



1 PURPOSE AND APPLICABILITY

1.1 TITLE

These regulations shall hereinafter be known and cited as “Town of Holly Springs Unified Development Ordinance,” and hereinafter referred to as the “UDO.”

1.2 AUTHORITY

1.2.1 AUTHORITY

- A. This UDO is adopted pursuant to the authority contained in the General Statutes of North Carolina, Chapter 160D and Chapter 160A, Article 8.
- B. Whenever any provision of this UDO refers to or cites a section of the General Statutes and that section of the General Statutes is later amended or superseded, this UDO shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.
- C. According to the provisions of GS §160D-801 et. seq., the Town has the authority to regulate the Subdivision of land within its corporate limits and Extraterritorial Jurisdiction.

1.2.2 PURPOSE

The UDO is a hybrid that combines elements of a Form-Based Code that prescribe walkable, mixed-use development that emphasizes the form of Buildings and their relationship to the Street and conventional regulations that contain conventional Use-based standards that regulate large-scale, vehicle-oriented development.

1.2.3 INTERPRETATION

In their interpretation and application, the provisions of this UDO shall be held to be the minimum requirements for the promotion of the health, safety, comfort, morals, convenience, and the general welfare of the public. In the case of any conflict or inconsistency between two or more provisions of this UDO (e.g., the restrictions set forth in an Overlay District versus the restrictions set forth in a

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Base District) or any other ordinance of the Town, the provision which imposes the more restrictive standard of performance shall control.

1.2.4 SCOPE AND APPLICATION OF UDO

Except as expressly provided otherwise in this UDO:

- A. No person may use or occupy any land, Building, Structure or improvement or authorize or permit the Use or occupancy of any land, Building, Structure or improvement under their control except in accordance with the applicable provisions of this UDO.
- B. No land, Building, Structure or improvement shall be used and no Building, Structure or improvement shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a Use which is permitted in the District in which such land, Building, Structure or improvement is located.
- C. No Building, Structure or improvement shall be placed, erected, moved or structurally altered with respect to height, area, bulk, or Setback except in compliance with the regulations of this UDO.

1.2.5 COMPLIANCE REQUIRED FOR USE AND DEVELOPMENT OF REAL PROPERTY

Compliance with the terms and provisions of this UDO shall be a prerequisite for the Use and development of real property within the Town and its Extraterritorial Jurisdiction. Failure to comply with the terms and provisions of this UDO shall, unless otherwise provided by the General Statutes of the State of North Carolina, be deemed a noncompliance enforceable by the Town as provided for in Chapter 12 – Noncompliance & Enforcement of this UDO.

1.2.6 EXEMPTIONS

- A. **Utilities and Infrastructure.** Service or subterranean easements, including but not limited to those providing for: roadways; railroad lines; pipelines; electric power lines, conduits or systems; telephone lines, conduits or systems; cable television lines, conduits or systems; water mains, lines valves or fire hydrants; sanitary sewer mains, lines, laterals,

manhole Structures or lift stations; drainage or storm sewer inlets, pipes or roof drains; municipal utility facilities such as municipal wastewater and municipal water treatment facilities; and municipal pump stations shall be exempt from the provisions of this UDO.

Bus stations, park and ride facilities, railway terminals, gas storage tanks, power stations, electricity relay stations, non-municipal water treatment plants, non-municipal pumping stations, water towers, non-municipal sewage treatment plants, wireless telecommunication facilities and other facilities which generate, create or process such transportation, communication, or utility services, shall be subject to all Use and Development Standards regulations of this UDO.

- B. **Bona Fide Farms and Agritourism.** Pursuant to NCGS § 160D-903, property that is located within the Town's Extraterritorial Jurisdiction and is used for Bona Fide Farm purposes as described in NCGS § 160D-903 is exempt from the zoning regulations of this UDO. Property that is located in the Town Extraterritorial Jurisdiction and ceases to be used for Bona Fide Farm purposes shall become subject to the zoning regulations of this UDO. Bona Fide Farm property that is exempt from the zoning regulations of this UDO shall be subject to all applicable floodplain regulations.

A Building or Structure that is used for agritourism is a Bona Fide Farm purpose if the Building or Structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105 - 164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S.105-277.3. Failure to maintain the requirements of this section for a period of 3 years after the date the Building or Structure was originally classified as a Bona Fide Farm purpose pursuant to this UDO shall subject the Building or Structure to applicable zoning and development regulation ordinances of this UDO in effect on the date the property no longer meets the requirements of this section.

C. Subdivision Statutory Exemptions. The following are not included within the definition of Subdivision and are exempt from the Subdivision standards of this UDO.

1. The combination or recombination of portions of previously subdivided and recorded Lots where the total number of Lots is not increased and the resultant Lots are equal to or exceed the standards of this UDO.
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 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 UDO.
5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

1.2.7 TOWN PROJECTS

Town Projects performed or funded in part or in whole by the Town, with or without the use of either federal or state funds, are exempt from the standards of this UDO to the extent permitted by state or federal law. In the public's interest, Town Projects shall adhere to the standards and requirements of this UDO to the greatest extent practical.

1.2.8 STATE LAND IN AN OVERLAY DISTRICT

Pursuant to General Statute 160D-913, all real property owned or occupied by the State of North Carolina or any agency of the State of North Carolina shall be subject to the regulations of Use and Development Standards set forth in this UDO, provided, however, no real property owned by the State of North Carolina, even if so indicated on the official zoning map incorporated into this UDO, shall be deemed to be included in or subject to the regulations of any Overlay District, Special Use District or

Conditional Zoning District (CD) established pursuant to this UDO without the approval of the Council of State.

1.3 JURISDICTION

The UDO applies to both the corporate limits of the Town and its Extraterritorial Jurisdiction. Upon (i) adoption of this UDO by the Town Council and (ii) the effective date of this UDO, the Town Planning Board shall be the duly authorized Planning Board for the incorporated areas of the Town and its Extraterritorial Jurisdiction pursuant to the General Statutes of the State of North Carolina, and this UDO shall apply to all real property located within the corporate boundaries of the Town and its Extraterritorial Jurisdiction.

1.4 PURPOSE & INTENT

1.4.1 PURPOSE

The UDO is the primary implementation mechanism for the Comprehensive Plan. Thus, the UDO is developed consistent with the goals and policies of the Comprehensive Plan. In adopting this UDO, the Town Council has given reasonable consideration to, among other things, the character of the Districts and their peculiar suitability for particular Uses, conserving the value of Buildings, and encouraging the most appropriate Use of land throughout the Town and its Extraterritorial Jurisdiction, and hereby adopts this UDO to:

- A. Lessen congestion in the Streets;
- B. Secure safety from fire, panic and other dangers;
- C. Promote health and the general welfare;
- D. Provide adequate light and air;
- E. Prevent the overcrowding of land;
- F. Avoid undue concentration of population;
- G. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements promoting the public health, safety, comfort, morals, convenience, and general welfare;
- H. Provide for the orderly growth and development of the Town and its Extraterritorial Jurisdiction;
- I. Coordinate Streets and highways within proposed Subdivisions with existing or planned

Streets and highways and with other public facilities;

J. Provide for the dedication, reservation, or construction of:

1. Recreation areas serving residents of the immediate neighborhood within the Subdivision or, alternatively, for provision of funds to be used to acquire recreation areas serving residents of a development or a Subdivision or more than 1 Subdivision or development within the immediate area;
2. Rights-of-way or easements for Street and utility purposes, including the dedication of Rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11;
3. School sites;
4. Recreation and Open Space facilities, Street and utility facilities, or community service facilities; and
5. Payment of a fee-in-lieu of dedication or construction for recreation and Open Space purposes or Street and utility purposes.

K. Distribute population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare; and,

L. Otherwise regulate all persons and land Uses within the corporate limits and Extraterritorial Jurisdiction of the Town and incorporates all the available powers to the Town under G.S. 160A and 160D, as well as any environmental regulation delegated to the Town under any other statute or federal law.

1.4.2 PRIVATE PROVISIONS

The provisions of this UDO are not intended to nullify, abolish or repeal any easement, covenant or other private agreement or restriction.

1.5 CONSISTENCY WITH ALL ADOPTED PLANS

1.5.1 IMPLEMENTATION OF ADOPTED PLANS AND POLICIES

In accordance with NCGS 160D-604(b), 160D-605(a), 160D-701 and 160D-703, the UDO is intended to implement the various development-related plans and policies adopted by the Town Council including the Comprehensive Plan. As such, all Development Plans shall be in conformance with such adopted plans and policies. Any amendments to, or actions pursuant to, this ordinance should be consistent with these adopted plans and policies, as amended.

1.5.2 VARIATIONS TO ADOPTED PLANS

Specific alignments, locations, or areas of public facilities noted in any adopted plan may be varied on a site by site basis as requested by the developer or the Administrator, provided the integrity of the proposed network and connections, location, or area shown in the plan are maintained. Such variations are subject to the authority of the appropriate approving agency as described in Chapter 11 - Administration & Decision-Making Bodies.

1.5.3 CONFLICTS WITH ADOPTED PLANS OR POLICIES

In the event of a conflict or inconsistency between this ordinance and any adopted plan or policy, the requirements of this ordinance shall take precedence.

1.6 TRANSITIONAL PROVISIONS

1.6.1 TRANSITION RULES

A. Site Plan Review / Zoning Permits.

Any application for: (i) zoning permit by the Town Council; or, (ii) application for a zoning permit to the Administrator which has been filed with the Development Services Department and which application is full and complete prior to the effective date of this UDO, shall continue to be processed to completion. Upon the issuance of a zoning permit, Construction Drawing approval, and the issuance of a Building permit, construction shall be commenced within 6

months or such zoning permit shall be deemed null and void

B. Zoning Map Amendments.

Any application for zoning map amendment which has been filed with the Development Services Department and which application is full and complete prior to the effective date of this UDO shall be allowed to continue to be processed to completion pursuant to the terms and conditions of this UDO, provided, however, if the proposed Use would no longer be permitted in the proposed District as a result of changes to that District resulting from the adoption of this UDO, such application shall be deemed amended to request the least intense District of this UDO in which the proposed Use is permitted.

C. Conditional Use Permits, Variances.

Any application before the Board of Adjustment (i.e., for a conditional Use permit, or Variance) which has been filed with the Development Services Department and which application is full and complete prior to the effective date of this UDO, shall be allowed to continue to be processed to completion, provided, however:

1. If such application is no longer required by the terms of this UDO, such application shall be considered dismissed for lack of jurisdiction; or,
2. If the proposed Use or development requires additional approvals from the Board of Adjustment, Town Council or Planning Board pursuant to the terms and conditions of this UDO (and which additional approvals were not required by the terms and conditions of Appendix A - Unified Development Ordinance of the Town Code) such application shall be deemed amended to include only those additional approvals which are minimally required and within the jurisdiction of the Board of Adjustment to grant for the proposed Use or site plan for the development.

D. Special Use Permits.

Any application before the Town Council for a Special Use Permit which has been filed with the Development Services Department of the Town and which application is full and complete prior to the effective date of this UDO, shall be allowed to continue to be processed to completion, provided, however:

1. If such application is no longer required by the terms of this UDO, such application shall be considered dismissed for lack of jurisdiction; or,
2. If the proposed Use or development requires additional approvals from the Board of Adjustment, Town Council or Planning Board pursuant to the terms and conditions of this UDO (and which additional approvals were not required by the terms and conditions of Appendix A - Unified Development Ordinance of the Town Code) such application shall be deemed amended to include only those additional approvals which are minimally required and within the jurisdiction of the Town Council to grant for the proposed Use or site plan for the development.

E. Preliminary Plans, Final Plats or Resubdivisions of Land.

Any application for Preliminary Plan approval, Final Plat approval, resubdivision of land which have been filed with the Development Services Department and which application is full and complete prior to the effective date of this UDO, shall continue to be processed to completion, provided that such Preliminary Plans, Final Plats or resubdivisions shall be subject to the duration regulations contained in Section 11.9 of this UDO.

F. Existing Special Use Permits.

In any case where a Special Use Permit has been approved by the Town Council pursuant to a prior existing zoning ordinance, but the Use or development authorized by such approval has not been commenced within 18 months after the effective date of this UDO, said Special Use Permit shall be deemed null and void.

G. Existing PUD Master Plans.

In any case where a PUD Master Plan has been approved by the Town Council pursuant to a prior existing zoning ordinance, but the Use or development authorized by such approval has not been commenced within 18 months of the effective date of this UDO, said PUD Master Plan shall be deemed null and void.

H. Legacy Development Options Projects (DO) and Planned Unit Developments (PUD).

1. Previous Development Options (DO) Process. Previous versions of the UDO allowed Projects to be approved with design flexibility subject to the Development Options (DO) review procedures (a Quasi-Judicial process approved by the Town Council that allowed for modifications of the land Use and Development Standards of the District in exchange for creative development Projects). This UDO does not allow for new Projects to be established with DO allowances, but the Town recognizes past Projects that were approved under those provisions.

a. Permitted Uses. Permitted Uses in the Development Options (DO) Project shall be any Use or range of Uses specified in the Development Options (DO) Development Plan. Accessory Uses, Home Occupations, or Temporary Uses, unless otherwise specified in the Development Options (DO) Development Plan, shall follow the regulations applicable to the Residential Use, Commercial & Mixed-Use, or Employment/Campus Use District where the Permitted Use is first permitted according to the intensity of Base Districts listed in Section 2.1 Base Districts of this UDO.

Residential Accessory Structures, unless specified in the Development Options (DO) Development Plan, shall follow the Accessory Building or Structure Development Standards for the SR Suburban Residential District.

b. Development Standards.

Development Standards applicable to a Development Options (DO) Development Plan shall be either:

- i. The Development Standards specified in the Development Options (DO) Development Plan; or,
- ii. If a Development Standard has not been specified in the Development Options (DO) Development Plan, the applicable Development Standard shall follow the regulations applicable to the Residential Use, Commercial & Mixed-Use, or Employment/Campus Use District where the Permitted Use is first permitted according to the intensity of Base Districts listed in Section 2.1 Base Districts of this UDO.

2. Previous Planned Unit Development (PUD) Process.

This UDO does not allow for the establishment of new Planned Unit Development Projects. However, the Town recognizes past Projects that were approved under this land Use process whether through the Town or through Wake County and later annexed into the corporate limits (e.g., Subdivisions approved under the County's PD, Planned Development District process), subject to the following:

a. Permitted Uses. Permitted Uses in the PUD District shall be any Use or range of Uses specified in the PUD Master Plan. Accessory Uses, Home Occupations, or Temporary Uses, unless otherwise specified in the PUD Master Plan, shall follow the regulations applicable to the Residential Use, Commercial & Mixed-Use, or Employment/Campus Use District where the Permitted Use is first permitted according to the intensity of Base Districts listed in Section 2.1 Base Districts of this UDO.

Residential Accessory Structures, unless specified in the PUD Master Plan, shall follow the Accessory Building or

Structure Development Standards for the SR Suburban Residential District.

b. Development Standards.

Development Standards applicable to a PUD shall be either:

- i. The Development Standards specified in the PUD Master Plan; or,
- ii. If a Development Standard has not been specified in the PUD Master Plan, the applicable Development Standard shall follow the regulations applicable to the Residential Use, Commercial & Mixed-Use, or Employment/Campus Use District where the Permitted Use is first permitted according to the intensity of Base Districts listed in Section 2.1 Base Districts of this UDO.

3. Continuation and Approvals Granted.

Project development may continue pursuant to the Project's prior approval provisions/ conditions and associated permits. Said Projects may include unique land use and Development Standards for those Projects and internal development may occur in accordance with said approvals.

4. Amendments to DO and PUD Approvals.

Applicants may request amendments to previously approved DO Projects as either a Minor Amendment or by application for a new Conditional Zoning District (CD).

Applicants may request amendments to previously approved PUDs as either a Minor Amendment, Major Amendment, or by application for a new Conditional Zoning District (CD).

The following allowances/limitations apply:

- a. Minor Amendments.** Applicants may request minor amendments/ modifications pursuant to the following.
 - i. Reviewing Body and Process. The Administrator may take action as a Type 1 review on Minor Amendment requests. Applications will be

reviewed pursuant to the Town's UDO permit and platting process.

- ii. Eligible Minor Amendments. Minor Amendments include internal changes that do NOT involve any of the following situations:
 - (a) An increase in the maximum allowed density or Building square footage in addition to the Project's original approval or modifications thereto.
 - (b) Reductions in the minimum Lot sizes and Setbacks for Lots and parcels within the Project limits that are less than what was originally approved.
 - (c) Increases in the Maximum Height for Buildings within the Project limits that are more than what was originally approved or major modifications thereof.
 - (d) A net reduction in the size of common Open Space and preservation areas.
 - (e) A change in the location and/ or alignment of an internal Thoroughfare, Collector, or equivalent Street classification.
 - (f) A platted portion of the development where said Lots have been sold to third-party buyers AND said owners are not a part of the application.
 - (g) A change in land use that is inconsistent with the Comprehensive Plan or Future Land Use Map.
 - (h) A change that is in conflict with any condition of approval or development limitation provision from the original approval or major modifications thereof.
- iii. Current UDO Standards. The portions of the property subject to the Minor Amendment,

shall comply with the current UDO standards in terms of tree preservation, landscaping, buffering, environmental protection, roadway design, and parking.

b. Major Amendments. Applicants may request Major Amendments/ modifications pursuant to the following:

- i. **Reviewing Body and Process.** The Town Council shall review and take action on Major Amendment requests as a Type 6 review. The application shall be subject to the Town's notice requirements. Subsequent land development and Subdivision activities will be reviewed pursuant to the Town's UDO permit and platting process.
- ii. **Eligible Major Modifications.** Major modification requests may include the following activities:
 - (a) A change in density and/or Building area up to the limits established in the Holly Springs Comprehensive Plan and the Future Land Use Map.
 - (b) A change to the Development Standards including minimum Lot sizes, minimum Setbacks, minimum parking ratios, and Maximum Building Height.
 - (c) A change to the internal roadway network in terms of size, location and alignment with the exception of portions of the overall Project has been platted and sold to third parties.
 - (d) A change to the location and net acreage of common Open Space and/or preservation areas.
 - (e) A change to any condition of approval or development limitation provision from the original approval or major modifications thereof.

c. New Conditional Zoning District (CD). Applicants may request to convert a DO Project or PUD that was previously approved into a new CD pursuant to the following:

- i. **Reviewing Body and Process.** The Town Council shall review and take action on applications to convert a DO Project or PUD that was previously approved to a new CD as a Type 6 review. The application shall be subject to the Town's notice requirements. Subsequent land development and Subdivision activities will be reviewed pursuant to the Town's UDO permit and platting process.
- ii. **CD Conversion Activities.** Applications to convert a DO Project or PUD that was previously approved to a new CD may include the following activities:
 - (a) A change in density and/or Building area up to the limits established in the Comprehensive Plan and Future Land Use Map.
 - (b) A change to the Development Standards including minimum Lot sizes, minimum Setbacks, minimum parking ratios, and Maximum Building Height.
 - (c) A change to the internal roadway network in terms of size, location and alignment with the exception of portions of the overall Project has been platted and sold to third parties.
 - (d) A change to the location and net acreage of common Open Space and/or preservation areas.
 - (e) A change to any condition of approval or development limitation provision from the original approval or major modifications thereof.

5. **Town Initiated Rezoning Option.** The Town may rezone portions or all of Projects that were originally approved under the DO or PUD procedures to a Base District that closely matches the land Uses and development scale that have been developed/platted in the subject area. The Town shall apply a Base District that would result in the least amount of potential nonconforming situations.

I. **Existing Conditional Zoning Districts (CD).**

1. **Prior CD Approvals Recognition.** In any case where a Conditional Zoning District (CD), or Conditional Use District (CU) or equivalent thereof, prior to the effective date of this UDO has been approved by the Town Council pursuant to a prior existing zoning ordinance, internal land Use and development activities may occur in accordance with said approvals and associated permits. Any modifications thereto shall be by application for a new Conditional Zoning District (CD).

J. **Waivers.**

In any case where a Waiver has been granted pursuant to a prior existing ordinance, the Waiver shall run with the Project, not the land. If a new Development Plan is proposed, all previously granted Waivers shall be deemed null and void.

1.7 OFFICIAL ZONING MAP

1.7.1 ZONING MAP

A. **General.** The Town shall adopt and maintain an official zoning map for all real property located within: (i) the corporate limits of the Town and, (ii) the Town's Extraterritorial Jurisdiction. The Zoning Map shall clearly establish and depict each of the individual District boundaries.

B. **Comprehensive Plan Consistency.** The Town shall maintain the official zoning map in both electronic and paper form and shall amend the map pursuant to NCGS 160D-602.

C. **Official Zoning Map Administration.** The official zoning map shall be maintained by the Administrator as a paper hard copy. The official zoning map may be identified by the signature of the Mayor; the attestation of the Town Clerk; and, the signature of the Administrator under the following words: "This is to certify that this is the official zoning map of the Town of Holly Springs, North Carolina and its Extraterritorial Jurisdiction," together with the date of adoption of this UDO.

D. **Retention and Preservation of Record.** Unless the prior official zoning map has been lost or completely destroyed, the prior official zoning map, along with all available records pertaining to its adoption or amendment, shall be retained and preserved by the Administrator.

1.7.2 INTERPRETATION OF THE OFFICIAL ZONING MAP

A. **Interpretation Methods.** Where uncertainty exists with respect to the boundaries of Districts shown on the official zoning map, the following rules shall apply to the interpretation of those boundaries:

1. Boundaries indicated as approximately following the center lines of Thoroughfares, highways, Streets or alleys shall be construed to follow the center lines.
2. Boundaries indicated as approximately following platted Lot Lines shall be construed to follow the platted Lot Lines.
3. Boundaries indicated as approximately following the municipal boundary of the Town or its Extraterritorial Jurisdiction boundary shall be construed as following such corporate boundary of the Town or its Extraterritorial Jurisdictional boundary.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed as following the center lines of such bodies of water.
6. Boundaries indicated as approximately following floodplain lines shall be construed

to follow the floodplain lines. If the floodplain lines are changed, either naturally or as permitted by law, and such floodplain line changes are documented and concurred with by the Administrator, such boundary shall be construed as moving with such change.

7. Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices.
8. Boundaries indicated as parallel to or extensions of features indicated in the subsections above shall be so controlled.
9. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
10. Where a discrepancy exists between the depictions on the official zoning map and the text of a legal description accompanying an ordinance for zoning map change duly adopted by the Town Council, the text of the legal description shall control.
11. Where physical or cultural features existing on the ground do not agree with those shown on the official zoning map, or in other circumstances not covered above, the Administrator shall interpret the boundaries. Any party dissatisfied with the interpretation of the Administrator may appeal such interpretation to the Board of Adjustment.

1.7.3 ZONING MAP CHANGES/AMENDMENTS

A. Map Changes and Procedures. Either property owners or the Town may initiate changes or amendments to the official zoning map pursuant to the allowances, limitations, and procedures outlined in 11 - Administration & Decision-Making Bodies.

1.7.4 ZONING OF NEWLY ANNEXED LAND OR LAND ADDED TO THE TOWN'S EXTRATERRITORIAL JURISDICTION

A. Zoning Assignment. Properties annexed into the corporate limits or added to the Town's Extraterritorial Jurisdiction shall be assigned

to the Rural Residential District or shall be assigned a new District within 60 days following the change to the Extraterritorial Jurisdiction line. Determination of the District shall be accomplished in accordance with the provisions of Chapter 11 of this UDO.

B. Standard Zoning Assignment Policy. The Town shall assign a Base District to all real property annexed into the Town or added to the Extraterritorial Jurisdiction after the effective date of this UDO. In assigning the Base District, the Town shall consider the following:

1. The Comprehensive Plan Future Land Use Map character areas – the assigned District shall be consistent and/or compatible with the Town's land Use policies.
2. The subject property's existing land Uses and development components – the assigned District should limit the number of potential nonconforming situations, and
3. The adjacent Uses and natural resources – the assigned District should minimize potential land Use conflicts with immediately surrounding area and natural systems.

C. Alternate Zoning Assignment Option. As an alternative to the District assignment policies/procedures outlined in B. above, the property owner may file a petition for a Zoning Map Change to a Base District of their choice and subject to the Town's review procedures and review criteria.

1.8 LAND SUITABILITY

Land which has been determined, on the basis of engineering or other expert surveys, to pose an ascertainable danger to life or property by reason of such land's unsuitability for construction or development shall not be subdivided for the purpose of such construction or development, until or unless the Subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers. Flood plains; wetlands; conservation areas; buffer areas; and other areas of special designation or development restriction related to a specific geographic area shall be clearly delineated on all Final Plats, site plans, Subdivision plans, Development Plans or other applications submitted to the Town for any form of development or improvement approval.

Conditions which may affect land suitability include, but are not limited to:

- A. Land areas which have been used for the disposal of solid waste, including but not limited to construction/demolition debris sites and sanitary land fill sites*
- B. Flood Hazard Areas as determined by Federal Emergency Management Agency (FEMA) and the Town Flood Damage Prevention Ordinance
- C. Wetlands regulated by the North Carolina Division of Water Resources (DWR) and the Army Corps of Engineers
- D. Tiger Salamander Preserve areas
- E. Riparian buffers as regulated by Town and State regulations
- F. Cemeteries

* These sites may not be subdivided unless the site is certified as suitable for the proposed construction or development by the Wake County Health Department; a structural engineer licensed in the State of North Carolina; and /or a soils expert.

penalty accruing or about to accrue under, or by virtue of, any prior UDO, zoning, or Subdivision control ordinance; (iii) affect the liability of any person, firm, or corporation under, or by virtue of, any prior UDO, zoning, or Subdivision control ordinance; (iv) waive any right of the Town under any section or provision of any prior zoning or Subdivision control ordinance; or, (v) vacate or annul any rights obtained by any person, firm, or corporation by lawful action of the Town under, or by virtue of, any prior UDO, zoning, or Subdivision control ordinance.

1.10 EFFECTIVE DATE

1.10.1 EFFECTIVE DATE

This Ordinance shall be effective on March 1, 2022.

1.10.2 REPEALER

This Unified Development Ordinance hereby repeals and replaces the existing Unified Development Ordinances and all its amendments.

1.9 CONFLICTS & SEVERABILITY

1.9.1 SEVERABILITY

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this UDO are severable and, if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses or phrases of this UDO because the same would have been enacted without the incorporation into this UDO of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

1.9.2 SAVING PROVISION FOR PENDING ENFORCEMENT ACTIONS

Except as shall be expressly provided for in this UDO, the adoption of this UDO shall not: (i) nullify and make void any action pending under, or by virtue of, any prior UDO, zoning, or Subdivision control ordinance; (ii) discontinue, nullify, void, abate, modify or alter any

