-I	6,000 sq ft	70%	50	20	10 (Interior side) 15 (street side)	25	35
B-1	N/A	70%	N/A	0	0	0 25 feet if abutting residential	50
B-2	6,000 sq ft	70%	60	20	10	25	35
B-3	8,000 sq ft	70%	60	25	25	25	60
I-1	20,000 sq ft	70%	100	50	30	40	50
I-2	20,000 sq ft	70%	100	50	30	40	50
CF	No minimum	50%	N/A	0	0	0	60

(B) Lots not on public utilities

Lots with private septic, wells, or other on-site water or sewer shall meet the minimum dimensional requirements of the appropriate permitting authority.

(C) Buffer between residential and nonresidential uses

Except as permitted in a mixed-use development, a minimum 20-foot vegetated buffer shall be maintained between nonresidential uses and the property line of adjacent residentially zoned or used lots.

(D) Setbacks for the R-6MH are relating to the exterior of the mobile home park, not the individual homes. Separation of the homes shall be regulated by the Building and Fire codes.

SECTION 3-105 ACCESSORY STRUCTURES

3-105- 1 Fences and Walls

(A) Placement of Fences and Walls

- (1) Fences shall be at least 2 feet from property lines of the fence owner. Fences may be placed on the property line with the written consent of adjacent property owners.
- (2) Fences shall not impede access to dedicated easements. The Town shall not be responsible for repair or replacements of fences damaged or removed to access and manage easements for their intended purpose. This provision shall not be construed to prevent fencing around storm water retention

or detention facilities required by this Ordinance. It is the responsibility of the property owner should repair or replacement of fences be required.

- (3) No fence shall block or divert natural drainage flow on to or off of another lot.

(B) Height of Fences and Walls

- (1) Fence or wall height shall be measured from the natural grade.
- (2) Fences in residential districts shall not exceed 4 feet in height in the front yard or 6 feet in the side or rear yard.
- (3) Fences in nonresidential districts shall not exceed 6 feet in height in the front yard or 8 feet in height in other yards.
- (4) The combined height of a fence and retaining wall or berms shall not exceed the maximum allowed for a fence or wall alone.

(C) Exemptions

- (1) Fences that are an accessory to a permitted tennis court, athletic field, or other recreational facility are exempted from height restrictions of this subsection.
- (2) Major utilities, government facilities, and other public uses are exempted from these standards as needed to protect public safety.

(D) Appearance of Fences and Walls

- (1) Customary Materials: Fences and walls shall be constructed of customary materials, including solid wood, brick, masonry, stone, wrought iron, decorative metal materials, or products designed to resemble these materials. Where screening and buffering provisions elsewhere in this Ordinance require that specific materials be used, then all other fencing materials are prohibited.
- (2) The more finished side of fences shall face the public right-of-way or adjacent property. If one side has visible support framing and the other does not, then it shall be deemed the less "finished" side and shall be placed away from the public view.
- (3) Fencing along a single side of a lot shall be composed of a uniform material and uniform color.
- (4) Fences and walls shall be maintained in a safe and attractive condition. Fence structures shall be maintained to prevent sagging and weathering of surfaces visible from the public right-of-way. Any missing, deteriorated, or broken structural and decorative elements shall be repaired or replaced. Fences that lean more than 20 degrees from vertical shall be promptly repaired to correct that condition.

(E) Prohibited Fences

- (1) No chain link or metal slat fences shall be permitted within the front yard of residential districts. Where chain link fencing is permitted, it shall be vinyl coated and colored darkgreen, brown, or black.
- (2) Barbed wire fences and above ground electrified fences are prohibited except for agricultural uses, major utilities, government facilities, and for public safety reasons. Underground electric fences for control of domestic animals are permitted.
- (3) Fences made of rolled plastic, sheet metal, plywood, or junk or waste materials are prohibited unless they have been reprocessed to resemble new building materials and marketed as a recyclable product.

3-105-2

Accessory Structures

(A) Location of Accessory Structures:

- (1) Unless stated otherwise in this Ordinance, no accessory structure shall extend beyond the front building line of the principal structure.
- (2) Except for fences and walls, no detached accessory structures shall be placed within 10 feet of another building or 5 feet of a lot line.
- (3) No accessory structure shall locate within an easement or over known utilities.

(B) The height of an accessory structure shall not exceed that of the principal building.

(C) The area of a non-farm accessory structure shall not exceed 40 percent of the total area of the principal building. The total area of all accessory uses or structures shall not exceed 75 percent of the principal use or structure.

Chapter 4 – Special Use, Accessory Use, and Temporary Use Standards

SECTION 4-100 APPLICATION

The standards in this Article shall apply to the specific principle, accessory, and temporary uses listed under each section. These standards are in addition to other standards applicable to the district in which the uses are located.

SECTION 4-101 SPECIAL USE STANDARDS

Principal uses shall be permitted subject to the provisions of this section.

(1) Adult Establishment

- (A) No adult establishment shall be located within 1,000 feet of a church, public or private school, child day care center, residential district, residential development, public park, or an establishment with an on premise North Carolina ABC license;
- (B) There shall be no more than one adult establishment on the same lot or property or in the same building, structure, or portion thereof;
- (C) No other principal or accessory use may occupy the same building, structure, property, or portion thereof as an adult establishment.

(2) Amusement center/indoor or outdoor

- (A) Any outdoor recreation and amusement activities must be accessory to an indoor facility sited on the same property;
- (B) Identification, directional, and warning type signs are allowed to be mounted to rides and structures provided that they are designed to be for the benefit of pedestrians, internal to the site, and specific to the amusement.
- (C) Outdoor structures shall not exceed 100 feet in height, and any outdoor structures shall have a fall zone equal to or greater than the height of the structure;
- (D) The property shall be a minimum of 5 acres in size;

(3) Auction Sales

- (A) Outdoor auction sales will be located no closer than 100 feet to a dwelling. If the proposed use is indoors, this provision shall not apply.
- (B) Adequate sanitary facilities, utility, drainage, refuse management and similar necessary facilities and services will be available to serve employees, patrons or participants.
- (C) Plans for security and safety are provided.
- (D) Hours of operation shall be between 8 am and 8 pm.
- (E) The site shall be cleared of all debris within 24 hours of the end of the event and cleared of all temporary structures within seven days after closing of the event.
- (F) The design and installation of all practicable temporary traffic control devices including signage to minimize traffic congestion.

(4) Billboards

- (A) All billboards must meet the requirements laid out in UDO Section 5-100-4.

(5) Bulk Storage of Oil, Gasoline, and Other Flammable Materials

- (A) The minimum front, rear, and side yards setbacks shall be 50 feet.
- (B) Storage areas shall be enclosed by a fence 6 feet in height.
- (C) The perimeter of the yard shall be planted in evergreen shrubs at least 6 feet in height to act as a buffer.
- (D) Tanks and other storage facilities shall meet the requirements of the National Fire Protection Association and the Environmental Protection Agency (EPA).

(6) Carwash

- (A) Refers to a full-service car wash, not an automatic car wash. An automatic car wash shall be considered an accessory use to an automotive service station use when it is located on the same lot, and shall be governed by the use and property development regulations applicable to the service station use; and
- (B) A full-service car wash shall ensure all bays for cleaning vehicles shall be a minimum of 100 feet from a residential zoning district.
- (C) No outdoor speaker or public address systems which are audible offsite shall be permitted.

(7) Cemetery

Cemeteries shall be screened from adjacent residential lots by a fence at least 6 feet in height and buffered by at least a 20-foot wide landscaped strip.

(8) Childcare Center

Childcare facilities shall be licensed by the State of North Carolina prior to beginning operation. Documentation verifying compliance with all applicable childcare health, safety and sanitation rules shall be provided.

A childcare center operated out of a home shall be considered a Home Occupation. Because of the recurring traffic that is generated, a daycare home must obtain a Special Use Permit. A childcare home shall comply with the following:

- (A) The owner shall possess a license from the appropriate State licensing authority (NC Division of Child Development).
- (B) The applicant shall comply with applicable State health, safety, and sanitation rules for childcare centers.
- (C) Noise shall not consistently reach a level where it may be considered a public nuisance.
- (D) When deemed necessary for the health and safety of the children, the Town may require fencing or screening of the outdoor play areas. Fences must extend from the ground to a minimum height of 4 feet.
- (E) A sign installed for the childcare center shall comply with the sign regulations for Home Occupations.

(9) Church/Religious Institutions

- (A) Off-street parking shall be prohibited within 20 feet of adjacent residential lot

lines.

- (B) The site shall have primary access from a major road.

(10) Civic club or private club

- (A) The minimum lot area shall be 1 acre.
- (B) The minimum front, side, and rear yard setbacks shall be 50 feet.
- (C) Food, refreshments, or entertainment shall be provided to only club members and their guests only as long as it will not constitute a nuisance.

(11) Community Center

- (A) Common recreation areas, such as a clubhouse, swimming pool, and/or tennis, volleyball, or basketball courts, shall be oriented internally or along major roadways, and away from residential development on neighboring properties. All such facilities shall be visible from and have substantial access to a street.

(12) Contractor

Where permitted, shall comply with UDO Section 4-102-4(Outdoor Storage Areas).

(13) Duplex

- (A) Mechanical equipment rooms, air conditioning units or cooling towers, swimming pools, water filtration systems, children's play areas and sporting facilities shall not be placed within 50 feet of adjacent land used or anticipated to be used for single-family residential.
- (B) Where an improved and maintained alley is provided, all vehicular access shall be taken from the alley.
- (C) A maximum of two driveways shall be allowed and shall be perpendicular to the right of way.

(14) Electric Vehicle Charging Station

- (A) Cords shall be retractable or have a place to hang the connector and cord sufficiently above the pedestrian surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- (B) Battery charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted.
- (C) Except when located in conjunction with single-family residences, electric vehicle charging stations shall be reserved for parking and charging of electric vehicles only.
- (D) Each electric vehicle charging station shall be posted with signage indicating the space is only for electric vehicle charging purposes.

(15) Electronic Gaming Operations

- (A) There shall be no more than one electronic gaming operations establishment on the same lot or property or in the same building,

structure or portion thereof;

- (B) No other principal or accessory use may occupy the same building, structure, property, or portion thereof as an electronic gaming operations establishment;
- (C) Electronic gaming operations establishments shall not operate outside of the hours of 7:00 am to 12 midnight each day, seven (7) days per week;
- (D) No screens, curtains, blinds, partitions or other obstruction shall be placed between the entrance to the room where electronic gaming operations occur and the rear wall of such room so that a clear view of the interior may not be had from the entrance to the room; and
- (E) No more than 2 electronic gaming terminals may be operational in the same facility.
- (F) Electronic gaming operations shall have a minimum distance separation of 500 feet between schools and churches.

(16) Hospital

- (A) Lot area. The minimum lot area shall be five (5) acres or the minimum requirement of the district, whichever is greater; and
- (B) The minimum frontage for the lot shall be 300 feet or the minimum requirement of the district, whichever is greater.

(17) Hotel/Motel

- (A) Hotels and Motels may contain a maximum of 60 rooms for guests.
- (B) The lot or parcel shall have direct access to a collector street or higher.

(18) Intensive Livestock Operations

- (A) Intensive livestock operations shall be located, constructed, operated, and maintained to minimize, reduce, or abate effects of pollution on environmental resources and public health and safety.
- (B) Intensive livestock operation facilities shall comply with applicable state laws and rules, including those administered by the North Carolina Environmental Management Commission.
- (C) The facility shall be located on a lot of no less than 20 acres and shall maintain setbacks that will contain odor, noise, and other nuisances to within the site.
- (D) Provide a minimum 300 feet distance between manure storage areas, barns, or stables and any adjacent residentially zoned property.
- (E) The facility shall not include feed lots, slaughtering and/or meat packaging operations.
- (F) Applications and site plans shall provide the proposed number of animals to be maintained on the site, the location of buildings and animal feeding areas and their setback from the property line; a copy of required state

permit applications, and other details to show compliance with the UDO.

(19) Junkyards

- (A) The minimum front, side, and rear yard setbacks shall be 50 feet.
- (B) Screening:
 - (1) Storage areas shall be screened from public view on all sides with an opaque fence or wall at least 8 feet in height. The height of junk material shall not exceed the height of the wall.
 - (2) Screening must be setback at least 50 feet from the center line of a public right-of-way.
 - (3) The Board of Adjustment may vary the size and setback requirements due to unusual site characteristics, if materials are inadequately screened from public view.
 - (4) Screening shall be kept in good repair and neat finish.
 - (5) Advertisement on screening devices is prohibited.
- (C) No salvaged material shall provide breeding ground for insects or harbor breeding grounds for rodents.
- (D) A permanent office building shall be located on-site for purpose of conducting junkyard business.

(20) Kennels

- (A) The minimum lot size shall be 1 acre.
- (B) Buildings and areas where animals are kept, run, or exercised shall be at least 100 feet from the nearest dwelling and 35 feet from any lot line.

(21) Landing strips and runways

- (A) Security fencing shall be provided sufficient to control access to runways and taxiways. The fencing shall be a minimum six (6) feet in height.
- (B) There shall be a minimum six hundred (600) foot distance between any portion of the airport property and the nearest residence.
- (C) Landing strips and runways must comply with standards set forth from the North Carolina Department of Transportation (NCDOT) Division of Aviation and the Federal Aviation Administration.

(22) Manufactured Home

- (A) General Standards for Manufactured Homes
 - (1) Manufactured homes shall only be double-wide, except when in a manufactured home park (see Special Use Standard #23 below).
 - (2) Manufactured homes shall bear a valid seal certifying compliance with the National Manufactured Housing Construction and Safety Standards Act (the HUD Code) as

amended.

- (3) Manufactured homes shall be set up in accordance with the standards of the North Carolina Department of Insurance. They shall have a continuous, permanent masonry foundation or masonry curtain wall, un-pierced except for required ventilation and access installed under the perimeter of the manufactured home.
- (4) Stairs, porches, entrance platforms, ramps, and other means of entry to and exit from the home shall be installed or constructed to comply with the standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground
- (5) The moving hitch, wheels, axles, transporting lights, and tongues shall be removed prior to occupancy.
- (6) Manufactured homes shall be placed on the lot parallel to the street that is the means of access to the home site. Manufactured homes within a park may be placed perpendicular to interior private streets or drives.
- (7) Manufactured homes shall be maintained in good condition and free of rust, dents, faded or chipped paint, and other visible signs of disrepair.
- (8) Manufactured homes shall not be located within a flood plain.
- (9) Manufactured Homes shall have a minimum enclosed living area of 960 square feet.
- (10) The minimum roof pitch shall be 3 feet rise per 12 feet of horizontal run. Roofing material shall be a type of shingle that is commonly used in standard residential construction. Roof projection shall be at least 6 inches, which may include a gutter.
- (11) Exterior siding shall consist predominantly of vinyl or aluminum lap siding whose reflectivity does not exceed that of flat white paint; or wood or hardboard, comparable in composition, appearance and durability to exterior siding commonly used in standard residential construction.

(23) Manufactured Home Park

(A) Compliance Required.

The park owner shall ensure that the park is constructed and maintained in compliance with this Ordinance. Failure of a manufactured home park to comply continuously with this Ordinance shall be grounds to revoke the Certificate of Occupancy.

(B) Minimum Park Size:

The minimum size of a park site shall be 5 acres and 10 manufactured home

spaces. No more than 1 manufactured home shall occupy a space.

(C) Nonconforming Manufactured Home Parks

Nonconforming parks are subject to the applicable provisions of Article 6 (Nonconformities)

(D) Sale of Manufactured Home:

The sale of lots in manufactured home parks are prohibited. A manufactured home may only be sold under the following circumstances:

- (1) It may be sold by the owner residing in the home;
- (2) The park owner may sell a manufactured home that is parked on an individual space and is connected to water, sewer, electric, and other utilities.

(E) Sale of an Individual Space:

No individual space shall be sold while the manufactured home park is in operation.

(F) Nonresidential Uses Permitted as follows:

- (1) One space may be used for administrative offices.
- (2) Commercial uses shall be limited to food stores, laundry facilities, beauty parlors, barbershops and other personal services subject to the following:
 - (a) The use must be subordinate to the residential character of the park;
 - (b) No evidence of the commercial nature of the use shall be visible beyond the confines of the park.
 - (c) The use shall accommodate the needs of park residents only.

(G) Contours of Land

Land contours with vertical intervals of not more than 2 feet shall be shown on park plans.

(H) Manufactured Home Dwelling

- (1) Manufactured homes may be single-wide or double-wide.
- (2) The manufactured home shall be placed on a permanent stand.
- (3) The manufactured home stand shall be situated so that it can be conveniently placed and removed by customary moving equipment.
- (4) The minimum setback along the perimeter of the space shall be 5 feet.
- (5) The minimum setback from another dwelling or common building (e.g. laundry facilities) shall be 15 feet.

(I) Manufactured Home Space

- (1) A manufactured home space shall be defined by concrete or iron pipe markers placed at corners. Their location shall be depicted on the manufactured home park plan.

(2) No manufactured home space shall be placed in areas susceptible to flooding.

(3) One manufactured home shall be permitted on an individual space.

(4) The minimum width shall be 50 feet.

(5) Minimum Size:

(a) Spaces served by public water and sewer shall have a minimum area of 10,000 square feet.

(b) Spaces served by public sewer but not public water shall have a minimum area of 20,000 square feet.

(c) Spaces served by neither public water nor sewer shall have a minimum area of 25,000 square feet.

(d) Additional area may be required by the Johnston County Health Department to allow installation of a safe and adequate water supply and sewage disposal facilities.

(J) Recreation

A recreation area of at least 400 square feet per home space shall be provided for residents in parks with more than 25 spaces.

(K) Streets and Driveways

(1) The minimum right-of-way width is 50 feet, and the minimum pavement width is 24 feet.

(2) Streets shall be improved and privately maintained in accordance with Town engineering standards.

(3) Each space shall have convenient access to an improved street or drive.

(4) Permanent dead-end streets shall not exceed 500 feet in length and shall have a turn-around at least 80 feet in diameter.

(5) Streets or drives shall intersect as nearly as possible at right angles; no street shall intersect less than 60 degrees.

(6) An appropriate site triangle shall be maintained at street and driveway intersections. The triangle shall extend 25 feet in length measured along abutting public right-of-way lines and edge of the drive; internal drives shall maintain a site triangle 15 feet in length measured along the edge of the abutting driveway.

(L) Public Utilities

(1) Adequate utilities shall be provided to all buildings on the site in accordance with NCDOT standards.

(2) Connection to the Town's public water and sewer system is encouraged where available. Applications for parks that will not

be served by public water or sewer shall make provisions for safe and adequate water and sewer services. Plans shall be approved by the appropriate county or state permitting authority.

- (3) Each manufactured home space shall be provided with at least a 3 inch diameter sewer riser pipe where collection systems are provided. The sewer riser pipe shall be located so that connection to the manufactured home drain outlet will approximate a vertical position.
 - (4) A 2' x 2' concrete apron around all sewer connection riser pipes shall be installed for support and protection. The sewer connection shall be located at least 100 feet from the water supply.
 - (5) The sewer connection shall have a nominal inside diameter of at least 3 inches, and the slope of a position thereof shall be at least one-fourth (1/4) inch per foot. Sewer connections shall consist of 1 pipeline with no branch fittings. Joints shall be water-tight, including the connection from the manufactured home to the sewer riser pipe.
 - (6) Sewer connection materials shall be semi-rigid, corrosion-resistant, nonabsorbent, and durable. The inner surface shall be smooth.
 - (7) Sewer pipes shall be properly plugged when a space is unoccupied by a manufactured home. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least 4 inches above ground elevation.
- (M) Solid Waste Disposal
- (1) Solid waste shall be stored, collected, and disposed of in a manner that will not create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or pollution.
 - (2) Solid waste containers shall be provided in sufficient number and capacity, but no less than 64 gallons, to store properly solid waste generated within the park. Containers shall be fly-tight, water-tight, and rodent proof.
 - (3) Each home space shall be within 150 feet of an appropriate solid waste container. Containers shall be stored in a stand designed to prevent tipping, to minimize spillage and deterioration, and to facilitate on-site maintenance.
 - (4) Solid waste shall be collected and transported in covered vehicles or containers at least once a week.
- (N) Pest and Nuisance Control
- (1) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation. Pest control method shall be acceptable to the County Health Department.

- (2) Parks shall be maintained free of debris that may provide rodent harborage or breeding places for flies, mosquitoes, and other similar pests.
- (3) Storage areas shall be maintained as to prevent rodent harborage. Lumber, pipe, and other building material shall be stored at least 1 foot above ground.
- (4) As the potential for insect and rodent infestation exists, exterior openings in or beneath a structure shall be appropriately screened with wire mesh or other suitable material.
- (5) The growth of grass and vegetation shall be controlled to prevent harborage of ticks, chiggers, and other noxious insects. Parks shall be maintained free of noxious weeds. Open areas shall be maintained free of heavy undergrowth.

(O) Street Lighting

Adequate street lighting shall be provided from sunset to sunrise. The minimum size street light shall be a 175-watt mercury vapor (approximately 7,000 lumen class), or its equivalent. Lights shall be spaced at intervals of not more than 300 feet. Street light locations shall be depicted on the manufactured home park plan.

(P) Certificate of Occupancy

A Certificate of Compliance/Occupancy issued for the manufactured home park shall authorize the owner to lease manufactured home spaces subject to the standards of this Ordinance.

(Q) Flood Plains

Manufactured home parks shall not be located within a flood plain.

(24) Manufacturing, light

- (A) Food Aggregation & Processing Facility (Food Hub). Food hubs are businesses that manage aggregation, distribution and marketing of source-identified food products, primarily from local and regional producers. Facilities located in the Commercial District shall be limited to the processing of non-meat products unless attached to a retail food establishment or restaurant.
- (B) Gas and oil and all other flammable materials shall be stored in a building of fireproof construction, which shall be constructed in full compliance with all applicable provisions of this code, other ordinances and state law.
- (C) Loading facilities shall be located on the same lot as the main building or use served and located so that a public street or sidewalk will not be occupied during the loading or unloading process.
- (D) Off-street loading facilities shall not be permitted in front of the building which faces the frontage street.
- (E) Emission of toxic, noxious or corrosive fumes or gases which would be demonstrably injurious to property, vegetation, animals or human health at or beyond the boundaries of the lot shall not be

permitted.

(25) Multi-Family Dwellings

- (A) The minimum lot area is 1 acre.
- (B) Other requirements:
 - (1) Density shall not exceed the maximum permitted in the applicable zoning district.
 - (2) Minimum separation between buildings is as follows:

Table 4-1: Building Separation Table

Height of Taller Building	Minimum Horizontal Distance Between Vertical Projections
20 feet or less	16 feet
between 20.1 and 25.0 feet	25 feet
between 25.1 and 30.0 feet	30 feet
between 30.1 and 35.0 feet	40 feet

- (3) Vertical projections shall be drawn from the point on each building that is horizontally closest to the other building.
- (4) The minimum setback along the perimeter of the lot is 30 feet.

(26) Nursing Home

- (A) The facility shall comply with all state licensing requirements;
- (B) Sleeping rooms shall be no less than 100 square feet for each patient;
- (C) If ambulance service is required, a nursing or convalescent facility use shall have access from a collector road designed to minimize the adverse effects on adjacent land.

(27) Recreational Vehicle (RV) Park

- (A) Recreation vehicles are not permitted to establish permanent electrical, mechanical, or plumbing connections.
- (B) Accessory structures are not permitted for recreational vehicles in a recreational vehicle park.
- (C) Recreational Vehicles may be temporarily blocked or anchored to prevent overturning, but wheels and axels must remain on the vehicle at all times.
- (D) Only one (1) recreational vehicle is permitted in each stall.
- (E) Each RV lot shall be equipped with plumbing and electrical connections sufficient to safely meet demands.
- (F) A public sewage disposal system and sewage treatment plant complying with the requirements of the North Carolina Department of Environment, Health, and Natural Resources shall be provided in every campground. Individual septic tank systems are not permissible.
- (G) All streets serving the park shall, at a minimum, be graveled to a width of at

least twenty feet.

- (H) A minimum of ten (10) percent of the total land area shall be devoted to accessible common open space for recreational use. These areas shall be separate from camper spaces, and shall be grouped and suitable for active and passive recreation.
- (I) Each RV park that has spaces for dependent trailers shall have at least one service building to provide necessary sanitation and laundry facilities. All service buildings shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times. They shall be safely and adequately lighted.

(28) School (public or private)

- (A) All elementary and secondary schools shall have direct access to a collector street or higher capacity street.
- (B) Facilities Design: Refer to the latest edition of The Public Schools Facilities Guidelines, North Carolina State Board of Education, Department of Public Instruction.

(29) Shooting Range

- (A) Shooting ranges shall be permitted indoors, completely enclosed within a building/structure, and upon application to the Town Manager or designee.
- (B) Shooting ranges shall be prohibited outdoors.
- (C) The facility shall be designed to absorb sound to the maximum extent feasible.
- (D) Ammunition sales are permitted as an accessory use only.
- (E) No person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills or for other safe uses of firearms and archery equipment.
- (F) No person shall handle any firearms or bow and arrow on a shooting range in a careless or reckless manner.
- (G) No person shall intentionally shoot into any target holder, post, or other permanent fixture or structure while using a shooting range.
- (H) Persons using a shooting range must obey posted indoor range safety rules. Those persons who violate range safety rules or create a public safety hazard must leave the shooting range if directed to by employees or law enforcement officers.
- (I) No person shall handle any firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited.

(30) Solar Farms

- (A) Abandonment. A Solar Farm that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the facility provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Zoning Administrator of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the Solar Farm.

- (1) Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible they must remove the solar energy systems (SES) and restore the site to its condition prior to development of the SES within three hundred and sixty (360) days of notice by the Zoning Administrator.
- (2) If the responsible party (or parties) fails to comply, the Zoning Administrator may remove the solar energy system, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the solar energy system and restore the site to a non-hazardous condition.

(B) Decommissioning

- (1) A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted with permit application:
 - (a) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
 - (b) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
 - (c) Restoration of property to condition prior to development of the SES.
 - (d) Timeframe for completion of decommissioning activities, not to exceed one year.
 - (e) Description and copy of any lease or any other agreement with landowner regarding decommissioning.
 - (f) Name and address of person or party responsible for decommissioning.
 - (g) Plans and schedule for updating this decommissioning plan.
- (2) Before final electrical inspection, provide evidence that the decommissioning plan was recorded with the Register of Deeds.

(C) Visibility

- (1) Solar farms must follow the industrial buffer and planting requirements found in Table 10-1 Use Category and Planting Buffer Yard Width.
- (2) No vegetation or fence shall interfere with a required clear sight triangle at a driveway or intersection.
- (3) Solar collectors and associated outside storage shall be completely screened with a vegetative buffer from view from all streets and adjacent residential uses.
- (4) Fencing. Perimeter fencing having a minimum height of six (6) feet not to exceed a maximum height of ten (10) feet shall be installed around the boundary of the solar farm. The fence shall contain appropriate warning signage that is posted such that it is clearly visible on the site.

(31) Tattoo Parlor

- (A) No tattoo parlor/body piercing establishment shall operate within 1,000 feet of the lot line of another tattoo parlor/body piercing establishment.
 - (B) No person shall engage in tattooing without first obtaining a tattooing permit from the appropriate County Health Department.
- (32) Technical or Trade School
- (A) Any outdoor workshop space shall be a minimum of 100 feet from a residential lot.
- (33) Telecommunication Facilities
- (A) Interpreted not to violate federal or state law. These standards shall be interpreted or enforced so as not to violate any provisions of federal or state law, including but not limited to the Federal Telecommunications Act and NCGS 160D-930 to -934 effective December 1, 2007.
 - (B) A minimum of \$1,000,000 in general liability insurance covering any liability arising from the construction or operation of the tower is obtained by the applicant, and maintained in full force and effect until all above ground portions of the tower are removed.
 - (C) If located in a residential zoning district, all buildings in the tower complex are designed to appear as residential dwellings.
 - (D) The tower does not encroach into or through any established public or private airport approach path as established by the Federal Aviation Administration.
- (34) Townhouse
- (A) Maintenance. A property owners association shall be established and shall maintain everything on the outside of the townhouses, including but not limited to landscaping, siding, roofing, porches, trim, mailboxes, driveways, and alleys.
- (35) Vehicle Repair
- (A) No damaged motor vehicle shall be parked where visible from the public right-of-way for more than seven days.
 - (B) All new parts, scrap parts, and junk vehicles kept on the exterior of the establishment shall comply with the standards for Outdoor Storage Areas.
 - (C) No establishment shall have more than three junk vehicles on premises.
 - (D) Off-street parking shall be provided on the site at a ratio of one parking space per 3,000 square feet of floor area plus employee parking.
- (36) Veterinary Care
- (A) Examination rooms and kennels shall be within a completely enclosed soundproof building, and the veterinary clinic or hospital shall be operated in such a way as to produce no objectionable odors outside its walls.
 - (B) Outdoor exercise and bathroom areas shall only be permitted according to the following conditions:
 - (1) Such areas shall only be used between the hours of 7:00 am to 10:00 pm.
 - (2) If the adjacent use or zoning is residential these areas shall be set back at least 50 feet from the lot line.

(3) Such areas shall be enclosed by a fence at least six (6) feet in height

(37) Warehouse/freight

- (A) No open storage shall be permitted.
- (B) Storage of flammable, explosive, combustible, or hazardous materials is prohibited.
- (C) A permanent business office shall be located on the site.
- (D) The use of the premises shall be limited to storage of personal and business items and shall not be used for other purposes.
- (E) Retail sales to tenants shall be limited to products or supplies incidental to the use, such as packing materials, labels, ropes, and locks.

(38) Wholesale Operations

- (A) Gas and oil and all other flammable materials shall be stored in a building of fireproof construction, which shall be constructed in full compliance with all applicable provisions of this code, other ordinances and state law.

(39) Wind Energy Facility

(A) Dimensional Requirements

- (1) Minimum setback requirements are determined by the following table:

Table 4-2: Minimum Setback Requirements

Wind Energy Facility Type	Occupied Buildings on Participating Landowner Property	Occupied Buildings on Non-Participating Landowner Property	Property Lines on Non-Participating Landowner Property	Public Roads
Small System	0.0	1.5	1.1	1.5
Medium System	1.1	2.0	1.5	1.5
Large Scale	1.1	2.5	1.5	1.5

(2) The setback is calculated by multiplying the required setback number by the wind turbine height and measured from the center of the wind turbine base to the property line, public road, or nearest point on the foundation of an occupied building. Wind turbine height is the distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

(a) A small wind energy facility consists of a single wind turbine with a rated generating capacity of 20 kilowatts (kW) or less.

(b) A medium wind energy facility consists of one or more wind turbines which has a total rated capacity of more than 20 kW, but not greater than 100 kW.

(c) A large wind energy facility has a total rated capacity of more than 100 kW.

(3) Property owners may waive the setback requirements for property lines and occupied buildings on the participating or nonparticipating landowner

properties by signing a waiver that sets forth the applicable setback provisions and the proposed changes. The written waiver shall:

- (a) Notify applicable property owners of the setback required by this article;
- (b) Describe how the wind energy facility is not in compliance; and
- (c) State that consent is granted for the wind energy facility to waive the setback as required by this article; and
- (d) Any such waiver shall be signed by the applicant, the participating or nonparticipating landowners, and recorded in the deeds office where the property is located.

(B) Noise and Shadow Flicker

(1) The maximum audible sound resulting from all wind energy facilities on the same lot shall be 55 decibels (dBA) or 5 decibels (dBA) above the existing ambient noise level, whichever is greater, measured at any occupied building of a non-participating landowner.

(2) Shadow flicker at any occupied building on a nonparticipating landowner's property caused by a large wind energy facility located within 2,500 feet of the occupied building shall not exceed 30 hours per year.

(3) Noise and shadow flicker provisions may be waived if the property owner signs a waiver of their rights. The written waiver shall:

- (a) Notify the applicable property owners of the noise and flicker limits required by this article;
- (b) Describe how the wind energy facility is not in compliance;
- (c) State that consent is granted for the wind energy facility to waive the noise and flicker limits as required by this article; and
- (d) Any such waiver shall be signed by the applicant and the nonparticipating landowners and recorded in the deeds office where the property is located.

(C) Installation and Appearance

(1) All wind energy facilities shall conform to applicable industry standards, including those of the American National Standards Institute.

(2) All structural, electrical and mechanical components shall conform to relevant local, state and national codes.

(3) Any on-site collector system shall, to the maximum extent possible, be placed underground.

(4) The visual appearance of wind energy facilities shall at a minimum:

- (a) Be a nonobtrusive color such as white, off-white or gray, and maintain a non-reflective neutral finish.
- (b) Not be artificially lighted, except to the extent required by the Federal Aviation Administration.
- (c) Not display advertising, except for the identification of the turbine manufacturer, facility owner, and operator.

(D) Decommissioning

(1) The wind energy facility owner shall have six months to complete the decommissioning of the facility if no electricity is generated for a continuous period of 12 months.

(2) Decommissioning shall include the removal of wind turbines, buildings, cabling, electrical components, roads, and other associated facilities down to

36 inches below grade.

(3) Disturbed earth shall be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(40) Wireless Facility

(A) Wireless facilities shall conform with the following general aesthetic and design standards as applicable:

- (1) Except for locations in the right-of-way, wireless facilities are permitted only as an accessory use on any property containing a residential use in residential zones.
- (2) Ground-mounted equipment in the right-of-way is prohibited, unless such facilities are placed underground, or the applicant can demonstrate that pole-mounted or underground equipment is technically infeasible.
- (3) No signage, message, or identification other than the manufacturer's identification or identification required by governing law is allowed to be portrayed on any antenna or equipment enclosure. Any permitted signage shall be located on the equipment enclosures and be of the minimum amount possible to achieve the intended purpose (no larger than four by six inches); provided, that signs may be permitted as concealment element techniques where appropriate and safety signage as required by applicable laws, regulations, and standards is permitted.
- (4) Antennas and related equipment shall not be illuminated except for security reasons, required by a federal or state authority.

(B) General pole standards. Wireless facilities on any type of pole shall conform to the following general pole design requirements as well as the applicable pole specific standards:

- (1) The preferred location of a wireless facility on a pole is the location with the least visible impact.
- (2) The Town may consider the cumulative visual effects of wireless facilities mounted on poles within the rights-of-way when assessing proposed siting locations so as to not adversely affect the visual character of the city. This provision shall neither be applied to limit the number of permits issued when no alternative sites are reasonably available nor to impose a technological requirement on the applicant.
- (3) Replacement poles and new poles shall comply with the Americans with Disabilities Act, town development standards, town ordinances, and state and federal laws and regulations in order to provide a clear and safe passage within the rights-of-way. Further, the location of any

replacement or new pole must: be physically possible, comply with applicable traffic warrants, not interfere with utility or safety fixtures (e.g., fire hydrants, traffic control devices), and not adversely affect the public welfare, health, or safety.

- (4) Replacement poles shall be located as near as possible to the existing pole and the abandoned pole shall be removed.
- (5) Side arm mounts for antennas or equipment must be the minimum extension necessary, and for wooden poles may be no more than 12 inches off the pole, and for nonwooden poles no more than six inches off the pole.

SECTION 4-102 ACCESSORY USES

Accessory uses may be permitted, subject to the provisions of this section.

(1) General Standards and Limitations

- (A) Accessory structures and uses must:
- (B) Be located on the same lot as the principal use or structure;
- (C) Be customarily and clearly incidental to principal use or structure;
- (D) Be subordinate in area, extent, and purpose to the principal use or structure;
- (E) Be owned or operated by the occupant of the principal use or structure;
- (F) Be constructed or established simultaneously with or subsequent to construction or establishment of the principal use or structure.

(2) Home Occupations

- (A) The occupation must be owned and operated by a resident of the dwelling.
- (B) No more than 1 non-resident shall be employed in the home occupation.
- (C) A maximum 25 percent or 600 square feet, whichever is smallest, of the heated floor area of the dwelling shall be dedicated to the conduct of the home occupation. The external appearance of the dwelling shall be preserved. The conduct of the occupation shall not cause the premises to differ from its residential character.
- (D) No traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses from off the premises, including interference with radio or television reception, shall be created by the home occupation.
- (E) No equipment that will change the fire rating of the structure where the home occupation is conducted shall be permitted.
- (F) One sign for the home occupation shall be permitted at a maximum size of 2 feet in length by two feet in width. Otherwise, no signage shall be visible from outside the dwelling or accessory building.
- (G) No outdoor display, storage, or service areas shall be permitted.

(3) Outdoor Display Area

- (A) No outdoor display area shall be within 20 feet of the property line of a residentially zoned or used lot or within 5 feet of the public right-of-way.
- (B) Outdoor sales and display items shall be located on a hard and durable surface
- (C) Vehicular use and parking areas where outdoor items are displayed shall not count towards the minimum parking standards for the proposed use.
- (D) Merchandise in outdoor display areas shall be limited to items sold on the premises.
- (E) Sale of seasonal items such as Christmas trees shall require a Temporary Use Permit.
- (F) No area used for outdoor display shall be used to meet off-street parking and loading requirements.

(4) Outdoor Storage

- (A) Storage of any material shall be contained to prevent any adverse impacts on adjacent uses.
- (B) No outdoor storage area shall extend into the front yard.
- (C) Outdoor storage areas shall be screened from adjacent properties and rights-of-way by an opaque fence, wall, or landscape berm.
- (D) The maximum height of screening material shall be 8 feet. No material shall be stored at a height above that of the screening material.
- (E) The design of screening material shall be compatible with the overall design of the principal structure.
- (F) If the outdoor storage area is covered, the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

(5) Chicken Coops

- (A) Sanitation for chickens. Any persons who keeps, feeds or maintains chickens in the corporate limits shall provide a bin or a pit which shall be watertight and fly-proof, or a watertight barrel with a close-fitting lid. Manure accumulating shall be placed in the bin, pit or barrel each day, and the manure shall be removed and discarded as household waste at least once a week. Likewise, uneaten feed shall be placed in the bin, pit or barrel each day, and removed at the intervals specified above for manure. The slaughter of chickens for personal use is allowed only on the property where the chickens are kept. The slaughter must be performed in a sanitary manner with the immediate proper disposal of all waste materials. Any dead

chickens, not from slaughter, shall be placed and sealed in a plastic bag upon discovery and discarded with other household waste.

(B) Sheltering and limits on the type and number of chickens.

- (a) Enclosed run. Chickens shall be kept in an enclosed run and shall not roam free on the property. Said enclosure ,shall be a minimum of 4 feet in height and must be enclosed on all sides and the top with wire mesh fencing. The enclosed run shall provide at least 10 square feet of run area per chicken. Any access gates or other access openings in the enclosed run shall be self-closing, self-latching and lockable.
- (b) Coop. The coop shall be constructed of solid material and shall be located within the enclosed run or constructed and located so as only to provide ingress/egress for the chickens into the enclosed run. The coop shall provide a minimum of 3 square feet of floor area per chicken and shall be a minimum of 2 feet in height per floor or level where chickens are housed.
- (c) Number, type and purpose. Chickens may be kept at a single-family residence that *is* zoned residential. It shall be an accessory use for any property classified in one of the residential zoning districts. The maximum number of chickens that can be kept on any residentially zoned property within the corporate limits of the city shall be 10 if there is enough square footage to meet the above requirements for run and coop space and the setback requirements below. All chickens shall be hens; no roosters are permitted. No other fowl including, but not limited to, ducks, geese or turkeys are permitted. All chickens and by-products shall be used for personal use and not sold commercially.
- (d) Enclosed run and coop materials. The enclosed run and coop shall be maintained in a clean and sanitary condition. The chickens shall have constant access to feed, clean water and bedding. All solid materials and fencing used in conjunction with the construction of the coop and enclosed run shall be suitable for exposure to moisture without deterioration and shall be conducive to regular cleaning and sanitation. Without limiting the materials that can be used, examples meeting this requirement are pressure treated wood, painted wood, wood frame with metal or vinyl siding, asphalt shingle roofing and metal roofing for the coop and galvanized or vinyl mesh fencing and fencing supports for the enclosed run. The coop shall be constructed to keep out predators.

- (e) Setbacks for the keeping of chickens. *The* enclosed run or coop keeping the chickens *shall* be in the rear yard and shall be no closer to the street than the rear yard of the dwelling or principal structure and at no time may be closer than 25 feet from any adjacent property lines.
- (f) Permit required for the keeping of chickens. A zoning permit for accessory use issued by the Code Enforcement Officer *is* necessary prior to constructing and/or erecting the enclosed run and/or coop. Submittal requirements shall include, but not be limited to, a scaled site plan showing all property lines and existing structures, the proposed enclosure, run and/or coop, the distance from the property lines to the proposed enclosure, run and/or coop, as well as a sketch or elevation(s) of the planned enclosure and/or coop design and a materials list indicating what the enclosure, run and/or coop will be constructed of. Any and all state requirements shall be complied with as well.
- (g) Permit renewal and revocation. The zoning permit shall automatically renew annually. Should two confirmed/sustained notices of violations (NOVs) concerning violations of the ordinance within a one year period, the permit *shall* be automatically revoked. Upon permit revocation, the property owner shall be prohibited from keeping or applying for a permit to keep chickens or other fowl for a period of 2 years. Following the 2 year period, the property owner may re-apply for a permit *which* will include an application fee.

(6) Electric Vehicle Charging, Residential

In addition to the standards set in UDO Section 4-101-14 (A) and (B), accessory residential electric vehicle charging must adhere to the following standards:

- (A) Electric vehicle charging stations shall be allowed as an accessory use in the R-20/AR, R-11, R6-MH, and O-R districts only to single-family residences.
- (B) If a residence has a garage, the electric vehicle charger must be installed within the garage. If a residence does not have a garage, the electric vehicle charger must be installed on the side of the residence such that a vehicle charges in a driveway.
- (C) All residential electric vehicle charging stations shall be installed by a certified electrician.

SECTION 4-103 TEMPORARY USES AND STRUCTURES

Temporary uses, structures, or special events shall be permitted, subject to the provisions of this

section:

(1) General Standards for Temporary Uses and Structures

- (A) Temporary uses shall be permitted as provided in the applicable zoning district.
- (B) Temporary uses shall be compatible with the principal use of the site;
- (C) No temporary use shall have a detrimental effect on adjacent properties or be a danger to the public health, safety, or general welfare;
- (D) No permanent alteration to the site shall result from the temporary use;
- (E) Minimum setbacks of the applicable zoning district shall be maintained;
- (F) Signage shall comply with applicable temporary sign standards.
- (G) No structure associated with the temporary use shall remain on the site after the temporary use ends.

(2) Carnival or Circus

- (A) Off-street parking spaces dedicated to the temporary use shall not exceed 15 percent of the minimum required for the principal use during business hours.
- (B) If on a vacant lot, the minimum lot area shall be 2 acres, at least one-third of which shall be designated for parking.
- (C) No activity shall be permitted within 25 feet of a lot line.
- (D) No carnival or circus shall be permitted for more than 14 days in a calendar year.

(3) Portable Storage Containers

General Standards

- (A) No container shall be permitted on a lot for more than 30 days in any 365-day period.
- (B) No container shall be larger than 8 feet x 8 feet x 16 feet.
- (C) No container shall be used to store hazardous or flammable materials, live animals, or for human habitation.
- (D) The Town Manager or designee shall determine the most appropriate location for the portable storage unit to be placed on site.
- (E) No container shall be closer than 10 feet from a lot line.

Residential District Standards

- (A) Containers must serve an existing residential use on the lot.

- (B) Containers in the front yard must be placed on a paved driveway. Containers may be placed on a gravel pad if a part of an active construction site. No more than 1 container shall be placed in the front yard of a single-family residential lot.

Commercial District Standards

- (A) Containers must serve an existing commercial use on the lot.
- (B) Containers must be screened from public view from streets or adjoining properties.
- (C) Containers shall not be located such that it reduces the amount of parking below the minimum standard.

(4) Seasonal Agricultural Sales

- (A) Location
 - (1) No agricultural sales area shall have an adverse impact on existing open space, landscaping, traffic circulation, or off-street parking.
 - (2) No sales area shall encroach into a public right-of-way or within 200 feet of a dwelling.
 - (3) A minimum 5-foot wide walkway shall be maintained in front of the sales area.
- (B) Seasonal agricultural products shall be limited to Christmas trees, pumpkins, produce, and similar seasonal agricultural products. For the purposes of this subsection, processed or prepared food products shall not be considered agricultural products.
- (C) The sale of products shall not involve the short-term display or storage of products on-site for 2 days or longer to be considered seasonal agricultural sales. Sales accomplished solely from a vehicle shall not be considered seasonal agricultural sales.
- (D) The hours of operation shall be no earlier than 7:30 AM to no later than 10:00 PM but shall not exceed the operating hours of the principal use on the same lot.
- (E) No seasonal sales shall remain on a lot for more than 120 days in a calendar year.

(5) Temporary Construction Trailers

- (A) A temporary construction trailer may be permitted on a lot with a valid Building Permit and during the period of active construction.
- (B) No trailer shall be within 20 feet of a building or any lot line, or within minimum setback of the applicable zoning district, whichever is greater.
- (C) Trailers may include restroom facilities for workers and utility connections.
- (D) Trailers shall be removed upon issuance of a Certificate of Occupancy.

(6) Temporary Sales Trailers

- (A) A temporary trailer may only be set up as an office for the real estate sale of lots within a development under construction. A temporary trailer shall not be utilized for any purpose other than construction.
- (B) No temporary sales trailer shall be within 20 feet of a lot line.
- (C) Temporary sales trailers shall be removed once the project is complete or all lots are sold, whichever is sooner.
- (D) Temporary sales trailers shall be underpinned and meet applicable parking and screening requirements.

Chapter 5 – Signs

SECTION 5-100 **SIGNS**

5-100-1 Purpose and Intent

Signs are herein regulated in the interest of promoting traffic safety, safeguarding the public health, facilitating police and fire protection, preventing adverse community appearance and over-crowding of the land, and protecting the character of the area in which they are located. This section is intended to prevent their over concentration, improper placement, and excessive height, bulk, and area, in order to maximize sign legibility and effectiveness, while at the same time preserving community scenic, economic, and aesthetic values.

5-100-2 Sign Types

(A) Wall/fascia Sign

A sign attached flat to or mounted away from but parallel to the building wall, projecting no more than 12 inches from the building wall.

(B) Projecting Sign

A sign fastened directly to a supporting building wall, and intersecting the building wall at a right angle.

(C) Free Standing Sign

A sign that is not directly attached to, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but is instead attached to, erected on, or supported by a structure or frame that is not itself a part of the building. The following are free-standing signs:

(1) Ground Sign

A free-standing sign attached to the ground with a clearance of less than eight inches and not exceeding 48 inches in height.

(2) Monument Sign

A free-standing sign no more than eight feet in height and having a ratio of less than four to one sign width to narrowest width of support structure. Any sign constructed to the above referenced ratio of support structure to sign width, but in excess of eight feet in height,

(3) Pole Sign

A free-standing sign attached to the ground by one or more support structures having a ratio of greater than four to one sign width to narrowest width of support structure.

(D) Awning/marquee/canopy/hanging Sign

A sign which is attached flat to an awning, marquee, or canopy, or hanging from an awning, marquee or canopy.

(E) Window Sign

A sign etched into or painted onto a window, not including wall/facia signs.

(F) Easel

An upright A-frame structure placed not taller than four feet from grade.

(G) Billboard

A sign which describes or calls attention to products, activities, or services which are not customarily engaged in, produced, or sold on the premises upon which the sign is located.

(H) Temporary Sign

A sign that 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 of time after the erection of such a sign. The following are temporary signs:

(1) Decorative Flag or Banners

Signs mounted by the Town to utility poles located within the public right-of-way.

(2) Promotional Banner

An on-premise sign placed before or during special events.

(3) Portable Sign

A sign that is not directly attached to the ground or anchored therein by placement in a concrete footing, in holes with compacted earth or gravel, or other support so as to be adequately affixed to the ground as a permanent structure.

(K) Roof Sign

A sign that is attached to the roof of a building that projects more than 12 inches above the apex of the roof to which it is attached.

5-100-3 General Sign Regulations

(A) Computation of Sign Area

Except where specifically addressed, the area of all signs shall be computed as follows:

- (1) The area of a wall sign which consists of individual letters that are erected directly onto a wall is measured by finding the area of the minimum imaginary rectangle or square which fully encloses all sign words, copy, or message.

- (2) The area of a sign with two faces is measured by finding the area of the minimum imaginary rectangle or square which fully encloses all extremities of one side of the sign, exclusive of its supports.
 - (3) The area of a sign with three or more faces shall be computed as the sum of the area of each face of the minimum imaginary rectangle or square which fully encloses all sign words, copy, or message.
- (B) Construction Standards
- (1) All signs shall comply with the appropriate provisions of local, state and national applicable codes.
 - (2) Signs shall be located in such a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except governmental signs, shall be installed closer than 10 feet horizontally or vertically from any conductor or public utility guy wire.
 - (3) In no way shall a sign hinder or obstruct the visibility of the right-of-way either at intersections or points of ingress or egress from parking lots.
 - (4) Height of sign. The height of a sign shall be measured from the highest point of the sign or supporting structure to the average grade of the ground surrounding the sign. For the purposes of this section, the height of a ground sign or monument sign may be measured from the highest point of the sign or supporting structure to the grade of a landscape berm not exceeding 24 inches above the average surrounding ground.

5-100-4 Specific Sign Regulations

(A) All Signs Except Billboards

For all signs except for billboards, the total amount of signage area permitted on any lot shall not exceed 1¼ times the amount of street frontage. On lots with frontage on more than one street, the longest dimension may be used to calculate the maximum area permitted. When no freestanding sign other than a ground sign or monument sign is proposed, a 10% increase in permitted sign area shall be allowed.

(B) Wall/facia Sign

The following standards apply to wall/facia signs, including signage or letters affixed to the inside or outside of a window.

(1) Size

The maximum size of a wall/facia sign shall not exceed the limits established in this section. Further, no more than 25% of the area of any wall or window may be devoted to signage.

(2) Number

More than one wall sign may be erected, provided the total surface area regulation is not exceeded.

(3) Height

No sign may extend more than 12 inches above parapet walls or above roof lines of buildings without parapet walls.

(4) Projection/clearance

No sign may project more than 12 inches from the building wall. All wall signs that project more than six inches from the building wall to which it is attached shall maintain a clear height of eight feet above the ground below.

(5) Construction

All wall signs shall be fastened directly to the supporting wall.

(6) Illumination

(a) Wall signs may be illuminated either internally or externally

(b) No exposed rope lighting, flashing, or moving illumination shall be permitted.

(c) Only signs within the B-1 District, or 150 feet or more from a residential use or district, may be illuminated during the hours between 12:00 midnight and 6:00 a.m.

(7) Location. Wall signs may be located in all zoning districts so long as no illuminated sign is located in any residential district.

(C) Projecting Signs

(1) Size

The maximum area of any single side of a projecting sign shall be 10 square feet, and such signs shall be limited to two faces.

(2) Number

No more than one projecting sign shall be permitted for each establishment.

(3) Setback

No projecting sign shall project closer than three feet to the curb line.

(4) Height

No sign shall extend above parapet walls or above roof lines of buildings without parapet walls, and the top of the sign shall not be higher than 15

feet above the ground.

(5) Projection/Clearance

- (a) No sign shall project more than three feet from the building wall or $\frac{1}{2}$ the width of the sidewalk, whichever is less.
- (b) No sign shall project closer than three feet to the curb line.
- (c) All projecting signs shall maintain a clear height of eight feet above the ground below.

(6) Construction

All projecting signs shall be fastened directly to the supporting building wall, with the supporting structure physically integrated into the sign. All projecting signs shall intersect the building wall at right angles.

(7) Illumination

- (a) Wall signs may be illuminated either internally or externally
- (b) No exposed rope lighting, flashing, or moving illumination shall be permitted.
- (c) Only signs within the B-1 District, or 150 feet or more from a residential use or district, may be illuminated during the hours between 12:00 midnight and 6:00 a.m.
- (d) Lighting directed toward a sign shall be shielded so that it does not shine directly into a public right-of-way or residential building and does not interfere with the safe vision of motorists.
- (e) No flashing or moving illumination shall be permitted.

(8) Location

Projecting signs are permitted only in non- residential zoning districts.

(D) Freestanding Signs

The following standards apply to freestanding signs, including pole, monument, and ground signs.

(1) Size

(a) Pole Sign

The maximum surface area of a single side of a pole sign shall not exceed 0.125 square foot per linear foot of street frontage along the street toward which such sign is primarily oriented.

(b) Monument Sign

The maximum surface area of a single side of a monument sign shall

not exceed 0.20 square foot per linear foot of street frontage along the street toward which such sign is primarily oriented.

(c) Ground Sign

The maximum surface area of a single side of a ground sign shall not exceed 0.25 square foot per linear foot of street frontage along the street toward which such sign is primarily oriented.

(2) Number

- (a) One freestanding sign shall be allowed on any lot, subject to the criteria herein, provided a pole sign shall only be allowed on a lot which contains 100 feet or more of frontage on the street to which such sign is to be oriented.
- (b) On a lot or development having a minimum frontage of 300 feet on each of two adjacent streets, or more than 600 lineal feet of frontage on a single street, a maximum of two freestanding signs may be allowed if approved as a part of a common signage plan by the Town Manager or designee, but only one of the signs may be a pole sign.
- (c) On a lot or development having frontage of 300 feet or more on each of three adjacent streets, or more than 1,500 linear feet of frontage on a single street, a maximum of three freestanding signs may be allowed if approved as a part of a common signage plan by the Town Manager or designee, but only one of the signs may be a pole sign.
- (d) When more than one freestanding sign is to be constructed, the total permitted sign area of all signs shall not exceed the standard set forth in this division, and the total amount of freestanding sign area shall not exceed .25 square feet per linear foot of frontage on the adjacent street of greatest length.

(3) Setback

No portion of any freestanding sign may extend over any public right-of-way, or be located within 15 feet of any interior side lot line. Further, no sign may be constructed within 20 feet of a right-of-way or within 30 feet of a right-of-way.

(4) Height

No freestanding sign nor any part thereof, including base or apron, supports, supporting structures, and trim, may exceed 20 feet in height. Further, no monument sign may exceed eight feet in height and no ground sign may exceed four feet in height.

(5) Projection/clearance

All pole signs shall maintain a clear height of eight feet above the ground.

(6) Construction

All freestanding signs shall be securely fastened to the ground so that there is virtually no danger that the sign may be moved by wind or other forces of nature and cause injury to persons or property.

(7) Illumination

(a) Freestanding signs may be illuminated either internally or externally

(b) No flashing or moving illumination shall be permitted.

(c) Only signs within the B-1 District, or 150 feet or more from a residential use or district, may be illuminated during the hours between 12:00 midnight and 6:00 a.m.

(d) Lighting directed toward a sign shall be shielded so that it does not shine directly into a public right-of-way or residential building and does not interfere with the safe vision of motorists.

(8) Location

Freestanding signs are permitted in nonresidential districts, however, pole signs are not permitted in the B-1 District. The Board of Adjustment may approve a freestanding sign in accordance with the standards of this section as part of a special use permit in a residential district.

(9) Landscaping

Shrubs, flowers, or ground cover with a minimum height of 18 inches and planting bed area equal to $\frac{1}{2}$ of the sign area shall be planted around the entire base of any freestanding sign. The height of the plant materials may be waived for ground signs or monument signs.

(E) Awning, Marquee, Canopy and Hanging Signs

(1) Size

The maximum area of a single awning or marquee sign shall not exceed 75% of the surface area of the face of the awning or marquee to which it is attached. The maximum area of one side of any sign hanging from an awning shall be 6 square feet.

(2) Number

One awning or marquee sign shall be permitted per awning or marquee side that faces a public right-of-way or sidewalk. One hanging sign is permitted per business premises.

(3) Setback

No portion of any awning or marquee sign shall project closer to the curb line than the awning or marquee to which it is attached.

(4) Height

Awning and marquee signs shall not extend above the top of the awning or marquee to which they are attached. Hanging signs shall not exceed 18 inches in height.

(5) Projection/clearance

No portion of an awning or marquee sign shall project more than 12 inches from the surface it is attached to. Hanging signs shall maintain a clear height of eight feet above the ground.

(6) Construction

All awning or marquee signs shall be fastened directly to the awning or marquee so that there is virtually no danger that the sign may be moved by wind or other forces of nature and cause injury to persons or property.

(7) Illumination

(a) Awning, marquee, canopy, or hanging signs may be illuminated either internally or externally

(b) No exposed rope lighting, flashing, or moving illumination shall be permitted.

(c) Only signs within the B-1 District, or 150 feet or more from a residential use or district, may be illuminated during the hours between 12:00 midnight and 6:00 a.m.

(d) Lighting directed toward a sign shall be shielded so that it does not shine directly into a public right-of-way or residential building and does not interfere with the safe vision of motorists.

(8) Location

Awning and marquee signs are only permitted in non-residential zoning districts.

(F) Billboards

(1) Billboards shall be consistent with North Carolina General Statutes, Article 11 of Chapter 136, the Outdoor Advertising Control Act.

(2) Size

(a) The maximum area of a single side of a billboard shall not exceed 200 square feet, with a maximum height of 15 feet, and a maximum width of 20 feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members. If an advertising message appears on the base or apron, it will not be excluded from calculating the maximum dimensions. Not more than one advertising face is allowed on each side of the display.

- (b) The maximum area of a single side of a billboard within 600 feet of Interstate 95 (I-95) shall not exceed 672 square feet, with a maximum height of 14 feet, and a maximum width of 48 feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members. If an advertising message appears on the base or apron, it will not be excluded from calculating the maximum dimensions. Not more than one advertising face is allowed on each side of the display.
- (3) Spacing
 - (c) No part of any billboard shall be located less than 500 feet from any part of another billboard. The minimum distance between billboards shall be measured along the nearest edge of the pavement between the edge of the side along each side of the highway, and shall apply only to billboards located on the same side of the highway.
 - (d) Billboards shall not be located in such a manner as to obscure or physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a driver's view of approaching, merging, or intersecting traffic.
- (4) Setback

Billboards shall be placed at least 50 feet off the state right-of-way.
- (5) Height

No billboard or part thereof, including base or apron, supports, supporting structures and trim shall exceed 25 feet in height, measured from the top of the sign to the ground at the base of the sign or highway grade level, whichever may be higher.
- (6) Projection/clearance

All billboards shall maintain a clear height of eight feet above the ground at the base of the sign or highway grade level, whichever may be higher.
- (7) Construction

All billboards shall be constructed in accordance with the North Carolina Building Code and the National Electric Code.
- (8) Illumination

All billboards may be externally illuminated, so long as such lighting is effectively shielded to prevent beams or rays of light from being directed into any portion of the traveled ways of a public street, and is not of such intensity or brilliance as to cause glare or to interfere with any driver's operation of a motor vehicle.
- (9) Location

Billboards are permitted in the I2 and B3 zoning districts by special use only.

(10) Annexation

Billboards located on property that is annexed by the Town shall be allowed a period of 42 months from the date of annexation to comply with the provisions of this section.

(G) Temporary signs

The following signs may be erected on a temporary basis only after a permit has been issued by the Town Manager or designee. No sign shall be placed in a public right-of-way, nor attached to a pole or structure owned by a public utility company.

- (1) One construction project sign, not to exceed 20 square feet in size, may be erected in a residential district, and up to two construction project signs may be erected in a business, industrial, or office and institutional district, so long as the sum of the areas of one face of these signs does not exceed 32 square feet. Construction signs shall not be erected prior to site plan or plat approval or the issuance of a building permit, and shall be removed within 15 days after final inspection and approval of the project.
- (2) Political signs are permitted in all zoning districts for a period not exceeding 30 days preceding the opening of the polls, and shall be removed within five days of the closing of the polls. Signs shall not exceed 32 square feet in aggregate area per lot, and shall not exceed eight feet in height. No such sign shall be located within or over the public right-of-way. At the polls, any number of political signs may be erected. Such signs shall not be placed more than 24 hours preceding the opening of the polls, and shall be removed within 24 hours following the closing of the polls.
- (3) Signs indicating special events, such as a fair, carnival, festival, grand opening, sale, or similar non-permanent activity to be conducted within the Kenly zoning jurisdiction. Such sign shall not exceed 32 square feet in area and may be erected for a period not to exceed 30 days. Such signs shall be removed by the applicant within seven days after the event has taken place, and may be permitted only one time per event per location within a 12-month period.
- (4) "Yard Sale" signs, located off-site from the property where such activity is to occur, shall be permitted outside of public rights-of-way. Such signs may not exceed four square feet in size. Signs shall not be erected more than seven days before the sale date and shall be removed within 48 hours of the sale date.

(H) Tract Identification Signs

Up to two permanent tract identification signs for each street frontage perpendicular to the road are permitted, but the sum of the areas of one face of

these signs shall not exceed 40 square feet.

(I) Information Signs

Information signs, so long as the sum of the areas of one face of these signs perpendicular to the road does not exceed 48 square feet, and the area of any single sign does not exceed 16 square feet in size.

5-100-5 Exemptions

The following signs shall not be subject to regulations of UDO Section 5-100-3 and 5-100-4:

- (A) Signs erected by or on behalf of or pursuant to the authorization of a governmental body.
- (B) Flags or pennants.
- (C) Signs directing and guiding traffic on private property that do not exceed four square feet in size each.
- (D) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
- (E) Temporary signs not exceeding four square feet in size.
- (F) Real estate signs. In non-residential districts, such sign shall not exceed 16 square feet in size for developments under two acres, and shall not exceed 32 square feet in size or six feet in height for sites larger than two acres. In residential districts less than five acres, such sign shall not exceed nine square feet. In residential districts between five and 20 acres, such sign shall not exceed 16 square feet. In residential districts in excess of 20 acres, such sign shall not exceed 32 square feet and six feet in height. Such sign shall be removed immediately after sale, lease, or rental. Only one sign on each street frontage may be erected, but on lots having a street frontage in excess of 400 feet, a second sign not exceeding nine square feet in size may be erected.
- (G) Displays, including lighting, erected in connection with the observance of holidays. Such displays shall be removed within 10 days following the holiday.

5-100-6 Signs Prohibited

The following signs are expressly prohibited within all zoning districts:

- (A) Portable signs, including any signs painted on or displayed on vehicles or trailers usually parked in public places primarily for displays, except where provided in this Chapter. Additionally, any such prohibited sign designed to be portable shall not be permitted to be altered so as to be made permanent.
- (B) Roof Signs
- (C) Windblown signs, including banners, pennants, streamers, spinners, blimps, gas balloons, and flags beyond two per site, unless specifically provided for in this Chapter.

- (D) Any sign or device set into motion by mechanical, electrical, or other means.
- (E) Any signs that are considered neon or have gas bulb fixtures outside of the B-1 Zoning District.
- (F) Any flashing sign or device displaying flashing or intermittent lights or lights of changing degrees or intensity, except a sign indicating time and/or temperature, with changes alternating on not less than a five-second cycle.
- (G) Any sign which is a copy or imitation of an official sign, or which purports to have official status.
- (H) Off-premises signs, unless specifically provided for in this Chapter.
- (I) Moving or flashing lights within a door or window display used to attract attention and/or used as signage, or exposed rope lighting.

5-100-7 Removal of Obsolete or Deteriorated Signs

(A) Obsolete Signs

- (1) Signs which are associated with an establishments no longer in existence or events which have already occurred shall be removed by the owner of the premises on which the sign is situated within 90 days of receipt of notification by the enforcement officer.
- (2) When a sign is determined to have particular historical or culturally significant value, such determination to be made by a majority vote of the Board of Adjustment, the terms of this section may be waived.

(B) Deteriorated Signs

Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or which is otherwise determined to be unsound or unsafe, shall be removed or brought into compliance with all codes and ordinances within 30 days of notification by the Town Manager or designee.

(C) Maintenance

- (1) All signs shall be maintained in a state of good repair. The Town Manager or designee is authorized to inspect each sign periodically to determine that it meets the requirements set forth in this chapter. Whenever it shall appear to the Town Manager or designee that any sign has been structured or is being maintained in violation of this Chapter, such sign shall be made to conform with all regulations herein, or shall be removed at the expense of the owner within 10 days after written verification thereof by the Town Manager or designee.
- (2) Maintenance responsibilities: to ensure that signs are erected and maintained in a safe and attractive manner, the following maintenance requirements shall apply to all signs visible from any street right-of-way:

- (a) A sign shall have no more than 20% of its surface area covered with disfigured, cracked, ripped, or peeling paint, poster paper, or other material for a period of more than 30 successive days.
- (b) A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15% from vertical for a period of no more than 10 successive days.
- (c) A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the street or right-of-way from which it is to be viewed, for a period of no more than 30 successive days.

5-100-8 Common Signage Plan

(A) Elements of a common signage plan

An application for a common signage plan shall be filed with the Town Manager or designee by utilizing the same form used for other sign permits. In addition, the applicant shall indicate the standards of consistency of all signs on the subject property with regard to:

- (1) Letter/graphics style;
- (2) Location of each sign;
- (3) Materials used in sign construction;
- (4) Maximum dimensions and proportion;
- (5) Limitation in number of free standing signs to one per street frontage; and
- (6) Other restrictions imposed by the applicant.

Chapter 6 – Nonconformities

SECTION 6-100 GENERAL PROVISIONS

6-100- 1 Purpose and Applicability

(A) Purpose

It is the intent of the UDO to permit nonconformities to continue until removed, but to discourage their survival except to conform to the standards of the UDO.

(B) Applicability

This article shall apply to uses, lots, and structures that were lawfully established before the effective date of the UDO or subsequent amendment but fail to conform to the standards of the UDO as amended.

6-100- 2 Minor Repairs and Maintenance

Minor repairs and normal maintenance required to preserve the safety and appearance of nonconformities are permitted provided they do not extend, expand, or enlarge the nonconforming use, structure, or land.

SECTION 6-101 NONCONFORMING USES

6-101- 1 Change of Use

No nonconforming use shall be changed except to comply with the UDO. Once a change of use is established, the previous use shall lose its nonconforming status.

6-101- 2 Expansion and Enlargement

No nonconforming use may expand into a part of a structure or land unless the expanded area was designed for such use on the date it became a nonconformance.

6-101- 3 Discontinuance

(A) No nonconforming use that has been discontinued for 180 consecutive days shall be re- established except to comply with the UDO. Days closed for repairs and renovations allowed under an approved permit shall not count towards the 180-day limit. The use shall be re-established within 30 days after repairs or renovations are complete or the permit expires, whichever happens first.

(B) Accessory uses shall cease operation within 30 days after the nonconforming principal use is discontinued.

(C) A nonconforming use, such as, but not limited to mobile homes, may not be moved off the lot or lots on which it is located, unless, when relocated within the jurisdiction of the town, it complies with the regulations for the district in which it is located. Further, any subsequent reuse of the lot or lots from which the nonconforming use has been moved must comply with the regulations for the district in which it is located.

6-101- 4 Casualty Damage

- (A) If such nonconforming use is damaged by fire, explosion, flood, or other calamity to the extent of more than 50% of its current equalized value, it shall not be restored unless it will comply with the use provisions of this chapter, except that nonconforming owner-occupied single-family dwellings may be restored. Multifamily development approved prior the effective date of the UDO may be restored in a manner which does not increase any nonconforming density, setback, or spacing of building standards approved in the original site plan, upon granting of a special use permit by the Board of Adjustment.

SECTION 6-102 NONCONFORMING STRUCTURES

6-102- 1 Applicability.

The conforming use of a nonconforming structure may continue, although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this chapter.

6-102-2 Enlargement

No nonconforming structure shall be enlarged or expanded to increase its degree of nonconformity, although modifications not impacting the nonconformity shall be permitted if in compliance with the UDO.

6-102- 3 Relocation

With a valid permit, a nonconforming structure may be relocated on the lot if the relocation results in compliance with the UDO. Nonconforming structures shall not be relocated if the nonconformity will continue.

6-102- 4 Nonconforming Manufactured Homes

- (A) A nonconforming manufactured home may only be replaced with a home that conforms to the UDO.
- (B) No nonconforming manufactured home park shall expand beyond the area or total units authorized under the original permit. A nonconforming manufactured home on a space may only be replaced with a conforming manufactured home.

6-102- 5 Reconstruction after Casualty Damage

- (A) If a nonconforming structure is damaged or destroyed by more than 50 percent of its structural replacement cost at the time of damage or destruction, it shall only be reconstructed to comply with the UDO.
- (B) If the damage or destruction is 50 percent or less of its replacement costs, the structure may be reconstructed to its previous form if a Building Permit for construction is obtained within 180 days of the casualty event and the required repairs and restorations are diligently pursued to completion.
- (C) Structural replacement cost shall be the cost of replacing the structure on the day prior to its destruction as determined by a market appraisal by a certified appraiser at the property owner's expense.
- (D) No repair or restoration shall increase the degree of nonconformity.

- (E) If a legally established single-family or two-family attached or detached use is destroyed by casualty on a nonconforming lot in a residential zoning district, an identical replacement use may be constructed within the footprint of the original dwelling, even though the lot fails to meet the minimum lot area or lot width requirements.

6-102- 6 Lot Improvements

New construction on a nonconforming lot (including the establishment of off-street parking, landscaping, signage, and other site features) shall comply with the UDO.

6-102- 7 Accessory Structures

No accessory structure shall remain on a lot where a nonconforming principal structure has been removed or abandoned. However, if a Building Permit for new construction of a principal building is obtained within 180 days of removal, accessory structures that conform to the UDO may remain.

SECTION 6-103 NONCONFORMING LOTS OF RECORD

6-103- 1 Existing vacant Nonconforming Lots

- (A) Where the owner of a lot at the time of the original passage of this chapter, or any successor in title does not own sufficient land to conform to the lot area or lot width requirements of this chapter, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than 20% below the minimum specified in this chapter, and further provided that the County Health Department approves the reduction of on-site water or wastewater facilities are involved.
- (B) Where the owner of a lot at the time of the original passage of this chapter, or any successor in title does not own sufficient land to conform to the lot area or lot width requirements of this chapter, with the lot being greater than 20% below the minimum, the owner may apply for a special use permit from the Town Council for their desired use.
- (C) **Lot Combination**
A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot with the same owner at any time after the date of the UDO to create a single conforming lot.
- (D) **Residential Districts**
If a lot cannot be combined as provided in paragraph (B) above, a nonconforming vacant lot may be developed for any Use Permitted in the zoning district in which it is located, provided that the use meets applicable yard and setback requirements for that zoning district.
- (E) **Nonresidential Districts**

If a lot cannot be combined as provided in paragraph (B) above, a nonconforming lot in a nonresidential zoning district can be permitted for a conforming use, provided that use meets the applicable yard and setback requirements for that zoning district.

(F) Variances

Variances are permitted to be requested and reviewed by the Board of Adjustment for vacant nonconforming lots if the requirements in UDO Section 2-106 are found to have been met.

SECTION 6-104 NONCONFORMING SIGNS

6-104- 1 Continuance or Removal

- (A) Nonconforming signs shall be allowed to continue as long as they are properly maintained and not detrimental to the public health and welfare except as provided herein.
- (B) A nonconforming sign damaged by more than 50 percent of its pre-existing fair market value shall be removed and may only be replaced with a conforming sign. Remnants of the damaged structure shall be removed from the premises.
- (C) If a nonconforming sign is abandoned or obsolete for more than 180 consecutive days or for more than 6 months in any 18-month period, it shall be removed and may only be replaced with a conforming sign.
- (D) Nonconforming signs may only be replaced with a conforming sign.

6-104- 2 Alterations or Reconstruction

A nonconforming sign may only be altered or reconstructed to comply with the provisions of the UDO. This provision shall not apply to routine maintenance and repair or changing copy.

6-104- 3 Routine Repairs and Maintenance

Routine repairs and maintenance to keep signs in good and safe condition shall not exceed 50 percent of the appraised value of the sign. Routine repair and maintenance shall include painting of chipped or faded signs, replacement of faded or damaged surface panels, or repair or replacement of electrical wiring or devices. No repair or maintenance shall create a greater nonconformity.

Chapter 7 – Subdivisions

SECTION 7-100 STREETS

7-100-1 Applicability

- (A) This chapter shall apply to all development within the Town's planning jurisdiction, unless expressly exempted by the language of the sections below.
- (B) Prior to approval of a final plat for the subdivision of land, the applicant shall have installed improvements specified in this chapter or guaranteed their installation as provided.
- (C) No municipal services or utilities shall be extended or furnished to any subdivision either within or outside the Town until the applicant shall have installed the improvements specified in this chapter or guaranteed their installation as provided.
- (D) Required water and sewer fees shall be collected by the Town prior to permission being granted to connect lines serving the property to the Town's facilities.

7-100-2 Sequence of Improvements

- (A) Subdivision improvements shall be installed on the site in the following sequence:
 - (1) Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement
 - (2) Street base material
 - (3) Curb and gutter and sidewalks
 - (4) Street paving

7-100-3 Streets

- (A) Streets within the Town are intended for multi-purpose use, as follows:
 - (1) To carry motor vehicle traffic, and, in some cases, allow on-street parking;
 - (2) To provide a safe and convenient passageway for pedestrian traffic; and
 - (3) To serve as an important link in the Town's drainage system.
- (B) All public streets which serve properties connected to the Town's utility system shall be constructed in conformance NCDOT standards and specifications.
- (C) If the final plat for a residential subdivision outside the Town limits but within the Town's extraterritorial jurisdiction has been approved and improvements have been guaranteed by the developer, the applicant shall provide the Town and purchasers of land in the subdivision with an agreement providing for

adequate maintenance of the newly constructed streets until such time that the streets are taken over by the NCDOT, as required by NCGS 136-102.6.

7-100-4 Street Improvements

(A) Required Improvements

- (1) The applicant shall be responsible for the cost and installation of the applicable standard residential, residential collector, collector, or commercial street width and pavement design requirements. Paving shall be installed for roadways through and adjoining the development in accordance with NCDOT standards. The applicant shall also provide additional pavement surfaces for turning lanes in accordance with NCDOT Standards.
- (2) The applicant shall be responsible for making improvements to thoroughfare rights-of-way when required by the Town. The required improvements are the thoroughfare sub-base and surface paving materials, thoroughfare grading, and the remaining standards of applicable minimum residential, residential collector, collector, or commercial streets. Required improvements include extension to the outer perimeter boundaries of a development for any development where any of the following conditions occur:
 - (a) The thoroughfare improvements would provide necessary access to the development or adjoining properties.
 - (b) The improvement would be an extension of an already existing section of thoroughfare roadway.
 - (c) The traffic from the development is predominantly from non-residential activities and the development would otherwise gain access through a residential area.

7-100-5 Fee-in-lieu

- (A) The Town may require a fee-in-lieu of installation payment to the Town for minimum residential, residential collector, collector, or commercial streets for the length of the thoroughfare if any of the following criteria are met:
 - (1) No direct access to the thoroughfare is proposed.
 - (2) The minimum street improvement is ½ of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation.
 - (3) Where the new thoroughfare right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible.
- (B) The Town Council may allow fee-in-lieu of minimum street construction payments to the Town for residential, residential collector, collector, or

commercial streets if any of the following criteria and their conditions are satisfied:

- (1) Where existing unimproved streets have:
 - (a) Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;
 - (b) Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;
 - (c) There are no plans for Town improvements on the same block; and
 - (d) The area is sufficiently developed (75% of the block) such that few future subdivision or site plan submittals are anticipated.
 - (2) Where construction of the streets by the Town or other party is imminent.
 - (3) Where construction of only a sidewalk is required without street improvements, and the new sidewalk is less than 1 block in length and would not connect to an existing sidewalk.
 - (4) Where approved by the Town Council for a new street that traverses a site when:
 - (a) Street construction will not connect to an existing improved street;
 - (b) There are no plans to construct an adjoining street in the near future; and
 - (c) A letter of credit is not an appropriate financial security.
 - (5) Where approved by the Town Council, when for reasons of topography, street construction is impractical due to:
 - (a) The need for off-site construction or slope encroachment;
 - (b) Proper street alignment should be determined with off-site development; or
 - (c) Design of bridges or culverts are required and only a portion of the structure is on the development's property.
- (C) Developments will not be responsible for the cost and installation of any paving construction requirements along existing or planned roadways, if any of the following conditions exist:
- (1) The roadway is a freeway, expressway or any other fully controlled access facility.
 - (2) The roadway is in the Town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the Town.

- (3) The roadway is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no Town contribution or participation in funding the project. If the Town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution towards Town-funded improvements.

7-100-6 Street Classification

In all new subdivisions, streets that are dedicated to public use shall be classified as provided in UDO Section 7-100-7 using the following standards.

- (A) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day or during the peak hour of the day;
- (B) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and
- (C) Whenever a subdivision street continues on an existing street or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

7-100-7 Street Types

- (A) Major Thoroughfare

A street serving the principal network for high volumes of traffic or high-speed traffic. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles. Residences should not front on a major thoroughfare.

- (B) Minor Thoroughfare

A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares as shown on the town's transportation plan. This street type generally consists of more than 1 travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles. Residences should not front on a minor thoroughfare.

- (C) Commercial Street

A multi-lane street connecting to major or minor thoroughfares designed to accommodate large volumes (in excess of 6,000 trips per day) of traffic at moderate speeds while also providing, as a major part of its function, direct access to non-residential or mixed-use high trip generating land uses.

- (D) Collector Street

A street whose principal function is to carry traffic between residential

collectors, residential streets, cul-de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per day.

(E) Residential Collector Street

A street which serves as a connector street between residential streets, cul-de-sacs and major and minor thoroughfares.

(F) Residential Street

A street whose principal function is to provide access to adjacent properties.

(G) Cul-de-sac (Commercial, Residential)

A short street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

(H) Alley

A public vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.

(I) Frontage Road

(1) A street, parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare.

(2) Where a parcel of land to be subdivided adjoins a major thoroughfare, the Town Council may require that such lots be provided access by a frontage road.

7-100-8 Thoroughfare Dedication

(A) If the Town adopts a thoroughfare plan, any parcel of land that affects the thoroughfare system roadway shall be platted and dedicated in the location and width indicated on the plans. It is the responsibility of the applicant to take future roadway plans of the Town and NCDOT into account when laying out a development plan and potentially dedicate rights-of-way as needed.

(B) Developments which embrace only one side of an existing or planned thoroughfare right-of-way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with NCDOT standards and shall be measured from the right-of-way centerline.

7-100-9 Cross-Sections

(A) Appropriate street cross-sections shall be approved by the Town or NCDOT. Appendix A contains approved street cross-sections for the Town of Kenly. Alternative cross-sections may be approved by the Board of Adjustments as a waiver and when necessary in conjunction with NCDOT.

- (B) Cul-de-sacs shall be used only when it is determined by the Town Council that extension of the street to an adjacent property is impractical or unnecessary. Alternative turnaround designs on residential streets serving 6 dwelling units or less may be considered on a case-by-case basis. Alternative designs must readily accommodate emergency vehicles and sanitation trucks. Medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the town, landscaped medians are not to be maintained by the Town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.
- (C) Subdivisions along existing streets of inadequate right-of-way shall provide additional right-of-way to meet the minimum widths specified in Appendix A. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way, measured from the center line of the existing street, shall be provided where a new subdivision is located on one side of an existing street.
- (D) A slope easement of 20 feet in width may be required adjoining each side of a street right-of-way. The Town may reduce or increase the slope easement width due to terrain. If the applicant submits to the town sufficient information to show that improvements to be located in the slope easement do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both, then the Town shall allow the proposed improvement.

7-100-10 Cul-de-sac Length

- (A) No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length.
- (B) No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 700 feet in length.
- (C) No commercial street cul-de-sac shall exceed 400 feet in length.

7-100-11 Sidewalks

- (A) In order to enhance pedestrian safety and mobility, except as set forth below, sidewalks shall be required on both sides of all streets (see Appendix A for approved street cross-sections).
 - (1) Sidewalks shall not be required on the following roadways:
 - (a) In residential developments with minimum lot sizes 1 acre or greater, except where an existing school, park, open space, trail or greenway lies within ¼-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is required.

(b) Residential streets serving 10 or fewer dwelling units. Street stubs temporarily serving 10 lots or less shall provide sidewalks on both sides of the street.

(c) Commercial street cul-de-sacs that are less than 150 feet in length.

(B) Sidewalks shall be required on only 1 side of a frontage road.

(C) Sidewalk access ramps, also referred to as wheelchair ramps for the physically handicapped, shall be provided at all intersections where curb and gutter are provided, and where sidewalks and/or greenway trails intersect any street.

(D) Pedestrian crosswalks are required on any residential street at each intersection and at any mid-block pedestrian or bicycle connections.

(E) The Town Council may allow a fee-in-lieu for sidewalk construction.

7-100-12 Curb and Gutter

Unless granted a waiver by the Board of Adjustments, all public streets inside the corporate limits of the Town and outside the Town when water or sewer is connected to the Town utility system, shall be constructed with curb and gutter (see Appendix A for approved street cross-sections). Curb and gutter shall be consistent with standards set forth by the North Carolina Department of Transportation (NCDOT).

7-100-13 Relationship of Streets to Topography

(A) Streets shall be designed to relate appropriately to the topography of a site. In particular, streets shall be designed to facilitate the storm drainage and design requirements pursuant to the Town Manager or designee's recommendation, relating to maximum grades, street grades shall conform as closely as practicable to the original topography.

(B) The maximum grade for street construction shall meet design requirements of NCDOT. However, in no case may streets be constructed with grades that create a substantial danger to the public safety or cause any substantial degradation to the street or drainage system.

7-100-14 Street Layout

(A) The street layout of any development should be in conformity with NCDOTs standards and applicable adopted plans and policies of the Town. Public streets shall be constructed to the boundary lines of the development submitted for approval when required to provide for efficient circulation of traffic within the community.

(B) Each side of a collector street, commercial street or residential street shall, within every 1,500 foot length of the street, be intersected by at least 1 connective street. The 1,500 foot length shall be measured from the origination point, if established, of the collector, commercial, residential or residential street.

(C) A waiver may be granted by the Board of Adjustments for developments that do not meet the above layout or creates a violation of this layout if:

- (1) Existing surrounding development prevents extending a street to any adjoining developments to meet this regulation.
- (2) The adjoining existing street pattern or a planned "stub" street provides for an appropriate intersecting street beyond the 1,500-foot point, that would provide equivalent benefits as an intersecting street within 1,500 feet.
- (3) Severe topography or other physical features warrant making a connection of an intersecting street at another location either inside or outside the development to provide equivalent benefits as an intersecting street within a distance of 1,500 feet, and this other alternate specific location is provided for at the time the development making the request for an alternate location is approved.
- (4) Existing adjoining public streets, public platted streets, and publicly planned streets shall be continued and extended as public streets as part of the development, with streets that are not to be extended, as determined by the Town Council, terminated in a permanent cul-de-sac.
- (5) Where a proposed development will extend a public street that is already stubbed out to the property line, such extension as a public street shall be required.
- (6) Wherever there exists a dedicated or platted half street adjacent to the parcel to be developed, the other half shall be platted and, where required, constructed.
- (7) Where a through street or a series of streets establishes a connection between 2 public streets and the connection is greater than 1,200 feet in length, or the connection may encourage through traffic not generated by the development, the street shall be a public street, except in instances where the Town Council determines that requiring such connection to be a public street will serve no purpose, due to the existing or proposed street pattern, traffic flow or traffic volumes.
- (8) Where a proposed development utilizing private streets has an area of 20 or more acres, at least 1 public through street must be provided in a location determined by the Town Council to assure continuity of the public street system, except in instances where the Town Council determines that such public through street will serve no purpose due to the existing or proposed street pattern, traffic flow or traffic volume. The Town Council may also require additional public through streets for the provision of emergency services, such as police and fire protection, or to provide alternate circulation at congested or critical intersections.

7-100-15 Construction Standards and Specifications

All streets and sidewalks required by this section shall be constructed according to Town specifications, except that the Board of Adjustments may permit sidewalks to be constructed with other materials when they conclude that:

- (A) Such sidewalks would serve the residents of the development as adequately as concrete sidewalks;
- (B) Such sidewalks would be more environmentally desirable or more in keeping with the overall design of the development; or
- (C) Such sidewalks could be maintained as adequately as concrete sidewalks.

7-100-17 Street Names and Signs

- (A) Street names shall be subject to the approval of the Town Council. New street names shall not duplicate or be similar to existing street names in Johnston County. Existing street names, however, shall be projected where appropriate.
- (B) Street name signs shall be in place prior to approval of any certificate of occupancy for structures to be located on the street.

SECTION 7-101 LOTS AND BLOCKS

7-101-1 Lots

- (A) Every lot shall abut or front on a public street.
- (B) Lot sizes, shapes, and locations shall be made with due regard to topographic conditions, contemplated uses, and the surrounding areas. All lots approved after January 6, 1997 shall contain the minimum required lot width of the applicable zoning district within 50 feet of the street right-of-way adjoining the front yard.
- (C) Double frontage lots shall be avoided, except when lots adjoin a thoroughfare and access is desirable by a street of residential scale, and discouraged or prohibited on the thoroughfare.
- (D) Side lot lines shall be substantially at right angles or radial to street lines.

7-101-2 Blocks

- (A) Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
- (B) Blocks shall not exceed 1,500 feet in length.
- (C) Blocks shall have sufficient width to provide for 2 tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.
- (D) A pedestrian connection not less than 10 feet in width may be required near the center and entirely across any block in excess of 900 feet in length to provide adequate access to schools, shopping centers, places of worship, or transportation facilities.

- (E) A pedestrian connection through a cul-de-sac not less than 10 feet in width may be required when the cul-de-sac helps provide adequate access to schools, shopping centers, places of worship, or transportation facilities.

SECTION 7-102 ACCESS

(A) Access Required

- (1) Except as provided in (2) below, no principal building, structure, or use may be erected or established on any lot which does not abut at least 50 feet on a street constructed to NCDOT standards and dedicated as a public street to the Town or the state.
- (2) The Town Manager or designee may authorize, in specific situations, the erection or establishment of a principal building, structure, or use on a lot not meeting these requirements if it is clear that adequate provision for access for the type and intensity of use proposed has been or will be provided, and there are special circumstances, such as the rural nature of the lot and area, or in the case of a nonresidential use, that an easement has been recorded guaranteeing accessibility, that make the application of these requirements to the proposed use not feasible or undesirable.

(B) Access to Major Thoroughfares

- (1) Whenever a subdivision that involves the creation of 1 or more new streets borders on or contains an existing or proposed major thoroughfare, no direct driveway access may be provided from lots within the subdivision onto this street.
- (2) When a lot or development borders on or contains an existing or proposed thoroughfare access to the thoroughfare may be limited by 1 of the following means:
 - (a) Driveway access between the lot and the thoroughfare shall be located not closer than 400 feet to the nearest centerline of any other proposed or existing driveway access along the same side of the thoroughfare.
 - (b) Lots shall be subdivided so as to provide access onto a frontage road or reverse frontage road. The centerline of the frontage or reverse frontage road where it intersects the thoroughfare shall be no closer than 800 feet to the centerline of the nearest proposed or existing driveway access or road.
 - (c) Approval of driveway access between a lot and the thoroughfare at an interval less than those specified may be granted only by review and recommendation of the Town Manager or designee and NCDOT.

- (C) The driveway access provisions shall not be applicable to any subdivision lot where:

- (1) The effect of such application would be to deprive the lot of reasonable access; or
 - (2) The size of the parcel being subdivided, or lack of frontage on the thoroughfare makes the alternatives above not feasible.
 - (3) No zoning permit or certificate of occupancy may be issued until the major thoroughfare access requirements of this chapter have been met.
- (D) Access to Minor Thoroughfares

All access to minor thoroughfares shall occur in accordance with the following:

- (1) Provision of a Frontage Road
Lots may take direct access onto a frontage road.
- (2) Provision of Cul-de-sacs
Lots may take indirect access by fronting on cul-de-sacs.
- (3) Change of Lot Orientation
Lots may front on a parallel residential street.

(E) Residential Driveways

Residential driveway access to and from streets shall be constructed in accordance with town standards as outlined below:

- (1) Driveway Type
The standard residential driveway access for the town shall be the "ramp" type driveway section. Ramp-type driveways shall be constructed in accordance with NCDOT standards.
- (2) Width of Driveway
The width of a residential driveway shall be no less than 10 feet and no more than 24 feet. When 2 residential driveways coincide along a property line, the maximum width shall not exceed 24 feet.
- (3) Number of Driveway Access Points
The number of residential driveway access points servicing any lawful lot should be limited to 1; however, in no instance shall there be more than 2 residential driveway access points servicing the lot.
- (4) Location of Driveway Access Points
Residential driveways shall be spaced at least 20 feet from any other driveway on the same lot, but not nearer than 3½ feet to any lot line, except where 2 residential driveways coincide along the same lot line. The minimum corner clearance from the curb line or edge of pavement of

intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater. The radius of the driveway shall not encroach on the minimum corner clearance.

(F) Nonresidential Driveways

- (1) Nonresidential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in the manual, Policy on Street and Driveway Access to North Carolina Highways, as adopted and amended by NCDOT. For any development, the number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common access points. The Town Attorney shall approve the recordable documents for all required common access points.
- (2) Outparcels shall take access from within the development, where possible.
- (3) Emergency access drives shall be a minimum of 24 feet in width.

(G) Multiple entrances required

In order to accommodate emergency and service vehicles, the following standards shall apply.

- (1) Any residential subdivision of greater than 30 lots shall include at least 2 access points. The second access may consist of stub street.
- (2) Any residential subdivision of greater than 75 lots shall include at least 2 access points. Stub streets shall not be considered part of the 2 access points.
- (3) No more than 75 certificates of occupancy may be issued within the subdivision until the required secondary access has been constructed or bonded for construction.
- (4) Residential subdivisions of 250 or more lots shall provide 3 separate access points. Where 3 or more access points are required, the Board of Adjustment issue a waiver consistent with UDO Section 7-107. A waiver may be issued for immediate construction of more than 2 access points, provided that subdivision phasing and design illustrates the additional required connections. For those subdivisions large enough to require a third access, a stub-out street may be credited as a required access if the 2 functioning access roads are both connected to a collector road.
- (5) A waiver, see UDO Section 7-107, of these standards may be allowed by the Board of Adjustment during review of the preliminary subdivision plat only in extreme cases where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections

and there is no substantial impact noted regarding emergency service delivery.

(H) Nonresidential Driveway Access to Adjacent Development

- (1) Driveway connections to adjacent development shall be provided and clearly identified. All driveway connections shall be constructed and stubbed, and future development of adjacent property shall complete a connection to any existing stub.
- (2) Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.
- (3) The Board of Adjustments may waive the requirement for a driveway connection required above in those cases where unusual topography or site conditions would render such an easement of no benefit to adjoining properties.
- (4) The Board of Adjustments may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

(I) Shared Access

A shared access easement may be required between adjacent lots fronting on arterial and collector streets in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots.

(J) Visibility at Intersections

(1) Corner Lots

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2½ feet and 10 feet in a triangular area formed by a diagonal line between 2 points on the right-of-way lines, 20 feet from where they intersect.

(2) Driveways

Adequate sight distance should be provided at all driveway access points and shall be in accordance with the standards provided in the manual, Policy on Street and Driveway Access to North Carolina Highways, as adopted and amended by the NCDOT.

SECTION 7-103 UTILITIES

(A) Easements

- (1) Utility easements shall be at least 20 feet wide, and shall run along side or rear lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide easement.

- (2) Where a subdivision is traversed by a water-course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the Town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The Town reserves the right to reject any intended dedications.

(B) Ownership of Utilities

All water, sanitary sewerage, electrical (when in Town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the town upon acceptance. A deed to the Town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

(C) Required Additional Capacity

Where the Town Council deems it necessary, in the interest of the health, safety and general welfare of the residents of the Town of Kenly and its extraterritorial jurisdiction, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon.

(D) Water Distribution Lines and Sanitary Sewers

- (1) Each lot in all subdivisions within the Town's corporate limits, and each lot in all subdivisions in the extraterritorial jurisdiction within 500 feet of the Town's water and/or sanitary sewer system shall be connected at the applicant's expense to the Town's water and/or sewer system. The applicant shall pay an acreage fee for all property to be served by a connection to the town's water and/or sanitary sewer system.
- (2) Where a subdivision, in the extraterritorial jurisdiction lies more than 500 feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the Town's water and/or sanitary sewer system. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Johnston County specifications and standards.
- (3) Sanitary sewers shall be no smaller in size than 8 inches nominal diameter. Water distribution lines shall be no smaller in size than 6 inches

nominal diameter, with the following exception: On cul-de-sacs which are served by fire hydrants at their intersection with a local street, and the hydrant is connected to a water line of 6 inches nominal diameter, or larger, water service may be provided with lines smaller than 6 inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least 6 inches nominal diameter.

- (4) Water systems in the extraterritorial jurisdiction not connected to the town water system need not provide fire hydrants. However, such systems shall be designed for future fire flows so that when tied in with the Town system in the future, adequate flow for firefighting will be available to every lot in the subdivision. This provision will require that the main lines be a minimum 6 inches in diameter, and that a hydrant tee and valve be provided within 500 feet of each lot.
- (5) For the purpose of this section, the term "water system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the Town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the Town.

(E) Storm Drainage

- (1) The applicant shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Town Council.
- (2) No surface water shall be channeled or directed into a sanitary sewer.
- (3) Where feasible, the applicant shall connect to the municipal storm drainage system.
- (4) Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems to surrounding properties.
- (5) Cross pipes under streets and driveways shall be concrete, reinforced concrete, or other pipe, as approved by the Town Manager or designee. All such cross pipes shall be a minimum of 15 inches in diameter.
- (6) Surface drainage courses shall have side slopes of at least 1 foot of horizontal distance for each foot of vertical distance.

- (7) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately 1 foot in each 300 feet of horizontal distance.

(F) Electrical Utilities

Electrical improvements in accordance with Town of Kenly, South River EMC, or NC Progress Energy standards, whichever is applicable, shall be required in all subdivisions.

SECTION 7-104 SUBDIVISION REQUIREMENTS

(A) Applicability

- (1) Subdivision approval shall be required before the division of land (for any purpose) into 2 or more parcels, except as expressly exempted below.
- (2) Actions exempt from subdivision requirements. The following shall not be considered "subdivision" subject to review under this section:
 - (a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resulting lots are equal to or exceed the standards of this chapter;
 - (b) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
 - (c) The public acquisition by purchase of strips of land for water or sewer infrastructure or the widening or opening of streets;
 - (d) The division of a site in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter.

(B) No Subdivision Without Plat Approval

- (1) No person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no subdivision may occur unless and until a final plat of the subdivision has been approved in accordance with the provisions of this section and recorded in the County Registry.
- (2) The Johnston County Register of Deeds shall not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.
- (3) Not all divisions of land constitute subdivisions that are subject to regulation under this chapter. However, to ensure that such divisions are in fact exempt from the requirements of this chapter, all plats creating a division of land shall be presented to the Town Manager or designee before recordation in the County Registry and the Town Manager or

designee shall indicate on the face of the plat that the division is exempt from the provisions of this chapter if that is the case.

- (4) No street shall be maintained or accepted by the Town, or shall any street lights, water, or sewer be extended to or connected with any subdivision of land, or shall any permit be issued by any administrative agent or department of the Town for the construction of any building or other improvements requiring permit, upon any land for which a plat is to be approved, unless and until the requirements set forth in this chapter have been complied with.

(C) Delegation of Authority

The Town Council delegates review and approval authority for all minor plats and final plats to the Town Manager or designee.

(D) Unlawful to Record Plat Without Final or Minor Plat Approval

It shall be unlawful to offer and cause to be recorded any final plat within the Town limits of Kenly with the County Register of Deeds unless the plat bears the endorsement and approval of the Town Manager or designee.

SECTION 7-105 MINOR SUBDIVISION

- (A) A minor subdivision is a subdivision that does not involve any of the following:

- (1) Creation of a total of more than 5 lots;
- (2) Creation of any new public streets;
- (3) Extension of any water or sewer lines;
- (4) Installation of drainage improvements through 1 or more lots to serve 1 or more other lots; or

- (B) Minor subdivisions requires minor plat review and final plat review.

SECTION 7-106 MAJOR SUBDIVISION

- (A) All other divisions of land not exempted in UDO Section 7-104 (A)(2) above or listed in UDO Section 7-105 (A) shall be considered major subdivisions.
- (B) Major subdivisions require preliminary plat approval and final plat approval.
- (C) All major subdivision plats shall be reviewed by the Town Engineer.

SECTION 7-107 WAIVERS

Where the Town Manager or designee finds that extraordinary hardships or practical difficulties may result from strict compliance with UDO Section 7-102 and the intent of this chapter may be served to a greater extent by an alternative proposal, a waiver may be granted. Waivers shall be A waiver shall not have the effect of nullifying the intent and purpose of this chapter, and the Board of Adjustment shall not grant a waiver unless the Board of Adjustment makes findings based upon the evidence presented in each case that:

- (A) The granting of the waiver will not be detrimental to the public safety, health, or

welfare or injurious to other property or improvements in the neighborhood in which the property is located;

(B) The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;

(C) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this chapter is enforced; and

(D) The purpose of the waiver is not based primarily upon financial consideration.

(1) In granting a waiver, the Board of Adjustment may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this chapter.

SECTION 7-108 PERMANENT REFERENCE POINTS.

Prior to the approval of the final plat, iron stakes shall be installed on all corners of the subdivision and at additional points in the subdivision, so that no point within the subdivision lies more than 500 feet from a monument. In addition, 2 or more control points shall be designated on the final plat.

SECTION 7-109 GUARANTEE OF IMPROVEMENTS.

(A) General

(1) No final plat will be approved unless accompanied by written notice by the Town Manager acknowledging compliance with this subsection.

(2) If the subdivision is to be phased or developed in sections, the Town Manager shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

(B) Performance Guarantee and Bond

(1) Performance Guarantee

In lieu of prior construction of the improvements required by this chapter, the town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the town's specifications at the applicant's expense. Such guarantee may be in the form of a performance bond, letter of credit, or certified check drawn in favor of the town or cash deposited with the Town. Such guarantee shall be in an amount of not less than 125% or more than 150% of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Manager. Performance guarantees shall run for a period of 1 year upon written approval of the Town Manager.

(2) Performance Bond

The Town shall require a bond guaranteeing: street improvements, curbs,

gutters, drainage facilities, sidewalks, electrical facilities, water and sewer lines and taps and all other improvements against defects for 1 year from the date of final acceptance by the Town. This bond shall be in the amount determined by the Town Manager and shall be in cash, certified check, or be made by a bonding/insurance company authorized to do business in North Carolina.

(C) Town's Right of Inspection and Acceptance

- (1) Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the town at least 2 days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the Town of any required improvements.
- (2) If improvements are guaranteed by a bond or cash deposit, failure by the applicant to perform the work to the town's standards shall free the town, at the discretion of the Town Council, to liquidate the bond or cash deposit, in order to finance the necessary repairs. This provision shall extend through the 1-year warranty period. The Town will provide the applicant with a written notice of its intent to carry out this provision at least 2 weeks prior to such liquidations, and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Council.
- (3) The Town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager or designee as specifically authorized by the Town Council.

Chapter 8 - Flood Damage Prevention

SECTION 8-100 STATUTORY AUTHORIZATION

The Legislature of the State of North Carolina has in NCGS 143-215.51; and NCGS 160D, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council of the Town does ordain as follows.

SECTION 8-101 FLOOD PRONE AREAS

- (A) The flood prone areas within the jurisdiction of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the

public health, safety and general welfare.

- (B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards

SECTION 8-102 STATEMENT OF PURPOSE

It is the purpose of this chapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (A) Restrict or prohibit uses that are dangerous to health, safety and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (D) Control filling, grading, dredging and all other development that may increase erosion or flood damage; and
- (E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.

SECTION 8-103 OBJECTIVES

- (A) To protect human life, safety and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business losses and interruptions;
- (E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood prone areas;
- (F) Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
- (G) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area;
- (H) Minimize damage to private and public property and public property due to flooding;
- (I) Make flood insurance available to community through the National Flood Insurance Program; and
- (J) Maintain the natural and the beneficial functions of floodplains.

SECTION 8-104 APPLICABILITY

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJ) of the Town.

SECTION 8-105 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA Flood Insurance Study (FIS) dated June 20, 2018 for Johnston County and associated DFIRM panels, including any digital data developed

as part of the Flood Insurance Study, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data with the jurisdiction authority of the Town are also adopted by reference and declared a part of this chapter. Subsequent Letters of Map Amendment (LOMRs) and/or Physical Map Revision (PMR), shall be adopted within 3 months.

- (A) The Special Flood Hazard Areas also include those defined through standard engineering analysis for private developments or by governmental agencies, but which have not yet been incorporated in the FIRM. This includes, but is not limited to:
 - (1) Detailed flood data generated as a requirement of UDO Section 8-111-3 (K) and (L).

SECTION 8-106 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Floodplain Development Permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within Special Flood Hazard Areas as determined in UDO Section 8-105 of this Chapter.

SECTION 8-107 COMPLIANCE

No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this chapter and other applicable regulations, including NCGS 160D, specifically:

- (A) The Flood Insurance Rate Map applicable to the Town's planning jurisdiction is incorporated by reference.
- (B) Any regulation relating to building design elements may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except where the regulations are adopted as a condition of participation in the National Flood Insurance Program.
- (C) Bonafide farms that are exempt from Town zoning shall be subject to the floodplain regulation in this Chapter.

SECTION 8-108 ABROGATION AND GREATER RESTRICTIONS

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 8-109 INTERPRETATION

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION 8-110 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town or by any officer or employee thereof for any flood damages that result from reliance on

this chapter or any administrative decision lawfully made hereunder.

SECTION 8-111 ADMINISTRATION & APPLICATIONS

8-111-1 Designation of Administrator

The Town Manager, or his or her designee, hereinafter referred to as the “Floodplain Administrator,” is hereby appointed to administer and implement the provisions of this chapter. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this chapter, the Floodplain Administrator shall be responsible for the coordination and Town’s overall compliance with the National Flood Insurance Program and the provisions of the chapter.

8-111-2 Floodplain Development Application, Permit, and Certification Requirements

- (A) Application requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
 - (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - (a) The nature, location, dimensions and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities and other development;
 - (b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in UDO Section 8-105, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in UDO Section 8-105;
 - (d) The boundary of the floodway(s) or non-encroachment area(s) as determined in UDO Section 8-105;
 - (e) The Base Flood Elevation (BFE) where provided as set forth in UDO Sections 8-105, 8-111-3(K) and (L) and 8-113-3.
 - (f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (g) The certification of the plot plan by a registered land surveyor or professional engineer.
 - (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including, but not limited to:
 - (a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (b) Elevation in relation to NAVD 1988 to any non-residential structure in Zone AE, A, AH, A99 or AO will be floodproofed; and
 - (c) Elevation in relation to NAVD 1988 which any proposed utility systems will be elevated or floodproofed.
 - (3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) along with supporting data, an operational plan, and inspection and maintenance plan, that includes, but is not limited to, installation, exercise and maintenance of flood

- proofing measures.
- (4) A Foundation Plan drawn to scale which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include, but are not limited to:
 - (a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns, posts, piers, piles and shear walls); and
 - (b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with UDO Section 8-113-2 (D), when solid foundation perimeter walls are used in Zones A, AO, AH, AE and A99.
 - (5) Usage details of any enclosed areas below the lowest floor;
 - (6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical and water systems to be located and constructed to minimize flood damage.
 - (7) Certification of all other local, state and federal permits required prior to Floodplain Development Permit issuance have been received;
 - (8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure UDO Section 8-113-2 (F) and (G) are met; and
 - (9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (B) Permit requirements. The Floodplain Development Permit shall include, but not be limited to:
- (1) A complete description of the development to be permitted under the Floodplain Development Permit (e.g., house, garage, pool, septic bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.);
 - (2) The Special Flood Hazard Area determination for the proposed development per available data specified in UDO Section 8-105;
 - (3) The regulatory flood protection elevation required for the reference level and all attendant utilities;
 - (4) The regulatory flood protection elevation required for the protection of all public utilities;
 - (5) All certification submittal requirements with timelines;
 - (6) A statement that no fill material shall encroach into the floodway or non-encroachment area of any watercourse, as applicable unless the requirements of UDO Section 8-113-5;
 - (7) The flood openings requirements, if in Zones A, AO, AE, AH or A99;
 - (8) Limitations of below BFE enclosures (if applicable) (i.e., paring, building access and limited storage); and
 - (9) All materials below BFE/RFPE must be flood resistant materials.
- (C) Certification requirements.
- (1) Elevation certificates:
 - (a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit

to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.

- (b) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within 7 calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the 7 day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- (c) A Final Construction Elevation Certificate (FEMA Form 86-0-033) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The finished construction elevation certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of the certification. The photographs must be taken with the views confirming the building description and diagram number provided in division (a). To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure not less than 3' x 3'. Digital photographs are acceptable.

(2) Flood Proofing Certificate.

- (a) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and

certified by same. The Floodplain Administrator shall review the certificate data, the operation plan, and inspection and maintenance plan submitted.

Deficiencies detected by such review shall be corrected by the permit holder prior to permit approval and the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- (b) A final finished construction (as built) floodproofing certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same. The Floodplain Administrator shall review the certificate data, the operation plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy/compliance. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to deny a certificate of occupancy/compliance.
- (3) If a manufactured home is placed within Zone A, AO, AE or A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per UDO Section 8-113-2 (C).
- (4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit.
- (5) Certification exemptions. The following structures, if located within Zone A, AO, AE, AH or A99, are exempt from the elevation/floodproofing certification requirements specified in subsections (C)(1) and (2) above:
 - (a) Recreational vehicles meeting requirements of UDO Section 8-113-2 (F)(1);
 - (b) Temporary structures meeting requirements of UDO Section 8-113-2 (G); and
 - (c) Accessory structures less than 150 square feet meeting requirements of UDO Section 8-113-2 (H).
- (D) Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and other improvement of/or work on such buildings and structures, the Floodplain Administrator, in coordination with the Johnston County Building Official shall:
 - (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or

structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

- (2) Compare the cost to perform the improvement, the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this chapter is required.

8-111-3 Duties and Responsibilities of Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (A) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this chapter have been satisfied;
- (B) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 have been met;
- (C) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining and the like) may be required, and require that copies of such permits be provided and maintained on file with the Floodplain Development Permit;
- (D) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (E) Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;
- (F) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions UDO Sections 8-113-4 and 11-113-5 are met;
- (G) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with UDO Section 8-111-2(C);
- (H) Obtain the actual elevation (in relation to NAVD 1988) to which the new or substantially improved structures and all utilities have been floodproofed, in accordance with UDO Section 8-111-2(C);
- (I) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with UDO Section 8-111-2(C);
- (J) When floodproofing is utilized for a structure, obtain certifications from a registered professional engineer or architect in accordance with UDO Sections 8-111-2 (C) and 8-113-2(B);

- (K) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section;
- (L) When Base Flood Elevation (BFE) data has not been provided in accordance with UDO Section 8-105, obtain, review and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state or other source, including data developed pursuant to UDO Section 8-113-3 (B)(2), in order to administer the provisions of this chapter;
- (M) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with UDO Section 8-105, obtain, review and reasonably utilize any floodway data or non-encroachment area data available from a federal, state or other source to administer the provisions of this chapter;
- (N) When the exact location of boundaries of the Special Flood Hazard Areas conflict with the current, natural topography information at the site, the property owner may apply and be approved for a Letter of Map Amendment (LOMA) by FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the Floodplain Development Permit file;
- (O) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Action of 1974 and NCGS Chapter 132;
- (P) Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action;
- (Q) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;
- (R) Revoke Floodplain Development Permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable state or local law may also be revoked;
- (S) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper

credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action;

- (T) Follow through with corrective procedures of UDO Section 8-111
- (U) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, FIRM and/or other official flood maps/studies adopted under UDO Section 8-105, including any revisions thereto including Letters of Map Change, issued by state and/or FEMA. Notify state and FEMA of mapping needs;
- (V) Review, provide input, and make recommendations on variance requests;
- (W) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs); and
- (X) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

8-111-4 Corrective Procedures

- (A) Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law pertaining to his or her property.
- (B) Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (1) That the building or property is in violation of the Flood Damage Prevention Ordinance;
 - (2) A hearing will be held before the Floodplain Administrator at a designated place and time, not later than 10 days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (3) Following the hearing, the Floodplain Administrator may issue an order to alter, vacate or demolish the building; or to remove fill as appears appropriate.
- (C) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 days, nor more than 180 days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (D) Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within 10 days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

- (E) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, he or she shall be guilty of a Class I misdemeanor pursuant to NCGS 143-215.58 and shall be punished at the discretion of the court.

SECTION 8-112 VARIANCE PROCEDURES

- (A) The Board of Adjustment as established by the Town, hereinafter referred to as the "Appeal Board," shall hear and decide requests for variances from the requirements of this chapter.
- (B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in NCGS Chapter 7A.
- (C) Variances may be issued for:
 - (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (2) Functionally dependent facilities if determined to meet the definition as stated in Chapter 11 of the UDO provided provisions of UDO Section 8-112(G), (H)(2) and (3) have been satisfied, and such facilities are protected by methods that minimize flood damage during the base flood and create no additional threats to public safety; and
 - (3) Any other type of development, provided it meets the requirements stated in this section.
- (D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location as defined under Chapter 11 of the UDO as a functionally dependent facility, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (E) A written report addressing each of the above factors shall be submitted with the

- application for a variance.
- (F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (G) Variances shall not be issued within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
- (H) Conditions for variances:
- (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances;
 - (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge;
 - (3) Variances shall only be issued prior to development permit approval;
 - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (6) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced reference level elevation. Such notification shall be maintained with a record of all variance actions.
 - (7) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (I) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities that are in Special Flood Hazard Areas if all of the following conditions are met.
- (1) The use serves a critical need in the community.
 - (2) No feasible location exists for the use outside the Special Flood Hazard Area.
 - (3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
 - (4) The use complies with all other applicable federal, state and local laws.
 - (5) The Town has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

SECTION 8-113 FLOOD HAZARD REDUCTION

8-113-1 General Standards

In all Special Flood Hazard Areas the following provisions are required:

- (A) All new construction and substantial improvements shall be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure;
- (B) All new construction and substantial improvements below the regulatory flood protection elevation shall be constructed with materials and utility equipment resistant to flood damage in accordance with FEMA Technical Bulletin 2, Flood Damage - Resistant Materials;
- (C) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages;
- (D) All new electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers and the like), hot water heaters and electric outlets/switches:
 - (1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions; and
 - (2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements comply with the standards for new construction consistent with the code and requirements for the original structure;
- (E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;
- (G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (H) Nothing in this chapter shall prevent the repair, reconstruction or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area or stream setback, provided that the bulk of the building or structure below the regulatory flood protection elevation in the floodway, non-encroachment area or stream setback is not increased and provided that such repair, reconstruction or replacement meets all of the other requirements of this chapter;
- (I) New solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted in Special Flood Hazard Areas, except by variance as specified in UDO Section 8-112 (I). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to UDO Section 8-111-2 (C);
- (J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage;
- (K) All subdivision proposals and other development proposals shall have public utilities

- and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards;
 - (M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
 - (N) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements; and
 - (O) When a structure is in multiple flood hazard areas or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and highest BFE shall apply.

8-113-2 Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in UDO Sections 8-105 or 11-111-3 (K) and (L), the following provisions, in addition to UDO Section 8-113-1, are required.

- (A) Residential construction. New construction or substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Chapter 11 of the UDO.
- (B) Non-residential construction. New construction or substantial improvement of any commercial, industrial or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Chapter 11 of the UDO. Structures located in A, AH, AO, AE and A99 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utilities and sanitary facilities below the required flood protection elevation are water-tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this section are satisfied. Such certification shall be provided to the official as set forth in UDO Section 8-111-2 (C) along with the operational and maintenance plans.
- (C) Manufactured homes.
 - (1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Chapter 11 of the UDO.
 - (2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement either in accordance with the most current State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS143-143.15 or a certified engineered foundation system. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an

engineering certification is required.

- (3) All enclosures or skirting below the lowest shall be in accordance with division (D) below.
 - (4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (D) Elevated buildings. Fully enclosed areas, of new construction or substantially improved structures, which are below the lowest floor:
- (1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be partitioned or finished into separate rooms, except to enclose storage areas;
 - (2) Shall not be temperature-controlled or conditioned;
 - (3) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
 - (4) Shall include, in Zones A, AO, AH, AE and A99, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet the following minimum design criteria;
 - (a) Provide a minimum of 2 openings on different sides of each enclosed area subject to flooding;
 - (b) The total net area of all openings must be at least 1 square inch for each square foot of enclosed area subject to flooding;
 - (c) If a building has more than 1 enclosed area, each area must have openings to allow floodwaters to automatically enter and exit;
 - (d) The bottom of all required openings shall be no higher than 1 foot above the adjacent grade;
 - (e) Openings may be equipped with screens, louvers or other opening coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (f) Foundation enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires openings as outlined above.
- (E) Additions/improvements.
- (1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure; and
 - (b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than

installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

- (2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitation/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
 - (3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; and
 - (b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
 - (4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 1 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this chapter. Substantial damage also means flood-related damage sustained by a structure on 2 separate occasions during a 10-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - (a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or
 - (b) Any alteration of historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (F) Recreational vehicles. Recreational vehicles placed on sites within a Special Flood Hazard Area shall either:
- (1) Temporary placement:
 - (a) Be on-site for fewer than 180 consecutive days; or
 - (b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions).
 - (2) Permanent placement. Recreation vehicles that do not meet the limitation of temporary placement shall meet all the requirements for new construction.
- (G) Temporary non-residential structures. Prior to the issuance of a Floodplain Development Permit for a temporary structure, applicants must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:
- (1) A specified time period for which the temporary use will be permitted. Time specified should be minimal with total time on site not to exceed 1 year;

- (2) The name, address and phone number of the individual responsible for the removal of the temporary structure;
 - (3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
 - (4) A copy of the contract or other suitable instrument with an entity responsible for the physical removal of the structure when needed; and
 - (5) Designation, accompanied by documentation of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (H) Accessory structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (2) Accessory structures shall not be temperature-controlled;
 - (3) Accessory structures shall be designed to have low flood damage potential;
 - (4) Accessory structures shall be constructed and placed on the building site to offer the minimum resistance to the flow of floodwaters;
 - (5) Accessory structures shall be firmly anchored in accordance with UDO Section 8-113-1 (A);
 - (6) All service facilities such as electrical shall be installed in accordance with UDO Section 8-113-1(D);
 - (7) Flood openings to facilitate automatic equalization of hydrostatic pressure during a flood shall be provided below regulatory flood protection elevation in conformance with subsection (D)(1) above; and
 - (8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with UDO Section 8-111-2 (C).
- (I) Tanks. When gas liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:
- (1) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (2) Above ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the regulatory flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank- supporting structures shall meet the foundation requirements of the applicable flood hazard areas;
 - (3) Above-ground tanks not elevated. Above-ground tanks that do not meet the elevation requirements of UDO Section 8-113-2 (B) of this chapter shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions; and

- (4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (a) At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwaters or outflow of the contents of the tanks during conditions of the design flood; and
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic loads, including the effects of buoyancy, during conditions of the design flood.
- (J) Other development.
 - (1) Fences in the regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of UDO Section 8-113-5;
 - (2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of UDO Section 8-113-5; and
 - (3) Roads and watercourse crossings in regulated floodways in NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of UDO Section 8-113-5.

8-113-3 Standards for Floodplains Without Established Base Flood Elevations and/or Floodways

Within the Special Flood Hazard Areas as Approximate Zone A and established in UDO Section 8-105, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to UDO Section 8-113-1, shall apply:

- (A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within 20 feet each side from top of bank or 5 times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
 - (1) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or floodproofed in accordance with standards in UDO Sections 8-111-3 (K) and (L);
 - (2) When floodway or non-encroachment data is available from a federal, state, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of UDO Sections 8-113-2 and 8-113-5;
 - (3) All subdivision, manufactured home park and other development proposals located within Special Flood Hazard Areas shall provide Base Flood Elevation (BFE) data if development is greater than 5 acres or has more than 50 lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per UDO Section 8-105 to be utilized in implementing this chapter; and
 - (4) When Base Flood Elevation (BFE) data is not available from a federal, state or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in

Chapter 11 of the UDO. All other applicable provisions of UDO Section 8-113-2 shall also apply.

8-113-4 Standards for Riverine Floodplains with BFE but Without Established Floodways or Non-Encroachment Areas

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (A) Standards outlined in UDO Sections 8-113-1 and 8-113-2; and
- (B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the community.

8-113-5 Floodways and Non-Encroachment Areas

- (A) Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in UDO Section 8-105. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in UDO Sections 8-113-1 and 8-113-2, shall apply to all development within such areas.
 - (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It has been demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge through hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of Floodplain Development Permit; or
 - (b) A Conditional Letter of Map Revision (CLMOR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within 6 months of completion of the proposed development.
 - (2) If UDO Section 8-113-5 (A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.
 - (3) Manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) The anchoring and the elevation standards of UDO Section 8-113-2(C); and
 - (b) The encroachment standard of UDO Section 8-113-5(A) are met.

8-113-6 Standards for Areas of Shallow Flooding (Zone AO)

- (A) Located within the Special Flood Hazard Areas established in UDO Section 8-105, are

- areas designated as shallow flooding areas.
- (B) These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.
 - (C) In addition to UDO Section 8-113-1, all new construction and substantial improvements of all structures shall have the reference level elevated to:
 - (1) At least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of 2 feet, above the highest adjacent grade; or
 - (2) At least 2 feet above the highest adjacent grade plus a freeboard of 2 feet if no depth number is specified.
 - (D) All new construction and substantial improvements of all non-residential structures may, in lieu of elevation, floodproof to the same depths as listed above so that any space below that level shall be water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (E) Certification is required as per UDO Sections 8-111-2(C) and 8-113-2 (B).

SECTION 8-114 LEGAL STATUS PROVISIONS

8-114-1 Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance enacted on September 13, 1999, as amended, which are not reenacted herein are repealed.

8-114-2 Effect Upon Outstanding Floodplain Development Permits

Nothing herein shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of 6 months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.

8-114-3 Penalty

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

Chapter 9 – Off-Street Parking and Loading

SECTION 9-100 OFF STREET PARKING AND LOADING REQUIREMENTS

9-100-1 Purpose and Intent

The purpose and intent of this section is to relieve traffic congestion in the streets, to minimize detrimental effects of off-street parking areas on adjacent lands, and to ensure the proper and uniform development of parking areas throughout the Town. Off-street parking and loading shall be provided in accordance with the standards of this section.

9-100-2 Expansions and Alterations

Any expansion and alterations to existing buildings or any change to an existing use that will increase parking and loading demands beyond what is currently available shall comply with this section.

9-100-3 General Standards for Off-Street Parking, Stacking, and Loading

(A) Use of Parking Area, or Loading Space

Designated vehicular parking areas, stacking areas, and loading spaces shall be used for those purposes. Spaces used to store vehicles for repair service or outdoor sales display shall not count towards the minimum requirements.

(B) Delineating Parking and Loading Areas

Painted lines, wheel stops, and other methods shall be used to distinguish off-street parking areas with 3 or more spaces and off-street loading areas from aisles and other designated circulation areas.

(C) Paving

- (1) Off-street parking and loading surfaces shall be paved with a durable, dust free and hard material such as surface and seal treatment, bituminous hot mix or Portland cement, concrete, or some comparable material.
- (2) Gravel driveways may be permitted for single-family and two-family residential lots. Gravel shall be contained within the parking area and prevented from being carried into the public roadway or drainage ways.
- (3) Surface areas for parking and loading shall be maintained for safe and convenient use at all times.
- (4) Grass lawn or other pervious parking surfaces may be permitted for specific uses as set forth below, provided they are approved by the Town Manager or designee. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass or lawn is caused to be damaged or destroyed to the extent that it ceases to grow, then paving of such an area in accordance with this section may be required. Driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass lawn for the following:

- (a) Uses which require parking on an average of less than 5 days per week per month;
- (b) Schools and places of worship; and
- (c) Parks, playgrounds, ballfields, football and baseball stadiums, fairs, and other similar outdoor areas.

(D) Arrangement

- (1) Arrangement of off-street parking and loading areas shall provide convenient access and safe circulation for pedestrians and motorists.
- (2) Except for detached residential uses, off-street parking areas with 3 or more spaces shall be arranged so no parking or incidental maneuvering into a public street or sidewalk is required; and so that vehicles can be parked and un-parked without moving another vehicle.

(E) Drainage

Off-street parking and loading area drainage shall not cause a nuisance on adjacent land.

(F) Exterior Lighting

No exterior lighting shall emit glare or spillover light on adjacent properties and public rights-of-way. A lighting plan shall be included with site development applications.

(G) Curbs and Motor Vehicle Stops

Curbs, wheel stops, or similar devices shall prevent vehicles from overhanging into public right-of-way, sidewalks, walkways, adjacent land, or landscape areas.

(H) Maintained in Good Repair

Off-street parking and loading areas shall not create a hazard to public safety or a visual or aesthetic nuisance to surrounding land. Off-street parking and loading areas shall be periodically restored to clearly identify and separate parking stalls.

(I) Responsibility for Provision

Off-street parking and loading areas shall be provided and maintained jointly by the property owner and the operator of the use for which such areas are required.

(J) Construction of Off-street Parking and Loading Areas

Required off-street parking and loading areas shall be available before a Certificate of Compliance can be issued for the establishment they serve.

9-100-4 Off-Street Parking Standards

(A) Parking Plan Required

Permit applications shall include a parking plan showing compliance with off-street parking requirements. The plans shall accurately illustrate the location, number, and dimensions of parking and circulation areas, landscaping, lighting, and other parking facilities associated with the proposed use.

(B) Minimum Number of Spaces Required

Off-street parking shall be provided as specified in the following table:

Table 9-1: Minimum Off-Street Parking Space Requirements

Use	Minimum Off-Street Parking Spaces
Single-family dwelling	2 spaces
Duplex	4 spaces (4 spaces for one duplex made of two dwelling units)
Multi-family/townhouses	2 spaces/unit
Manufactured home	2 spaces
Offices, general, professional, medical	1 space per 250 square feet of floor area
Retail businesses & personal services	3 spaces per 1000 square feet of floor area
Religious, auditoriums, theaters, funeral homes, and institutional uses	1 space per 4 seats
Accommodations (hotels and motels)	1 for each guest room and 1 per 300 square feet of administrative area and 1 per 300 square feet of event space
Hospitals and nursing homes	1 space per 2 beds
Amusement center indoor or outdoor, recreation or community center	1 space for 1,000 square feet of customer area
Wholesale, warehouse, industrial, and similar businesses	1 space for 1,000 square feet, plus 1 for each 300 square feet of retail sales or service
Research & Development	1 space per 1,000 square feet of laboratory area, 1 space per 300 square feet for administrative or office space
Child Care Center	1 space per 10 children
School (other than High School)	1 space per classroom and 1 per 300 square feet of administrative space
High School	1 space per school employee, and 1 space per 4 students
Restaurants, coffee shops, and other eating establishments	1 space per 4 seats, if no seating, a minimum of five parking spaces
Vehicle sales	1 space per 300 square feet of interior customer area, with a minimum of five customer parking spaces
Convenience Stores associated with gas stations/truck stops	1 space per 300 square feet of interior customer area, with a minimum of five customer parking spaces

(C) Determination by Town Manager or Designee

Parking standards for uses not specifically listed above shall be determined by the Town Manager or Designee based on the standards for the closest comparable use or from accepted sources such as the ITE Parking Generation Manual.

(D) Placement

Off-street parking shall be provided on the lot where the use is located or on a lot within 500 feet of that lot with the written permission of the owner. If the parking is within 500 feet and not on-site, the parking must be solely dedicated to the use and an affidavit signed by the owner of the off-site parking must be submitted. If the owner of the off-site parking no longer wishes to supply parking to the use, the use will be considered illegal and shall not be permitted to continue unless parking is provided.

(E) Shared Parking

- (1) Shared parking for multiple uses may be used to satisfy off-street parking requirements. Users wishing to share parking must file a request that justifies the feasibility of shared parking. Such a request shall provide information on the size and type of uses proposed to share parking, and shall demonstrate that sufficient space will be available for each use during their respective peak parking demand.
- (2) The shared parking plan shall be enforced through written agreement among the owners of record. An attested copy of the agreement shall be filed with the Town Manager or designee before a Certificate of Occupancy is issued.

(F) Minimum Dimensional Standards for Parking Spaces and Aisles

- (1) The minimum dimensions for standard car parking spaces shall be as follows:
 - (a) 9 X18 Standard Parking Stall
 - (b) 9 X 20 Parallel Parking Stall
 - (c) 12.5 X 18 Handicapped Parking Stall
- (2) The maximum grade permitted for any required parking shall not exceed 8%.
- (3) Unless otherwise required by the NCDOT, the maximum pavement width of driveways in off-street surface parking lots shall be 24 feet from curb face to curb face.
- (4) Minimum aisle widths shall be as follows:

Table 9-2: Minimum Aisle Widths

	<i>Aisle Width in Feet</i>	
<i>Parking Angle</i>	<i>One-Way Traffic</i>	<i>Two-Way Traffic</i>
0-15	12	24 (0 degrees only)
16-37 degrees	11	--
38-57 degrees	13	--
58-74 degrees	18	--
75-90 degrees	24	32

(5) Maximum Parking

No use shall provide more than 110% of the required parking shown in Table 9-1, or one additional space, whichever is greater, unless any parking above the 110% threshold is pervious or is provided through use of structured parking.

(6) Phasing

Where a project is intended to be developed in phases, the Planning Board may approve development of a parking area intended to serve current and future development.

(7) Modifications

The Town Manager or designee may reduce the required number of spaces by up to 5% for reasons of topography, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided the reduction in the required number of parking spaces satisfies the intent of this chapter.

9-100- 5 Loading Space Standards

(A) Minimum Loading Space Requirements

(1) Loading spaces shall be provided as specified in the following table

Table 9-3: Off-Street Loading Requirements

Use Classification	Minimum Space Requirements
Non-residential uses with a floor area of less than 20,000 square feet (sq. ft.)	1 space
Retail uses with 20,000 sq. ft. or more of usable floor area	1 per 20,000 sq. ft. of usable floor area but no more than 2 spaces
Light industrial uses with a gross floor area of less than 40,000 sq. ft.	1 space
Industrial and wholesale uses with a gross floor area of 40,000 sq. ft. or more:	
40,000-99,999 sq. ft.	2 spaces
100,000-159,999 sq. ft.	3 spaces
160,000-239,999 sq. ft.	4 spaces
240,000-319,999 sq. ft.	5 spaces
320,000-400,000 sq. ft.	6 spaces
Each 90,000 above 400,000 sq. ft.	1 space
Office uses and hotels with 100,000 sq. ft. devoted to such purposes	1 space per 100,000 sq. ft.

(2) The minimum dimensions of a loading berth or space shall be 12 feet wide by 30 feet deep; and the minimum clearance shall be 14 feet.

(3) Each loading space shall have adequate unobstructed means of ingress and egress for vehicles.

(B) Location

Where possible, loading areas shall be located to the rear of the use they serve. In addition, the loading area shall be adjacent to the building's loading doors and in an area that promotes their practical use.

(C) Street Access

The loading space shall have safe and convenient access to a street, but no loading space shall extend into the aisle of the parking lot.

9-100- 6 Off-Street Stacking Requirements

The following vehicle stacking standards shall apply unless an alternative is otherwise expressly approved by the Town Manager or designee. The Town Manager or designee may require additional stacking spaces where trip generation rates suggest that additional spaces will be needed.

Table 9-4: Off-Street Loading Requirements

Use	<i>Minimum Spaces</i>	<i>Measured From</i>
Bank teller or ATM lane	3	Teller, window, or machine
Car lubrication stall	2	Entrance to stall
Car wash stall, hand-operated	3	Entrance to wash bay
Day care drop off	3	Passenger loading area
Restaurant drive-thru	4	Order box
School drop-off	Determined by Town Manager or designee	

Chapter 10 – Landscaping

SECTION 10-100 LANDSCAPE REQUIREMENTS

- (A) Purpose and Intent
This section establishes standards for the design of landscaping to improve the community aesthetically, economically, and environmentally.
- (B) Applicability
 - (1) General Applicability
This Chapter applies to public and private property.
 - (2) New Development
This Chapter applies to all new development.
 - (3) Existing Development
This Chapter applies to existing development in cases where proposed renovations or additions would result in an increase of more than 50% of the assessed value, 50% increase in floor area, or 50% of the minimum parking requirement.
 - (4) Exemptions
Regardless of (1) – (3) above, the following are exempt from the requirements of this Chapter:
 - (a) Development of an individual single-family dwelling on a single lot.
 - (b) Development of a two-family dwelling structure on a single lot.
 - (c) Development consisting of an Interior or exterior renovation project not excepted by UDO Section 10-100, subsection (B)(3) above.
 - (d) Development in the B-1 District.
- (C) Landscape Plan
All site plans requiring landscaping in accordance with this section shall include a landscape plan designed to provide landscaping in the following manner:
 - (1) Twenty percent of the total lot area shall be landscaped.
 - (2) No less than 1 canopy tree, 1 understory tree, and 2 shrubs shall be planted for each 1,000 square feet of landscape area required. Trees must be evenly planted throughout the landscaped area, but may be staggered or clustered as necessary to maximize visual and screening objectives, and to meet the needs of the particular species of plants for root space, water, light, and air circulation.
 - (3) At the time of planting all canopy trees shall be at least 6 feet in height, all understory trees shall be at least 4 feet in height, and all shrubs shall be at least 1 foot in height.
 - (4) Landscape areas may include interior landscaping in parking lots and other vehicular use areas. However, the buffer requirements of paragraph (D) below shall be provided completely, as required, in addition to these requirements.
 - (5) Resource conservation areas may be used to satisfy a maximum of 40% of the total required landscaped area.

(D) Planting Buffer Yard

(1) Applicability and Exceptions

Planting buffer yards standards apply as indicated in UDO Section 10-100, subsection (B) above, except for the following uses which do not require planting buffer yards:

(a) Agricultural Uses

- i. Farm (crop production)
- ii. Nursery (plants or trees)

(b) Residential Uses

- i. Dwelling, single-family attached, detached, or mobile home
- ii. Dwelling, two-family
- iii. Dwelling, multi-family
- iv. Dwelling, Townhouses
- v. Family Care Home

(c) Accessory Uses

- i. Day Care Home
- ii. Home Occupation

(d) All Temporary Uses

(2) Planting Buffer Yard Width

(a) Planting buffer yards are intended to separate different land uses from each other and eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, and unsightly buildings or parking areas. The planting buffer yard widths are determined by adjacent uses.

(b) Table 10-1 shows the land use categories for existing and proposed development and required planting buffer yard widths.

Table 10-1 Use Category and Planting Buffer Yard Width

	Residential	Multifamily	Commercial	Industrial	Agricultural	Manufactured home park
Residential	NA	10 ft	20 ft	50 ft	20 ft	20 ft
Multifamily Residential	10 ft	NA	20 ft	50 ft	20 ft	10 ft
Commercial	20 ft	20 ft	NA	10 ft	10 ft	20 ft
Industrial	50 ft	50 ft	10 ft	NA	20 ft	20 ft

Agricultural	20 ft	20 ft	10 ft	20 ft	NA	10 ft
Manufactured home park	10 ft	10 ft	20 ft	20 ft	10 ft	NA
<p>Note:</p> <p>Residential: Single-family (attached or detached), two-family, or mobile home.</p> <p>Multifamily: Townhouse or apartment</p> <p>Manufactured home park: Mobile or manufactured homes within a development</p> <p>Commercial: Commercial, retail, office</p> <p>Agriculture: Commercial and non-residential uses, not relating to residential</p>						

(3) Tree and Shrub Plants for Buffer Yard

Each planting buffer yard has a type and quantity of plant material that is required based on the required width from Table 10-1. The required width corresponds to the number of trees or shrubs required as shown in Table 10-2, and aligned with the following standards:

(a) Placement of Required Plants

The placement of required plants and structures within the buffer shall be the decision of the applicant, except that the following requirements shall be satisfied:

- i. Plant materials shall be located so as to achieve the maximum level of screening. Plant material shall meet the buffer requirements every 100 feet.
- ii. Canopy trees shall be located no closer than 5 feet from any structure. Understory trees shall be planted no closer than 3 feet from any structure.
- iii. Buffer areas not retained in native habitat shall be seeded or sodded with lawn, established with ground cover, or mulched with organic mulch. No turf grass shall be planted under the dripline of trees. Inorganic ground cover shall not exceed 20% of the total required area of the buffer.

(b) Planting in Easements

- i. No buffer shall be planted in wet retention ponds or drainage easements.
- ii. Trees and shrubs shall be installed a minimum of 5 feet away from the flow line of a swale.
- iii. Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, the existing planted species are adapted to seasonal flooding and the pond is adequately maintained.
- iv. Trees may be planted in underground utility easements with the Town Manager or designee approval, provided the root structure of

the proposed tree is not anticipated to extend more than 3 feet below the ground. Shrubs may be planted, provided they are only within the outer 3 feet of the easement. Where such trees and shrubs are planted, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their temporary removal.

- v. A minimum buffer width of 5 feet, or at least half the minimum required buffer width, whichever is greater, shall be provided outside of any required easements. The majority of buffer plantings and all structures shall be located outside the easements.

Table 10-2 Planting Buffer Yard Landscaping

Minimum Width (feet)	Medium – Large Shade Trees	Small Ornamental Trees	Shrubs	Required Points per Linear Foot*
10	Optional	1/50 feet	Optional	0.4
20	1/75 feet	1/100 feet	Optional	0.7
50	1/50 feet	1/75 feet	Optional	0.9

* See Table 10-3, Points for Planting Buffer Yards.

Table 10-3: Points for Planting Buffer Yards

Trees and Shrubs	Points
Medium - Large Shade Tree	12
Small Ornamental Tree	6
Large Shrub	3
Small - Medium Shrub	2

(4) Wall or Fence with Planting Buffer Yard

A wall or opaque fence may be used to reduce both the minimum width of the planting buffer and the corresponding number of points per linear foot by 20%. A wall or opaque fence must be a minimum of 6 feet in height and constructed of masonry or pressure treated lumber. The combination of plants, with a wall or opaque fence shall provide a complete visual separation within 3 years of planting.

(5) Location of Buffer

- (a) Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way.
- (b) Except as provided in III., below, the required buffer shall be provided along the entire frontage abutting the existing, dedicated or reserved

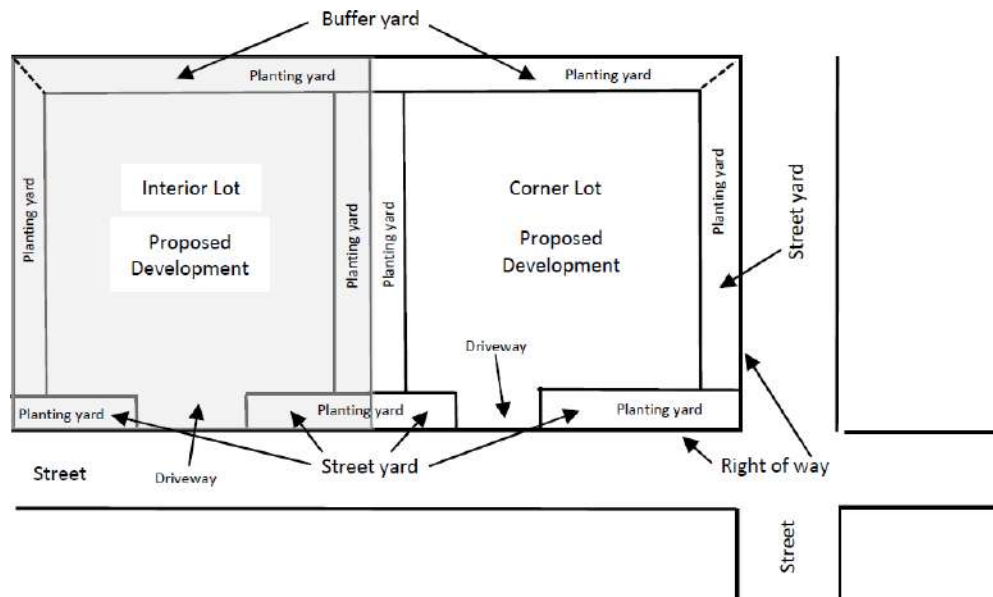
public or private street or right-of-way, district boundary, or project boundary, as applicable.

- (c) A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public right-of-way.

(E) Street Yard Buffer

- (1) A street yard buffer shall be provided for all development not exempted from paragraph (B) of this chapter. A required buffer, as provided in Table 10-1, may include a streetside buffer where applicable. A street yard buffer shall be a minimum of 10 feet in depth oriented as depicted in Figure 10-1.

Figure 10-1 Street yard buffer



- (2) All street yard trees in the street yard buffer shall be a minimum of 2½ caliper inches at time of planting and shall be planted no less than 5 feet or more than 15 feet from the back of the sidewalk.

(F) Standards for Landscaping within Parking Lots

- (1) All new parking lots with 12 or more spaces shall comply with the requirements of this section.
- (2) If an existing parking lot (paved or unpaved) is expanded or improved to add 50% or more spaces, it shall comply with the parking lot requirements of the landscape ordinance within the expanded or improved portion to include street yard, planting yard, and parking lot requirements.
- (3) In parking lots with 12 or more spaces, trees shall be planted at a rate of one medium-large shade tree or two small ornamental trees for every 12 spaces or fraction thereof.

- (4) Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows of parking spaces in a manner such that no parking space is located more than 60 feet from a parking lot tree.
- (5) Trees required within the planting yards or street yards cannot be credited toward the parking lot requirements.
- (6) Planting areas within the parking lots shall provide a minimum of 81 square feet with a minimum inside dimension of nine (9) feet and a minimum prepared depth of 18 inches.
- (G) Screening
 - (1) Service Areas
 - (a) Service areas shall be fully enclosed by opaque walls or fences at least 8 feet high with self-closing access doors and shall be constructed of the same materials as the primary building.
 - (b) All service areas shall be limited to the area shown on an approved site plan.
 - (c) All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.
 - (2) Loading Areas

Loading areas shall be subject to the following screening requirements:

 - (a) Provide a minimum 100% year-round screen of all loading areas visible from residential properties or public rights-of-way.
 - (b) This screen shall consist of berms, walls, fences, plant material or combination totaling 8 feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.
 - (c) Loading docks not in an I-1 or I-2 district shall be located at the side or rear of buildings a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.
 - (3) Mechanical Equipment.
 - (a) All roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment) shall be screened from view from residential properties or public rights-of-way at ground level of the property line.
 - (b) Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.
 - (c) Wall or ground-mounted equipment screening shall be constructed of:
 - a. Planting screens;
 - b. Brick, stone, reinforced concrete, or other similar masonry materials; or
 - c. Redwood, cedar, preservative pressure treated wood, or other similar pest-resistant materials.
 - (4) Utilities

- (a) Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure.
- (b) Required access ways to these utilities are exempt from the screening provisions.

(H) Tree Preservation and Care During Construction

- (1) Existing trees shall be preserved whenever feasible. Credits for tree preservation are offered when a tree preservation plan is submitted to the Town Manager or Designee prior to grading the site. A tree preservation plan must show that there will be no disturbance in the critical root zone (CRZ). A disturbance is considered trenching, placing backfill in the CRZ, driving or parking equipment in the CRZ, and dumping of trash, oil, paint, or other materials detrimental to plant health in close proximity of the tree(s).
- (2) When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.
- (3) Credit for existing trees within parking lots and Planting Yards will be given at the rate of 18 points per 4 inches in diameter at breast height (DBH) of existing plant material preserved. Minimum size requirement to qualify for tree preservation is 4 inches DBH.
- (4) Should any tree designated for preservation in the tree preservation plan die at any time after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient landscaping equal to the tree preservation credit within 180 days. In the event of a restricted site, the owner may request review by the Town Manager or designee. The replacement trees shall be a minimum of 2" in caliper for a shade tree and a minimum of 6' in height for an ornamental tree (six feet from the top of root ball to top of tree) at the time of planting.

(I) Alternative Methods of Compliance

- (1) Use of Alternate Plans, Materials, or Methods
Alternate landscaping plans, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or front lot configuration, utility easements, unified development design, or unusual site conditions.
- (2) Approval of Alternate Plan
The Town Manager or designee may approve an alternate plan which proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required

by this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening, height, spread, and canopy of the planting at maturity.

(3) Appeal

Decisions of the Town Manager or designee regarding alternate methods of compliance may be appealed pursuant to UDO Section 2-114, Administrative Appeals.

(J) Plant Substitution

Due to seasonal planting problems and a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting may be approved by the Town Manager or designee if the following are true.

- (1) There is no reduction in the quantity of plant material.
- (2) There is no significant change in size or location of plant materials.
- (3) The new plants are of the same general category (i.e., shade tree, ornamental tree, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

(K) Maintenance

- (1) All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.
- (2) Necessary pruning and trimming shall be in accordance with the American National Standards for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance - Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures such as lollipopping or meat balling that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this chapter. Additional plant material shall be required to replace or supplement the damaged plant material.
- (3) Dead or diseased plantings shall be removed. Replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.
- (4) Natural water courses shall be maintained in a natural condition.
- (5) A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the town.
- (6) Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.

- (7) Where other uses, including pedestrian, bike or other trails these uses shall be maintained to provide for their safe use.
- (L) Failure to maintain.

In the event that any owner of a planted area fails to maintain the planted area according to the standards of this section, the town shall have the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following reasonable notice and a demand that deficiency of maintenance be corrected, enter the planted area to take maintenance action. The cost of such maintenance shall be charged to the party having the primary responsibility for maintenance of the planted area.

Chapter 11 – Definitions

SECTION 11-100 GENERAL RULES FOR INTERPRETATION

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

11-100- 1 Meanings and Intent

- (A) The provisions, terms, phrases, and expressions in this Ordinance shall be interpreted consistent with the general purposes of UDO Section 1-103, and the purpose statements set forth throughout this Ordinance.
- (B) When a specific section of these regulations gives a different meaning than the general definition provided in this Article, the specific section's meaning and application of the term shall control.
- (C) Unless defined in UDO Section 11-101, all words and terms found in this Ordinance shall use their standard dictionary definition.

11-100- 2 Headings, Illustrations, and Text

The text of this Ordinance shall supersede conflicts or inconsistencies between a heading, caption, figure, illustration, table, or map. Graphics and illustrations are provided for informational purposes and should not be relied upon as a complete and accurate description of applicable regulations.

11-100- 3 Lists and Examples

Unless 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 an exhaustive list of possibilities.

11-100- 4 Computation of Time

The time required to perform an act shall be computed by excluding the first day and including the last day. If a deadline falls on a Saturday, Sunday, or official Town holiday, the deadline shall be extended to the next business day. References to days are calendar days unless otherwise stated.

11-100- 5 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 stated.

11-100- 6 Delegation of Authority

An act authorized by this Ordinance to be carried out by a specific official of the Town may be delegated to a subordinate of that official.

11-100- 7 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 understood according to such meaning.

11-100- 8 Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the Town of Kenly, unless otherwise indicated.

11-100- 9 Mandatory and Discretionary Terms

The words “shall,” “must,” and “will” are mandatory, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive.

11-100- 10 Tenses, Plurals, and Gender References

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 usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender and viceversa.

11-100- 11 Terms Not Defined

For the purposes of interpreting this ordinance, certain words or terms are defined in this Article. Except as defined herein or in other sections of this Ordinance, all words used in this Ordinance shall have their customary dictionary definition.

SECTION 11-101 DEFINITIONS

The following words, terms, and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section.

A

Abandonment: A use, structure, or lot which has been physically and objectively discontinued, ceased, relinquished, vacated, or not maintained for 180 or more consecutive days without intent to resume. Periods of temporary interruptions for remodeling or maintenance or normal vacation or seasonal closing are excluded. “Intent to resume” can be evidenced by continuous operation of a portion of the facility, maintenance of sewer, water, and other public utilities, or other outside proof of continuance such as bills of lading, delivery records, etc.

Abutting: When two adjoining lots have a common property line, including cases where two or more lots adjoin a corner, but excluding cases where adjoining lots are separated by a street or alley.

Access: The provision for immediate and direct ingress and egress of vehicles from a lot to an improved street.

Accessory Dwelling Unit: A secondary dwelling unit established in conjunction with and clearly subordinate to a principal dwelling unit, whether it is attached to the principal dwelling unit or as a detached dwelling on the same lot.

Accessory structure: (Appurtenant Structure). A structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole

barns, hay sheds and the like qualify as accessory structures on farms and may or may not be located on the same parcel as the farm dwelling or shop building.

Accessory use: A use that is subordinate and incidental to the principal use on the lot.

Acreage: The total area within a parcel of land.

Active Recreation: Uses or structures intended for active recreational activities, facilities may include playgrounds, ball fields, tennis courts and other similar uses.

Addition: Any extension or increase in floor area or height of a building or structure.

Adjacent: A lot that touches or is directly across a street, access easement, or right-of-way from the subject property.

Adult Care Home. An assisted living residence for more than six residents in which the housing management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies.

Adult Entertainment Establishment. An means an adult arcade, adult theater, adult bookstore, adult motel, adult dancing establishment, encounter studio or other establishment other than a private residence, where an employee, operator, owner, customer, member or patron exposes any of his or her specified anatomical areas for viewing by other patrons, or where adult material is provided to customers, patrons or members, including, but not limited to, massage establishments, tanning salons, modeling studios, or lingerie studios. The term does not include educational centers, where the exposure of specified anatomical areas is associated with a curriculum or program.

Administrative Decision: A decision that applies a standard in the UDO that is not subjective. Zoning permit approval is an example of an administrative decision.

As-built plan: Construction drawings prepared by the engineer of record to accurately identify and depict the location on all on-site improvements, including all structures, parking facilities, curbs, gutter, and sidewalks, constructed under a valid development permit.

Adult Establishment: Any adult bookstore, adult motion picture, theatre, adult mini motion picture theatre, adult live entertainment business, massage business, or other sexually-oriented businesses as defined in NCGS 14-202.10.

Aggrieved Person: Any person who has standing to file an appeal as provided under NCGS 160D-1402(c).

Agriculture (livestock): The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm.

Agriculture (sales): A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This excludes the sale of large implements, such as tractors and combines, but includes food sales and farm machinery repair services that are accessory to the principal use.

Alley: A service road that provides a secondary means of access to abutting property but not intended for general traffic circulation.

Alteration: A change in the size, configuration, or location of a structure; or a change or expansion in the use of a structure or lot, from a legally existing size, configuration, location, or use.

Alteration of a Watercourse. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in the cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Amusement Center: Land or premises designed to be used by members of the public, for a fee, that contains outdoor or indoor amusement facilities, such as miniature golf courses, merry-go-rounds, bowling, roller-skating, and related amusements.

Ammunition Sales: The selling, leasing, or transferring of firearms or firearms ammunition, except for wholesale sales.

Appeal, Floodplain. A request for a review of the Floodplain Administrator's interpretation of any provision of Chapter 8 of the UDO.

Applicant: Any authorized person who initiates an application for development approval.

Application: The completed form and accompanying documentation required to initiate development review and to show compliance with the UDO.

Area of Shallow Flooding. A designated Zone AO on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from 1 to 3 feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

Area of Special Flood Hazard. See Special Flood Hazard Area (SFHA).

Artist Studio: Work space for one or more artists or artisans, including the accessory sale or exhibit of art works.

Assessed Value: The monetary price of a parcel of land, portion of land, improvement on land, or other commodity assigned by the County Property Appraiser's office for the purposes of taxation.

Auction sales: A facility used for the sale of goods by auction to the highest bidder. This definition does not include the auction of livestock.

Authority: Any government entity with regulatory authority to issue development permits or over public facilities or utilities.

Authorized Agent: Any person with written authority to act on behalf of another. The terms of a valid lease, contract, or option to buy may be used to indicate owner consent.

B

Base Flood. The flood having a 1% chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood

Hazard Area” it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

Basement. Any area of the building that has its floor subgrade (below ground level) on all sides.

Bed and Breakfast Inn: A private residence, generally a single-family detached dwelling, where 1 or more rooms are available for rent on a daily basis to tourists, vacationers, and business people, and meals are provided to residents and guests only.

Berm: An elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent uses.

Best Management Practice (BMP): A wide range of management procedures, schedules of activities, prohibitions on practices and other management protocols which have been demonstrated to effectively control the quality and quantity of storm water runoff, and which are compatible with the land use or other land disturbing activity.

Billboard: A freestanding advertising sign which directs the attention of the public to a commodity, product, service, activity, or a person, place or thing which is not located, found, or sold on the premises upon which such sign is located.

Board of Adjustment: A quasi-judicial board appointed by the Town Council in accordance with state law.

Boats and accessory retail sales and service: A facility that sells or rents boats and related accessories and may include boat repair services

Bona Fide Farm: The production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture as described under NCGS 160D-903(a).

Buffer: An area of land with landscaping, berms, screening, and building setbacks, that is located between land uses of different character and is intended to mitigate negative impacts of incompatible uses.

Build: To construct, assemble, erect, convert, enlarge, reconstruct, or structurally alter a structure.

Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot. It is defined by maximum height regulations, and minimum yard setbacks, buffers, easements, or other applicable regulations.

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: A structure enclosed with exterior walls, built, erected, and framed of a combination of materials, having a roof, to form a shelter for persons, animals, or property.

Building coverage: The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool screen enclosures, or roof overhangs of less than 3 feet.

Building Height: The vertical distance measured from the main level of the finished grade along the front of a 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 ridge of gable, hip, cone, gambrel, or shed roofs.

Building Story: A building story is the space between the surface of a floor and the surface of the next floor above it; or if there is no floor above it, the space between the floor surface and the top of the ceiling joists or roofrafters above it.

Building, Principal: A building in which the primary use of the lot on which the building is located is conducted.

Building Permit: A permit issued by the Johnston County Inspections Department pursuant to the UDO and the State Building Code authorizing the erection, construction, reconstruction, restoration, alteration, enlargement, conversion, remodeling, demolition, moving, or repair of a building or structure.

C

Caliper: A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and twelve inches above the ground for larger sizes.

Capacity: The maximum lawful level of use of a structure, or part thereof, as determined by the Town's adopted building code and expressed in terms of occupants, seats, persons, employees, or other units.

Carport: A roofed structure not more than 75 percent enclosed by walls and attached to the main building for providing shelter for one or more motor vehicles.

Carwash: A facility for the washing, waxing, and other full-service cleaning operations for motor vehicles.

Casualty Damage: Damage to a use, lot, or structure from an event that is sudden, unexpected, and unusual, such as a hurricane, earthquake, fire, flood, theft, or similar event.

Cemetery: A use principally engaged in the burial of the dead and dedicated for cemetery purposes. This use may include a funeral home, mortuary, or a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but excludes a crematory.

Certificate of Compliance: A statement signed by the Town Manager or designee certifying that a structure or use complies with the UDO and that the same may be used for the purpose stated in the development permit.

Certificate of Occupancy: A document issued by the Johnston County Inspections Department 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 the UDO and other applicable regulations.

Change of Use: Any alteration of the principal use of a lot that may require additional parking or loading facilities, any change from one use to another use, or the addition of a new use category to an existing use.

Chemical Storage Facility. A building, portion of a building or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Chicken Coops. An enclosed structure that provides shelter from the elements for chickens.

Child Care Center: A residence where daytime care, supervision, and protection is provided to more than three children who are not the legal wards or foster children of the attendant adult occupant of the residence.

Civic Club or Facility: An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes that are not primarily conducted for profit; includes fraternal lodge.

Club, Private: Land area and buildings containing golf courses, swimming pools, tennis courts, or similar recreational facilities along with a clubhouse and customary accessory uses which are open to members and their guests, or to the public on a fee basis.

Coffee Shop: An establishment primarily offering coffee, tea, and other beverages, and where light refreshments and limited menu meals may also be sold.

Commencement of Construction: The first placement of permanent construction on a site, such as pouring of slabs or footings or any work beyond the stage of excavation or the first permanent framing or assembly of any part of a structure on its piling or foundation when a structure is without a basement or poured footings.

Common Area: Land within a development that is not part of a lot and is designed for the common usage of the development.

Common Signage Plan: A plan establishing the proposed size, location, and design of signage for uses located on a single lot or within a single development.

Community Center: A facility to be used publicly for cultural, recreational, or social meetings

Compatible: A term used to describe how the visual aspects of a structure (including signage) are similar to or consistent with the other structures on the same parcel or in the immediate vicinity. Visual aspects include, but are not limited to color, texture, materials, scale, size, and form.

Comprehensive Plan: The plan regulating land use and development officially adopted by Town Council.

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 (NCGS 47A) and/or the North Carolina Condominium Act (NCGS 47C).

Construction Trailer: A trailer typically towed by a commercial vehicle which includes mobile homes, manufactured homes, or containerized offices and is used for normal office functions in conjunction for a construction project excluding sales. A camper cannot be used as a construction trailer.

Construction: Any act or process that involves new work, additions, alterations, or maintenance and repairs of structures or public improvements. Activities may require a development permit and be subject to the standards of the UDO.

Contiguous: Abutting directly or immediately adjacent to a boundary or separated by a street, railroad or public right-of-way.

Crematorium: A location containing properly installed, certified apparatus intended for use in the act of cremation.

Critical Root Zone (CRZ): A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for every inch of tree DBH, with a minimum of eight feet.

D

DBH: Diameter-at-breast-height is the tree trunk diameter measured in inches at a height of 4.5 feet above the ground.

Deciduous: Those plants that annually lose their leaves.

Decision: Any final and binding order, requirement, or determination of the decision-making authority. Below is a description of the various types of zoning decisions made in the administration of this ordinance.

1. Administrative Decision: May be made by Town Manager or designee. No formal review hearing is required. Must apply standards as written in the ordinance and involves no discretion.
2. Quasi-judicial Decision: Any decision made by an appointed or elected body that requires an evidentiary public hearing with notice to affected parties and that requires a determination of facts regarding a specific application of the ordinance and the exercise of discretion when applying them.
3. Legislative Decision: Any decision made by the Town Council to adopt an ordinance to amend or repeal the text of the UDO or the Official Zoning Map. These decisions create standards based on what board members consider to be reasonable and in the best interest of the public health, safety, and welfare.

Decision-making authority: The administrative official or board authorized to make the final decision on a zoning request. The decision-making authority is authorized to approve or deny a zoning request.

Deck: A structural platform that is attached to the principal structure for outdoor lounging and entertainment. The term deck can be interchangeable with patio and porch.

Density: The number of dwelling units per acre.

Design Flood. See Regulatory Flood Protection Elevation.

Developer: The person who intends to undertake a development and who has a legal or equitable interest in the property to be developed.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Activity. Any activity defined as development which will necessitate a floodplain development permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Development regulations: Any ordinance enacted by the appropriate authority to

regulate any aspect of development, including zoning, subdivision, and other land development ordinances.

Development request: Includes but not limited to applications for zoning permits, variances, appeals, interpretations, rezoning and amendments.

Development standard: A regulation that establishes minimum specifications and maximum allowances for development that must be complied with.

Development: The planning for or carrying out of a building activity, making a material change in the use or appearance of any structure or property, or dividing of land into two or more parcels. Development, as designated in a development permit, includes all activities customarily associated with it unless otherwise specified.

Digital Flood Insurance Rate Map (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Disposal. As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

District: A portion of the planning jurisdiction of the Town within which, on a uniform basis, certain regulations and requirements or various combinations thereof apply under the provisions of the UDO.

District, Overlay: A district that encompasses one or more zoning base districts and that imposes requirements above those required by the underlying district.

Drip Line: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

Drive-thru: A facility designed to enable a person to transact business while remaining in a motor vehicle.

Driveway: An unobstructed area providing ingress and egress to vehicle parking, loading, or maneuvering facility from a street or another use.

Dwelling: A building or part of a building, containing permanent living, sleeping, housekeeping accommodations, and sanitary facilities for one group of occupants. This term does not include hotels, motels, or other structures used for transient residence.

1. Single-Family Dwelling: A building designed as one dwelling unit.
2. Duplex (two-family dwelling): A building designed with two dwelling units.
3. Multi-family dwelling (apartments): A building designed for three (3) or more dwelling units.
4. Townhouse: A series of 3 or more single-family dwelling units attached to each other by common walls along the lot line. Each dwelling unit has primary ground access to the outside and is typically arranged on a side-by-side rather than a stacked configuration. Unlike in multi-family dwellings, each unit is individually owned.
5. Upper-Story Residential: A dwelling unit located on floors above a street-level floor

in which a non-residential use is located.

E

Easement: Authorization by a property owner for another person or entity to use a portion of the owner's property for a specified purpose such as access or placement of utilities.

Electric Vehicle Charging Station: A public or private parking space equipped with charging equipment. The primary purpose of this equipment is to transfer electric energy to a battery or other energy storage device in an electric vehicle.

Electric Vehicle Charging, Residential: An electric vehicle charging station for use only at a single-family residence and which is not available to the public.

Electronic Gaming Operations: Businesses or enterprises where persons utilize electronic machines (including but not limited to computers and gaming terminals) to conduct games of chance or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds.

Elevated Building. A non-basement building which has its reference level raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Erect: To build, construct, attach, hang, place, suspend or affix, also including the painting of wall signs.

Erosion: The removal of soil through the actions of water or wind.

Evergreen: Those plants that retain foliage throughout the year.

Existing Building and existing Structure. Any building and/or structure for which the start of construction was before October 20, 2000.

Existing Lot of Record: A lot of record that was legally recorded in the Office of the Register of Deed prior to the effective date of the UDO or amendment.

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.

Extraterritorial Jurisdiction: The area beyond the incorporated town limits where a municipality can legally enforce planning laws adopted under the authority of NCGS 160D-202.

F

Façade: The exterior wall of a building that fronts a lot line or street on which said building is located. Facades may be on the front, side, or rear elevation of the building.

Family Care Home: An assisted living residence for two to six residents in which the housing

management provides 24-hour scheduled and unscheduled personal care services to two or more residents, either directly or for scheduled needs, through formal written agreement with licensed home care or hospice agencies.

Farm: Land, along with supporting buildings or structures, on which the raising of crops or livestock is conducted. This includes orchards, vineyards, nurseries, or animal husbandry activities.

Farmers Market. An area, open or partially enclosed, at which vendors gather to sell fresh agricultural products directly to consumers.

Fence: A structure used to delineate a boundary or act as a barrier or means of protection, confinement, or screening.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Hazard Boundary Map (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

Flood Insurance. The insurance coverage provided under the National Flood Insurance Program.
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Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (See also DFIRM)

Flood Insurance Study (FIS). An examination, evaluation and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Floodplain or Flood Prone Area. Any land area susceptible to being inundated by water from any source.

Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

Floodplain Management Regulations. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodplain Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Chapter 8 of the UDO is presumed to be in violation until such time as that documentation is provided.

Flood Prone Area. See Floodplain.

Flood Resistant Material. A building product (material, component or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodproofing. Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents.

Floodway. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, 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 1 foot.

Floodway Encroachment Analysis. An engineering analysis of the impact a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries, base flood elevations, and floodway surcharge elevations. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

Flood Zone. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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.

Freeboard. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The freeboard plus the Base Flood Elevation establishes the regulatory flood protection elevation.

Functionally Dependent Facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

Funeral home: A facility used for the preparation of the deceased for burial or cremation.

G

Garage: Any part of a building or structure used or designed to be used for the parking and storage of vehicles.

Gas station: A lot and structures used for the storage, dispense, and sale of fuel for motor vehicles.

Glare: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Government Facilities. Offices, buildings or lands used to serve the public.

Grade: The elevation of the land or land level at a specific point.

Ground Cover: A prostrate plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, groundcovers control erosion while eliminating the maintenance of mowing on hillsides.

H

Hazardous Waste Management Facility. A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste as defined in NCGS 130A-290

Height: The vertical distance from the mean grade elevation taken at the fronting street side of a structure to the parapet or roof line of a flat roof, the eave of a pitched roof, or the deck line of a mansard roof.

Highest Adjacent Grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a local inventory of historic landmarks in communities with a

Certified Local Government (CLG) Program; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.

(5) Certified Local Government (CLG) Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Home Occupation: An occupation carried on in a dwelling unit by the resident.

Hospital: An institution for the diagnosis, treatment, or other care of human ailments. The term hospital is deemed to include in-patient medical or surgical care 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 (Also includes **extended-stay hotel; motels**): A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, but not a bed and breakfast as herein defined.

I

Impervious Surface: Any surface composed of material that impedes or prevents natural infiltration of water into the soil. It includes principal structures and accessory buildings; parking areas; driveways; streets; sidewalks; porches or patios or solid decks, concrete, asphalt, gravel, or other compacted aggregate surfaces; and areas covered by the outdoor storage of goods or materials.

Improvement: Street pavements, curbs, gutters, sidewalks, water lines, sewer lines, drains, streetlights, flood control and drainage facilities, utility lines, landscaping, and other related matters normally associated with the development of land into building sites.

Intensive Livestock Operations: Any livestock operation with at least the following animal populations: 100 head of cattle, 75 horses, 250 swine, 1,000 sheep, or 30,000 birds.

J

Junkyard: A lot or building used for the storage, processing, or sale of discarded machinery, vehicles, or other similar materials

K

Kennel: A facility where dogs, cats, or other domestic animals are raised, sold, boarded, bred, shown, treated, or groomed. Such a facility may have an indoor and 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.

Landing Strip and Runway. A landing area, or other facility designed, used, or intended to be used for the landing and taking off of aircraft, and shall meet all applicable Federal Aviation Administration (FAA) rules and regulations.

Landscaping: The process or product of site development including grading, installation of plant materials, seeding of turf or ground cover.

Letter Of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(1) Letter of Map Amendment (LOMA). An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain but is on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) Letter of Map Revision (LOMR). A revision based on technical data that may show changes to the flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) Letter of Map Revision Based on Fill (LOMR-F). A determination that a structure or parcel of land has been elevated by fill above the base flood elevation, and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional Letter of Map Revision (CLOMR). A formal review and comment as to whether a project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effect FIRM.

Library: A public or nonprofit facility for the use, reference, and lending of literary, musical, artistic, and technological materials.

Light Duty Truck. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

Lighting Plan: A document that indicates the proposed variations and intensities of light affected by the development on a site at a given point in time.

Livestock: Any animal raised for food or product. This includes animals with hooves; members of the bovine (cows), ovine (sheep) equine (horses) and swine (hogs) families; emus and ostriches; and poultry (turkey, chicken, ducks, etc.).

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.

Lot: 1 or more parcels of land in single ownership that is occupied or intended to be occupied by a principal use, together with principal and accessory structures, vehicular use areas, and open space.

Lot Dimensions:

1. Lot Area: The horizontal land area within lot lines, measured in acres (ac.) or square feet (sf.).
2. Lot Depth: The average horizontal distance between the front lot line and the rear lot line.
3. Lot Width: The horizontal distance between side lot lines measured at the required front setback.

Lot Line: Any boundary line of a lot.

1. Front Lot Line: The property line dividing a lot from a public or private street and from which the required front setback is measured.
2. Side Lot Line: Any lot line not a front or rear lot line.
3. Rear Lot Line: The lot line that is opposite and most distant from the front lot line.

Lot of Record: A lot platted as part of a subdivision or described by metes and bounds as a separate parcel in the Office of the register of deed as prescribed by law.

Lot Types:

1. Corner Lot: A lot situated at the intersection of two or more streets that have an angle of intersection of not more than 135 degrees.
2. Interior Lot: A lot other than a corner lot or through lot.
3. Through Lot: A lot, other than a corner lot, that has frontage on two or more streets.
4. Flag Lot: A lot that has access to a public right-of-way by means of a narrow strip of land.
5. Irregular Lot: A lot with 3 sides, more than 4 sides, or with opposing property lines that are generally not parallel to each other, such as a pie-shaped lot on a cul-de-sac.

Lot, Nonconforming: A lot of record that complied with Town standards when it was recorded but does not comply with the standards of the UDO as amended.

Lowest Adjacent Grade (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

M

Major Site Development Plan: The plan review and hearing process required for new construction or change of use for non-residential or multifamily buildings, structures, or developments with a gross floor area of more than 3,000 square feet.

Major Subdivision Plat: A plat that does not meet a definition of a minor subdivision plat. Includes the following:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed UDO subdivision standards.
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the local government, as shown in its subdivision regulations.
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NC General Statutes.

Manufactured Home. A structure, transportable in 1 or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term Manufactured Home does not include a “recreational vehicle”.

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

Manufactured Home Space: A plot of ground within a manufactured home park designed for the accommodation of one manufactured home together with its accessory structures including carports or other off-street parking areas, awnings and similar appurtenances.

Manufacturing, Light: An operation that manufactures, produces, processes, fabricates, assembles, treatments, repairs, or packages finished products, predominantly from previously prepared or refined materials (or from raw materials that do not need refining) in a manner that does not create noise, dust, odor, smoke, glare or vibration outside of the building in which the activity takes place, does not require outside storage or goods or materials, and does not generate objectionable amounts of truck traffic. Warehousing, wholesaling, and distribution of the finished products produced at the site is allowed as part of this use.

Manufacturing, Heavy: An operation that manufactures, produces, processes, fabricates, assembles, treatments, repairs, or packages finished products, or from raw materials. Intended for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.

Map Amendment (Rezoning): A legislative decision to change the official zoning of property.

Market Value. The building value, excluding the land value and that of any accessory structures or other improvements on the lot, established by independent certified appraisal, replacement cost depreciated by age of building and quality of construction (Actual Cash Value) or adjusted tax assessed values.

Mini-warehouse (Self-storage): A building divided into sections for storage of items, either temporary or long-term, and not to be used for other purposes (such as small offices, garages,

etc.).

Minor subdivision plat: A minor subdivision is a tract or parcel of land in single ownership, shall be subject to NCGS160D-802, and shall meet the following:

- (a) The tract or parcel to be divided is not exempted under UDO Section 2-109 of this chapter.
- (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (c) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (d) After division, no more than three lots result from the division.
- (e) After division, all resultant lots comply with all of the following:
 - i. All lot dimension size requirements of the applicable land-use regulations, if any.
 - ii. The use of the lots is in conformity with the applicable zoning requirements, if any.
 - iii. A permanent means of ingress and egress is recorded for each lot.

Minor Site Development Plan: An administratively approved plan for single-family homes and non-residential or multifamily buildings, structures, or developments with a gross floor area of 3,000 square feet or less.

Mixed-Use: A single structure or tract of land with more than one category of uses in close proximity, planned as a unified complementary development, and functionally integrated to share vehicular and pedestrian access and parking areas.

Mobile Home: Any manufactured home that does not meet the definition of a Manufactured Home above. These homes shall be deemed as nonconforming manufactured homes.

Modular Home: A single-family dwelling constructed in accordance with the standards set forth in the North Carolina State Building Code (instead of the HUD Code) but is composed of components assembled in a manufacturing plant and transported to the building site for assembly on a permanent foundation.

Museum: A facility that stores and exhibits a collection of significant books, cultural, historical, or scientific materials

N

New Construction. Structures for which the start of construction commenced on or after the effective date of September 13, 1999, the initial floodplain management regulations and includes any subsequent improvements to such structures.

Nonconforming Building or Development. Any legally existing building or development which fails to comply with the current provisions of this chapter.

Non-Encroachment Area (NEA). The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than 1 foot as designated in the Flood Insurance Study report.

Nonconforming: A structure, use, or lot that was valid when brought into existence but by subsequent amendments or regulations no longer conforms to a standard in the UDO.

North Carolina General Statutes: The laws created by the NC General Assembly and to which the Town of Kenly is obligated to uphold.

Notice of Violation: As used in in the UDO, a formal notice to a person that he or she is charged with a violation of the UDO and that penalty is due.

Nursery (plants): Land used for the growth, display, and sale of trees, shrubs, flowers, and other plants.

Nursing Home: A facility providing nursing care for three or more persons not of the immediate family. A home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities.

O

Office: A room or group of rooms used for conducting the affairs of a business, profession, service industry, or government.

On-site Improvement: An improvement on the lot of the use or structure such improvement is designed to serve.

Opacity: A measurement indicating the degree of obscuration of light or visibility.

Open Space: Areas maintained in a mostly natural state that are restricted for passive recreation, gardens, landscaping, and similar uses. Such space must be maintained generally free of impervious surface areas.

Ordinance: A law or set of regulations adopted and enforced by a governmental authority (county or municipality) to permit or restrict an activity.

Outdoor Display: An area used for the display and sales of products or services primarily outside of a building and limited to those items generally stored, used, or inspected outdoors.

Outdoor Storage: The storage of any material for periods greater than 24 hours, including items for sale, lease, processing, and repair (including vehicles) not in an enclosed building.

P

Parcel: A quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels as land to be used or developed as a unit, or which has been used or developed as a unit.

Parking, Shared: Off-street parking facilities shared by two or more uses that are in close proximity to one another, and the peak use of the facilities by one use will not generally overlap with the peak use by the other uses.

Parking, 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.

Parking Lot: An area used for the off-street parking or storage of vehicles (including ingress and egress or other areas devoted to vehicular use).

Parking Lot Plantings: Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

Passive Recreation: Recreational uses where minimum alteration of vegetation, topography,

or other native feature is necessary for the enjoyment of the site amenities. Passive recreation activities include, but are not limited to, hiking, bicycling, nature observation, camping, picnicking, non-motorized recreation and sports, and archaeological or historic sites.

Perennial Stream: A stream or other channel that holds flowing water 365 days a year.

Personal services: Establishments providing services such as nail salons, beauty salons, spas, barbershops, and other similar services.

Planning Board: The planning board for the Town of Kenly, established pursuant to NCGS 160D-301.

Planting Area: The area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

Planting Buffer Yard: The required installation of landscaping and screening materials between uses.

Person: An individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, government agency, or any legal entity.

Permit: An official government document that authorizes a specified development activity.

Place of worship: A facility for regular religious assembly and related events.

Planning Statutes: The North Carolina General Statutes, Chapter 160D (Local Planning and Development Regulation), that gives municipalities the authority to plan for and regulate development.

Pervious Surface: A surface that is penetrable by water to some degree. (*Antonym: Impervious Surface*)

Porch: A roofed structure not more than 75 percent enclosed by walls, attached to the main building, and not heated or cooled.

Portable Storage Container: A box-like, portable container transported by truck or trailer to a lot for temporary storage of materials, household goods, personal items, or similar.

Post-Firm. Construction or other development for which the start of construction occurred on or after October 20, 2000, the effective date of the initial Flood Insurance Rate Map (FIRM).

Pre-Firm. Construction or other development for which the start of construction occurred before October 20, 2000, the effective date of the initial Flood Insurance Rate Map (FIRM).

Present Use Value: A designation used by a County Property Appraiser to denote land which is being used for agricultural purposes.

Principally Above Ground. Means that at least 51% of the actual cash value of the structure is above ground.

Private Use: A use or facility belonging to, or restricted for the use or enjoyment of particular persons.

Produce Stand: A 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 products made from those produce such as jams, jellies, pickles, sauces or baked goods, and homemade handicrafts.

Property Owner: Any person with a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner.

Property: All real property subject to development regulation by a local government and includes any improvements or structures customarily regarded as a part of real property.

Public: Any use or facility owned or operated by the federal government, state government, or any political subdivision of the state such as a county or municipality.

Public Facilities: Major capital improvements, including, but not limited to, educational, parks and recreational, health systems, transportation, sanitary sewer, solid waste, drainage, potable water, and other public utilities, which are operated or funded by a government body or public entity.

Public Hearing: A meeting advertised and open to the public to gather comments or evidence related to zoning decisions or other official acts that require public input.

Public Park: Town-owned land, open space, or structures to be used by the public for recreational purposes.

Public Safety and/or Nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, any considerable number of persons, unlawfully obstructs the free passage or use, in the customary manner of any navigable lake, river, bay, stream, canal or basin.

Q

Quorum: The minimum number of board members that must be present in order to conduct official business or take official action.

R

Real Estate Agency: Establishments principally engaged in managing real estate for others, selling, renting and/or buying real estate for others, and appraising real estate.

Recreational Vehicle/Rv. A vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck;
- (4) Not designed for use as a permanent primary dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use;
- (5) Is fully licensed and ready for highway use.
- (6) Tiny homes/houses and park models that do not meet the items above are not considered recreational vehicles and should meet the standards of and be permitted as residential structures.

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 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.

Regulatory Flood Protection Elevation. The base flood elevation plus the freeboard. In special flood hazard areas, where the base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus 2 feet freeboard. In the special flood hazard areas where no BFE has been established, this elevation shall be at least 2 feet above the highest adjacent grade.

Remedy A Violation. To bring the structure or other development into compliance with state and community Floodplain Management Regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Repetitive Loss. Flood-related damages sustained by a structure on 2 separate occasions during any 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

Research and development: A structure or group of structures used primarily for applied and developmental research, where product testing is an integral part of the operation and goods or products may be manufactured as necessary for testing, evaluation, and test marketing.

Restaurant: A structure in which the principal use is the preparation and sale of food and beverages.

Retail Trade, automobile parts and accessories: A retail establishment used for the sale of automobile parts and accessories

Retail: An establishment principally engaged in retailing merchandise, goods, equipment, food, produce, or similar, and rendering services incidental to the sale of merchandise to the general public.

Review Authority: The public body or official identified by the UDO as having the responsibility and authority to review an application or request prior to making a recommendation or decision.

Riverine. Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

Roof Line: The highest point of a flat roof and mansard roof and the lowest point of a pitched roof excluding cupolas, chimneys or other minor projection.

Roof, Gable: A roof sloping downward in two parts at an angle from a central ridge, so as to leave a gable at each end.

Roof, Hip: A roof with sloping ends and sides that meet at an inclined projecting angle.

Roof, Mansard: A four-sided roof having a double slope on each of the four sides, with the lower slope much steeper than the upper.

Roof, Monopitch: A roof with a single pitch (also referred to as a “shed” roof).

Roof: The cover of any building, including the eaves and similar projections.

RV Park: A parcel of land reserved for the location of recreational vehicles, including buildings and sites set aside for group camping and similar recreational vehicles.

S

Salvage Yard. Any non-residential property used for the storage, collection and/or recycling of any type of equipment, and including, but not limited to, vehicles, appliances and related machinery.

Schools: Establishments that provide instruction and training on a wide variety of subjects. They include primary and secondary schools, colleges, universities, and training centers. These establishments may be privately or publicly owned and operated. This term does not include commercial trade or business schools.

Sediment Control Plan: A set of drawings, other documents, and supporting calculations that indicates necessary land management and treatment measures, BMPs, maintenance guidelines to manage soil erosion and sedimentation.

Setback: The distance between every structure and the property line of the lot on which it is located.

1. Side Yard Setback: The distance between every structure and the side lot line.
2. Rear Yard Setback: The distance between every structure and the rear lot line.
3. Front Yard Setback: The distance between every structure and the front lot line.
4. Perimeter Setback: The distance between every structure and every property line of a lot.

Shooting Range Facility: An indoor private facility designed or used for archery and/or the discharging of firearms, such as rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, for the purposes of target practice or temporary competitions.

Shopping Center: A building or group of buildings under unified ownership, with three or more tenants engaged principally in the provision of retail goods and services, along with common parking, pedestrian circulation, and shared ingress and egress.

Shrub, Large: An upright plant growing 10 feet to 20 feet in height at maturity that is planted for ornamental or screening purposes.

Shrub, Small - Medium: A plant growing 3 feet to 10 feet in height at maturity that is planted for ornamental or screening purposes.

Sign: A structure that incorporates graphics, symbols, or written copy intended to convey a message about a business, product, commodity, service or event or to provide direction or identification for a premises or facility; and is visible from outside the building from the public right-of-way or other premises.

Awning (canopy) signs: A sign incorporated into or attached to an awning or canopy.

Advertising: A sign intended to promote, advertise, or sell a product or service obtainable on the premises where the sign is located, and not solely to identify the premises.

Billboard: A sign that directs attention to a business, commodity, service, or event

conducted, sold, or offered at a location other than the premises where the sign is located.

Construction sign: A temporary sign providing information about future development or current construction on a site with an active development permit.

Freestanding signs: A permanent sign that is attached to, erected on, or supported by some structure (such as a pole, monument, or other structure) that is not an integral part of or attached to a building or structure whose principal function is something other than to support a sign.

1. **Pole sign:** A sign that is affixed, attached, or erected on a pole that is not itself an integral part of or attached to the building or structure to which the sign pertains.
2. **Monument signs:** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other structure other than a pole.

Identification sign: A sign giving the nature, logo, trademark, or other identifying symbol; the address of a building, business, development or establishment on the premises; or any combination of the above.

Government flag: the official flag of the United States government or any nation recognized by the United States government, any US state or territory, or any political subdivision of North Carolina (i.e. a county government or municipality).

On-premise sign: Any sign located on a premises.

Permanent sign: A sign attached to a building, structure, or the ground in some manner and that is constructed of durable materials and intended for long term use.

Portable signs: A sign that is movable and not permanently attached to a structure or the ground.

Projecting signs: A sign that is attached to and projecting at least 12 inches from a building face or wall, generally at right angles to the building.

Roof signs: A sign erected on a roof or that projects above the highest point of the roofline, parapet, or fascia of a building.

Permanent sign: A sign attached to a building, structure, or the ground in a permanent manner and that is made of durable materials and intended for long term use.

Sign Face: The surface area of a sign used to display a sign message.

Sign Plan: A graphic representation showing a comprehensive detailed presentation of all signage proposed for a particular lot.

Sign Structure: The supports, uprights, bracing, or framework of any structure exhibiting a sign, be it single-faced, double-faced, V-type, or otherwise. This shall include any braces, guys, and anchors that support the sign.

Temporary sign: A sign installed for a limited time and is not permanently mounted.

Wall sign: A sign mounted or painted flat against or projecting less than 12 inches from the

wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall. This excludes window signs.

Window sign: A sign affixed to a window or place immediately behind a window pane to attract the attention of persons outside the building.

Obsolete Sign: A sign that pertains to an event that has already occurred, a product no longer available, or a business no longer in operation.

Sight Visibility Triangle: A triangle formed on corner lots or driveway intersections between points on the lot lines or edges of pavement as specified by the UDO. Within this triangular area, no structure, vegetation, stored materials, or other obstruction to approaching motorists shall be erected or maintained.

Site specific development plan: A plan that describes with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Solar Farms: A large-scale, ground-mounted solar installation that uses photovoltaic panels to harness the sun's power to generate electricity.

Solar Power: The access of a solar energy system to direct sunlight.

Solid Waste Disposal Facility. Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

Solid Waste Disposal Site. Defined as in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined by Chapter 8 of the UDO.

Stacking/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 area.

Street Tree: A tree planted along the street behind the right-of-way.

Street Yard: A planting area parallel to a public street designed to provide continuity of vegetation along the right-of-way and to soften the impact of the development by providing a pleasing view from the road.

Start Of Construction. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual Start of Construction means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

State Road: The system of roadways owned and maintained by the North Carolina Department of Transportation.

Structure: A building, sign, fence, storage tank, or anything constructed or erected on the ground or attached to something on the ground.

Substantial Damage. Damage of any origin sustained by a structure during any 1 year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% 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 2 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% of the market value of the structure before the damage occurred.

(1) Any correction of existing violations of state or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Improvement. Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any 1 year period for which the cost equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Swimming club: A private facility used for swimming by members and their guests.

Swimming Pool: An above- or below-ground structure that is filled with water and used for swimming.

T

Tattoo Parlor: A location where tattooing is engaged in or where the business of tattooing is conducted.

Technical Bulletin and Technical Fact Sheet. A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of the existing NFIP regulations. It should be noted that technical bulletins and technical fact sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in

question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

Technical or Trade School: A commercial enterprise that provides instruction or training in business, secretarial service, personal service, vocational, or other technical or specialized service or trade.

Telecommunications Facility, Collocation: A situation in which one or more different communication service providers place communication antennas or other communications equipment on a common antenna-supporting structure (building, tower, or other stationary device).

Telecommunications Facility, Freestanding: A structure erected on the ground and used primarily for the support of antennas for communication purposes and utilized 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.

Temperature Controlled. Means having the temperature regulated.

The State: The state government of North Carolina, including its departments and divisions.

Town Council: The governing board of the Town of Kenly.

Town: Town of Kenly, a municipal corporation of the state of North Carolina.

Tract: All contiguous land and water bodies under single or diverse ownership being developed as a unit consisting of one or more parcels or lots.

Text Amendment: A legislative act to modify or repeal a regulation of the UDO.

Theater: A facility used for showing movies or live performances. This definition does not include adult entertainment facilities.

Tree, Small Ornamental: A small tree, growing 15 feet to 40 feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

Tree, Medium – Large Shade: A large tree growing to over 40 feet in height at maturity, usually deciduous, that is planted to provide canopy cover shade.

Truck Stops: A facility intended to provide services to the trucking industry, including but not limited to the following activities: dispensing of fuel, repair shops, automated washes, restaurants, and motels; all as part of the facility.

U

UDO Administrator: Any administrative official designated by the Town Council to administer or enforce any part of the UDO.

Unified Development Ordinance (UDO): The collection of regulations adopted by the Town of Kenly enforceable as municipal law.

Use: The activity occurring on a lot for which land or building is arranged, designed, or for which land or buildings are or may be occupied. Includes principal and accessory uses.

Use, Compatible: A compatible use is a use or service that is capable of direct association with

certain other uses because it is complementary, harmonious, or otherwise not detrimental. (*Antonym: incompatible*).

Use, Conforming: Any use of a structure or land that is permitted in the district in which the structure or land is situated and which conforms to all the regulations that are applicable to that use and district.

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged, or intended or for which it may be used or occupied for under the UDO.

Use, Temporary: Any use permitted on a lot for a period of short duration and that does not involve the construction or alteration of any permanent structure.

Utility: Infrastructure providing electric power, natural gas, steam supply, water supply, and sewage removal and other utility services. This definition includes treatment and storage facilities, utility transfer stations, and similar utility infrastructure designed to serve the community or region. Facilities primarily used for waste management services are excluded from this definition.

Utility, Minor: Public or private infrastructure serving a limited area with no on-site personnel. This definition is for utilities that need to be located in or near the neighborhood or use they serve. Examples include storm water retention and detention facilities, telephone exchanges, water pump stations, and sewer lift stations.

V

Vape Shops: Any business whose product line for retail sale includes alternative nicotine products and/or vapor products.

Variance: An approval to deviate from a dimensional standard or flood requirements imposed by the UDO.

Vehicle Repair Shops: An establishment principally engaged in the minor service, repair or maintenance of motor vehicles, trailers, and similar mechanical equipment. Typical services include brake, muffler, upholstery work, tire repair and change, lubrication, replacement of belts, hoses, and fluids (including gasoline), tune ups, and transmission work conducted within a completely enclosed building.

Vehicle Body Shops (major repairs): An establishment principally engaged in major auto repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including body work, framework, welding, and major painting service. This definition excludes auto salvage and storage yards.

Vehicle sales: A facility for the display, sale, rental, or lease of new or used automobiles.

Vehicular Use Area: An area used primarily for parking, circulation and storage of vehicles, including but not limited to parking lots, loading areas, stacking spaces and driveways.

Vested Right: The right of a landowner to undertake and complete a development or use of property under the terms and conditions of an approved Site-Specific Development Plan or as otherwise established by common law.

Veterinary Care: An establishment used for the care, observation, and treatment of domestic animals.

W

Warehouse: A use engaged in storage of manufactured products, supplies, and equipment excluding bulk storage of materials that are flammable, explosive, or hazardous materials or that present hazards or conditions commonly recognized as offensive.

Waste Management Services: Establishments engaged in the collection, treatment, and disposal of waste materials; sorting and recycling materials from the trash stream; cleaning up contaminated buildings, mine sites, soil, or ground water; and providing septic pumping and other miscellaneous waste management services. Excluded from this category are sewer treatment and disposal and long-distance hauling of waste material.

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.

Water Surface Elevation (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Wetland: A natural area of land that is distinguished from upland areas by hydric soils, signature hydrologic characteristics, and adaptive vegetation. Some of the different types of wetlands include fens, bogs, marshes, and swamps.

Wind Energy Facility: - An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures & facilities. This term does not apply to roof-mounted or building integrated roof mounting systems.

Wireless Facility: Any facility, and its accessory uses or structures, utilized for the broadcast or reception of electro-magnetically transmitted information.

Wholesale: Establishments principally engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers normally operate from a warehouse or office.

Y

Yard: An open space on the same lot with the building and unoccupied and unobstructed by any portion of any structure from the ground upward except as otherwise permitted in the UDO.

1. **Front Yard:** A yard extending the full width of the lot between the front lot line and the front building line as established by this Ordinance. In no case shall a structure encroach into an easement area established for a private street.
2. **Yard, Rear:** The yard extending the full width of the lot between the rear lot line and the face of the principal structure that is most nearly parallel to the rear lot line.
3. **Yard, Side:** An open space extending from the front yard to the rear yard; the width shall be measured at right angles to its side lot line.

Z

Zoning District: A geographic area within the jurisdiction of the Town within which only certain land uses and structures are permitted and certain standards for development are established in the UDO.

Zoning Map: The official map upon which the boundaries of various zoning districts are drawn and which an integral part of the UDO.