



## 3 USE PROVISIONS

### 3.1 PURPOSE AND APPLICABILITY

#### 3.1.1 APPLICABILITY OF USE STANDARDS

The Use Table (3.2-A) assigns 1 of 5 permissions to each Use in each District as follows:

- A. **Permitted Use (P).** The Use is permitted by right with no additional requirements and is subject only to the other general standards throughout this Ordinance.
- B. **Permitted Use with Additional Standards (PS).** The Use is permitted by right, provided that the additional Use standards set forth in this Chapter are met. The specified standards are intended to insure that these Uses are compatible with other development permitted within the Districts.
- C. **Accessory Use (A).** The Use is permitted only as an Accessory to another permitted Use in that District.
- D. **Special Use Permit (SUP).** The Use is permitted only when a Special Use Permit has been approved in accordance with Section 11.12.
  - 1. Special Use Permits are required for Uses which are generally compatible with other Uses permitted in a District but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and/or the Town as a whole, require individual consideration in their location, design, configuration, and/or operation at the particular location proposed.

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2. All applications for Special Use Permits shall, at a minimum, meet the standards for the District in which they are located and the additional standards set forth in this chapter for that Use.

- E. **Conditional Zoning District (CD).** The Use is permitted only subject to a Conditional Zoning District (CD) rezoning or is otherwise permitted in a previously rezoned Conditional Zoning District (CD). The Use shall meet the additional standards set forth in this Chapter for that Use.
- F. **Prohibited Uses (—).** The Use is prohibited in the specified District.

### 3.1.2 USE CATEGORIES

All Uses permitted in this ordinance have been divided into 9 categories and are generally defined as follows:

- A. **Residential.** Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than 1 month's duration.
- B. **Lodging.** Premises available for short-term human habitation, including daily and weekly rental. These are measured in terms of lodging units: a lodging unit is a furnished room that includes access to sanitary facilities, and that may include limited kitchen facilities.
- C. **Office & Service.** Premises available for the transaction of general business and the provision of services, but excluding retail sales and manufacturing, except as a minority component (less than 50% of the gross square footage).
- D. **Retail, Dining, and Entertainment.** Premises available for the commercial sale of merchandise, prepared foods, and food and drink consumption, but excluding manufacturing.
- E. **Public and Institutional.** Uses and premises dedicated to religion, government, arts and culture, and other similar areas of public assembly, social service, health care, and other similar functions.
- F. **Recreation.** Premises available for Uses or facilities for passive and active recreation.
- G. **Agriculture, Manufacturing, and Distribution.** Premises available for the growing, creation,

assemblage, storage, distribution, and repair of items including their wholesale or retail sale.

- H. **Infrastructure.** Uses and Structures dedicated to transportation, communication, information, parking, and utilities.

### 3.1.3 INTERPRETATION OF USE MATRICES

- A. **Permitted Uses.** Permitted Uses shall be allowed within the Base Zoning Districts in accordance with the Use Table (3.2-A) in this section. Where multiple principal Uses are proposed to be located on a single parcel, all applicable conditions must be met for each proposed Use. For example, if the proposed Use is a Fueling Station with a convenience store and a car wash, all requirements and conditions for Fueling Station, Drive In/Drive Through Facility, and Retail Uses must be met.
- B. **Uses Not Listed.** The Administrator shall make the determination whenever there is a question regarding a Use not specifically listed in the Use Table. This determination shall be based on the definitions contained in this UDO, the purpose and intent of the respective Zoning District, and any commonly accepted Use-based guides (e.g., North American Industrial Classification System (NAICS), Institute of Transportation Engineers (ITS) Trip Generation Guide). This determination may be appealed using the process identified in Section 11.3.4.

## 3.2 PERMITTED USES

Uses are permitted subject to Table 3.2-A.

**TABLE 3.2-A - TABLE OF PERMITTED USES**

	RESIDENTIAL USE DISTRICTS					COMMERCIAL & MIXED-USE DISTRICTS				EMPLOYMENT / CAMPUS USE DISTRICTS				ADDITIONAL STANDARDS
DISTRICTS	RR	SR	NR	NCR	MXR	NMX	DMX	RMX	CB	SP (CD ONLY)	IVMX	BRT	HI (CD ONLY)	
<b>Residential Uses</b>														<b>3.3.2</b>
Apartment Dwelling	--	--	--	CD	PS	PS	PS	PS	PS	--	PS	--	--	
Apartment Dwelling – Upper Story Unit	--	--	--	CD	PS	PS	PS	PS	PS	--	PS	--	--	
Attached Dwelling – Duplex	--	--	CD	PS	PS	CD	CD	CD	--	--	CD	--	--	
Attached Dwelling – Triplex	--	--	CD	PS	PS	CD	CD	CD	--	--	CD	--	--	
Attached Dwelling – Quadruplex	--	--	CD	PS	PS	CD	CD	CD	--	--	CD	--	--	
Attached Dwelling – Townhome	--	--	CD	PS	PS	CD	CD	CD	--	--	CD	--	--	
Detached Dwelling	P	P	P	P	P	CD	--	CD	--	--	--	--	--	
Detached Dwelling – Cottage Dwelling	P	P	P	P	P	CD	--	CD	--	--	--	--	--	
Family Care Home	P	P	P	P	P	--	--	--	--	--	--	--	--	
Group Home	--	--	--	--	--	PS	--	SUP	--	--	--	--	--	
Manufactured Dwelling	PS	--	--	--	--	--	--	--	--	--	--	--	--	
Residential Care Facilities	--	--	--	P	P	P	--	P	P	P	P	--	--	
<b>Lodging Uses</b>														<b>3.3.3</b>
Bed and Breakfast	PS	PS	PS	PS	PS	PS	PS	PS	--	--	PS	--	--	
Hotel	--	--	--	--	--	CD	P	P	P	P	P	--	--	
Inn	--	--	--	CD	CD	P	P	P	--	--	P	--	--	
Motel	--	--	--	--	--	--	--	--	CD	--	--	--	--	
<b>Office and Service Uses</b>														<b>3.3.4</b>
Animal Boarding and Outdoor Kennel	PS	--	--	--	--	--	--	--	PS	--	--	PS	--	
Business Services	--	--	CD	CD	CD	P	P	P	P	P	P	P	P	
Child Care Center	SUP	SUP	SUP	SUP	PS	PS	PS	PS	PS	PS	PS	PS	--	
Hospital	--	--	--	--	--	--	--	--	--	P	P	--	--	
Laundry, Self-Service	--	--	--	--	--	P	--	P	P	--	--	--	--	
Medical Office	--	--	--	--	--	P	P	P	P	P	P	--	--	
Mortuary/Funeral Home/Crematory	PS	--	--	--	--	PS	--	P	--	P	P	--	--	
KEY: P - Permitted Use; PS - Permitted Use with Additional Standards; A - Accessory Use; SUP - Special Use Permit CD - Conditional Zoning District Only														

TABLE 3.2-A - TABLE OF PERMITTED USES

	RESIDENTIAL USE DISTRICTS					COMMERCIAL & MIXED-USE DISTRICTS				EMPLOYMENT / CAMPUS USE DISTRICTS				ADDITIONAL STANDARDS
DISTRICTS	RR	SR	NR	NCR	MXR	NMX	DMX	RMX	CB	SP (CD ONLY)	IVMX	BRT	HI (CD ONLY)	
Office Use	--	--	CD	CD	CD	P	P	P	P	P	P	P	P	
Personal Services	--	--	CD	CD	CD	P	P	P	P	--	P	P	--	
Tattoo Studios	--	--	--	--	--	--	--	P	P	--	P	--		
Vehicle Service (Major)	--	--	--	--	--	--	--	--	CD	--	--	P	P	
Vehicle Service (Minor)	--	--	--	--	--	PS	--	PS	PS	--	PS	PS	PS	
Veterinary Clinic/Hospital	P	--	--	--	--	P	P	P	P	--	P	P	--	
<b>Retail, Dining, and Entertainment Uses</b>														<b>3.3.5</b>
Adult Establishments	--	--	--	--	--	--	--	--	--	--	--	--	PS	
Amusement & Entertainment, Indoor	--	--	--	--	--	PS	PS	P	P	--	--	P	--	
Amusement & Entertainment, Outdoor	CD	--	--	--	--	--	CD	--	CD	--	--	--	--	
Bar/Nightclub/Tasting Room	--	--	--	--	--	CD	PS	PS	PS	--	PS	PS	--	
Drive In/Drive Through	--	--	--	--	--	SUP	--	PS	PS	PS	--	--	--	
Electronic Gaming Operations	--	--	--	--	--	--	--	--	--	--	--	--	SUP	
Food/Restaurant Uses	--	--	CD	CD	CD	P	P	P	P	--	P	A	--	
Fueling Station	--	--	--	--	--	--	--	PS	PS	--	PS	PS	PS	
Large Vehicle and Heavy Equipment Sales and Service	--	--	--	--	--	--	--	--	--	--	--	P	P	
Manufactured Home Sales	--	--	--	--	--	--	--	--	CD	--	--	--	--	
Retail Uses	--	--	CD	CD	P	P	P	P	P	--	P	A	--	
Theater	--	--	--	--	--	--	P	P	P	--	P	--	--	
Tobacco Stores	--	--	--	--	--	--	--	--	--	--	--	CD	--	
Vehicle Leasing and Rental	--	--	--	--	--	--	--	--	CD	--	--	--	--	
Vehicle Sales	--	--	--	--	--	--	--	--	CD	--	--	--	--	
<b>Public and Institutional Uses</b>														<b>3.3.6</b>
Assembly Use	--	--	--	--	--	--	P	P	P	--	P	--	--	
Cemetery	PS	--	--	--	--	--	PS	--	--	PS	--	--	--	
Civic Building	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	
Community Support Facility	SUP	SUP	SUP	SUP	SUP	P	P	P	P	P	P	P		
Penal or Correctional Institution	--	--	--	--	--	--	--	--	--	--	--	--	SUP	
KEY: P - Permitted Use; PS - Permitted Use with Additional Standards; A - Accessory Use; SUP - Special Use Permit CD - Conditional Zoning District Only														

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DISTRICTS	RR	SR	NR	NCR	MXR	NMX	DMX	RMX	CB	SP (CD ONLY)	IVMX	BRT	HI (CD ONLY)	
Religious Use	PS	PS	PS	PS	PS	P	P	P	P	--	P	--	--	
School (Commercial, Trade or Business)	--	--	--	--	--	P	P	P	P	P	P	P	P	
School (K-12)	CD	CD	CD	CD	CD	--	--	--	--	--	--	--	--	
<b>Recreation Uses</b>														<b>3.3.7</b>
Campground	SUP	--	--	--	--	--	--	--	--	--	--	--	--	
Fitness Facilities/Studios	--	--	--	--	P	P	P	P	P	--	P	--	--	
Golf Course	CD	CD	CD	CD	CD	--	--	--	--	--	--	--	--	
Recreation Facility, Indoor	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	PS	--	--	
Recreation Facility, Outdoor (<50 acres)	PS	PS	PS	PS	PS	PS	PS	PS	PS	--	PS	--	--	
Recreation Facility, Outdoor (>50 acres)	CD	CD	CD	CD	CD	CD	CD	CD	CD	P	CD	--	--	
Shooting Range, Outdoor	SUP	--	--	--	--	--	--	--	--	--	--	--	--	
<b>Agriculture, Manufacturing, and Distribution Uses</b>														<b>3.3.8</b>
Agricultural Uses (General)	P	--	--	--	--	--	--	--	--	--	--	--	--	
Agricultural Uses (Intensive)	SUP	--	--	--	--	--	--	--	--	--	--	--	--	
Data Centers	--	--	--	--	--	--	--	--	--	--	--	P	P	
Distribution and Logistics	--	--	--	--	--	--	--	--	--	--	PS	PS	PS	
Heavy Manufacturing	--	--	--	--	--	--	--	--	--	--	--	--	P	
Landfill	--	--	--	--	--	--	--	--	--	--	--	--	CD	
Light Manufacturing and Warehousing	--	--	--	--	--	--	--	--	--	--	P	P	P	
Neighborhood Manufacturing	--	--	--	--	--	PS	PS	PS	PS	--	P	P	P	
Research and Development Facilities	--	--	--	--	--	--	--	--	--	P	P	P	P	
Resource Extraction	--	--	--	--	--	--	--	--	--	--	--	--	CD	
Storage, Self-Service	--	--	--	--	--	--	--	--	--	--	--	--	PS	
<b>Infrastructure Uses</b>														<b>3.3.9</b>
Airport, Public or Private	SUP	--	--	--	--	--	--	--	--	--	--	--	--	
Infrastructure/Utilities (Major)	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	SUP	P	P	
Infrastructure/Utilities (Minor)	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	
Neighborhood Recycling Collection Point	--	--	--	--	--	P	--	P	P	P	P	P	P	
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Parking Garage	--	--	--	--	A	A	PS	PS	PS	A/PS	PS	A/PS	--	
Parking Lot - Principal Use	--	--	--	--	--	--	SUP	PS	P	--	PS	--	--	
Solar Energy Systems - Small	A	A	A	A	A	A	A	A	A	A	A	A	A	
Solar Energy Systems - Large	SUP	--	--	--	--	--	--	--	--	SUP	SUP	SUP	SUP	
Transit Station / Terminal	--	--	--	--	--	--	P	P	P	--	P	P	--	
Wireless Telecommunications Equipment	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	
Wireless Telecommunications Tower	SUP	--	--	--	--	SUP	--	--	SUP	SUP	--	SUP	SUP	
<b>Other Uses</b>														<b>3.3.10</b>
Outdoor Advertising Sign	--	--	--	--	--	--	--	CD	--	--	--	--	PS	
KEY: P - Permitted Use; PS - Permitted Use with Additional Standards; A - Accessory Use; SUP - Special Use Permit CD - Conditional Zoning District Only														

## 3.3 ADDITIONAL USE PROVISIONS

### 3.3.1 GENERAL PURPOSE AND APPLICABILITY PROVISIONS

#### A. Purpose and Intent.

1. The purpose of this section is to establish additional Use and design standards to ensure compatibility amongst adjacent properties, protect and strengthen neighborhood character, and to achieve quality urban design within the Town.
2. The provisions of this section are intended to support a mixed-use character throughout the Town by allowing land Use variety yet limiting development intensities at certain locations.
3. The provisions of this section are also intended to guide the decision-making body's decisions and Project review so that land Use/development proposals are compatible to the scale, character, and urban design of the neighborhood in which they are located. These provisions will support the Town's decision to approve, approve with conditions, or deny a particular proposal.

#### B. Applicability.

1. **Specific Uses.** The provisions of this Section are applicable to those Uses listed as "PS – Permitted Uses with Additional Standards," "SUP – Special Use Permit," and/or "CD – Conditional Zoning District" pursuant to Table 3.2-A.
2. **New Uses and Expansions of Existing.** These provisions are applicable to new Uses and expansions of existing Uses. Where an existing Use exists, these provisions shall only apply to the new Building elements. Where the existing portions of the Use do not comply with the provisions of this section, the nonconforming provisions/allowances of Chapter 10 shall apply.
3. **Conflict.** Where there are potential regulatory conflicts between the District (or zone) standards of Chapter 2, the Building, Site & Subdivision Lot Design Standards of

Chapter 8, and the provisions of this section, the provisions herein shall apply.

#### 4. Additional Conditions of Approval.

The decision-making body may impose additional conditions of approval for Special Use Permits which may be in addition to the provisions of this Section. In doing so, the conditions of approval may further limit development scale, size, and intensity to ensure compatibility with neighboring properties.

### 3.3.2 RESIDENTIAL USES – ADDITIONAL USE PROVISIONS

#### A. Apartment Dwelling.

1. **Residential Use Districts.** Apartment Dwellings are permitted only in new Projects or Subdivisions in accordance with the minimum and maximum allocation allowances in Table 2.2.1-A - Development Standards for Residential Use Districts, Attached Dwelling Unit and Apartment Dwelling Unit Allocation.
2. **Non-residential Use Districts.** Apartment Dwellings are only permitted when located on upper stories within a vertically integrated mixed-use Building with non-residential Uses permitted in the District on the ground floor story. Alternate locations and configurations are permitted by Conditional Zoning District (CD).

#### B. Attached Dwelling.

1. **Residential Use Districts.** Attached Dwellings are permitted only in new Subdivisions in accordance with the minimum and maximum allocation allowances in Table 2.2.1-A - Development Standards for Residential Use Districts, Attached Dwelling Unit and Apartment Dwelling Unit Allocation.
2. **Non-residential Use Districts.** Attached Dwellings are not permitted to front on Main Street between Earp Street and Elm Street, but are allowed to front on side Streets in the case of sites with multiple Frontages.

**C. Group Home.**

1. **Location.** A Group Home may not be located within a 1/2 mile radius of an existing Group Home, as measured between Lot Lines.

**D. Manufactured Dwelling.**

1. **Location.** A Manufactured Dwelling is permitted only on Lots greater than 1 acre or in previously existing mobile home parks.
2. **Design.** All Manufactured Dwellings located or relocated in any Residential Use District after the effective date of this UDO shall comply with the following design criteria:
  - a. **Roof:**
    - i. **Minimum Roof Pitch.** The minimum roof pitch shall not be less than a 3 foot vertical rise for each 12 foot horizontal run.
    - ii. **Roofing Material and Design.** The roof shall be covered with shingles, standing seam metal, shakes, or tile; and eaves from the roof shall extend at least 1 foot from the intersection of the roof and the exterior walls.
  - b. **Siding Material.** All Manufactured Dwellings shall utilize 1 of the following exterior siding materials over at least 60% of each façade, exclusive of windows or doors: brick; vinyl horizontal lap siding; aluminum horizontal lap siding; wood siding; or, hardboard siding.
  - c. **Foundation.** All Manufactured Dwellings shall be set on a permanent foundation. A continuous, permanent perimeter enclosure specifically fabricated for foundation use, shall be installed to enclose the area under the Manufactured Dwelling. The permanent perimeter enclosure shall be unpierced except for air vents and 1 entry. The area around the permanent perimeter enclosure shall be back-filled so that the Manufactured Dwelling sits no more than 12 inches above grade. Foundation plantings shall be required along the front façade of each Manufactured Dwelling.

- d. **Entry.** The entry to each Manufactured Dwelling shall be accompanied by a Deck or stoop located adjacent to the entry and placed at substantially the same elevation as the entry threshold. The Deck or stoop shall be made of treated wood or masonry materials. The Deck or stoop, along with any stairs, shall include handrails. An improved Walkway surface (i.e., concrete, asphalt, treated wood, bark or gravel) shall be provided from the Driveway or interior Access Drive to the Deck or stoop located adjacent to the entry. If bark or gravel is used, the Walkway shall include a border capable of containing the bark or gravel.
- e. **Hauling Mechanisms.** The transportation mechanisms including the wheels, tongue, axles, hitch or other towing apparatus, and transportation lights shall be removed prior to the issuance of a Certificate of Occupancy.

**3.3.3 LODGING USES – ADDITIONAL USE PROVISIONS****A. Bed and Breakfast.**

1. **Guest Room Limitations.** Bed and Breakfast establishments are permitted up to 10 guest rooms.
2. **Manager/Caretaker.** Each Bed and Breakfast establishment shall maintain an on-site manager and/or caretaker during all times of operation.
3. **Special Events.** Bed and Breakfast establishments may host invitation-only special events (e.g., weddings, family reunions, etc.) for their guests and associated parties. Special Events are limited to a maximum of 50 attendees, at least 1 of which must be a guest of the Bed and Breakfast. Special Events that require Off-site Parking and/or have amplified sound are subject to a Temporary Use - UDO Permit.
4. **Food Service.** Bed and Breakfast establishments may provide prepared on-site food service for their guests. In Residential Use Districts, food service shall not be



advertised, promoted, or offered to non-guests.

5. **Common Outdoor Areas.** In Residential Use Districts, common outdoor areas (e.g., guest Patio, pool, and lounging area) shall be enclosed by a minimum 6 feet high opaque fence or similar feature to mitigate potential visual and/or audible impacts to adjacent properties.

### 3.3.4 OFFICE AND SERVICES USES – ADDITIONAL USE PROVISIONS

#### A. Animal Boarding and Outdoor Kennel.

1. **Noxious Impacts.** Animal boarding establishments and kennels shall not cause external effects such as increased noise, lighting or glare on nearby properties, or animal-related odors that are readily detectable at any point beyond the property line of the facility. These establishments must have an appropriate system for the disposal of animal waste. Animal waste must not be allowed to collect in areas where it could result in direct discharge into the public stormwater systems and/or open waterbodies.
2. **Buffer requirements.** Animal runs, and cages shall be at least 50 feet from an adjacent Residential Use District and 25 feet from any other Use District. A Type C Buffer shall surround said activities.
3. **Fencing.** All pens and kennels must be surrounded by a fence at least 6 feet in height, and enclosed on top with a roof, or be located in an enclosed Structure, and compliant with the standards in Section 3.4.2.H.

#### B. Child Care Center.

1. **Location.** No outdoor Uses associated with a Child Care Center (play areas, storage, etc.) shall be located between the Building and the Public Street.
2. **Playground Areas.** All Playground areas shall be fenced and shall be an appropriate distance away from any vehicle Parking Areas, loading, and service areas to avoid

vehicular conflict. Bollards or other devices to ensure there is no vehicular conflict may be required. When calculating required Foundation Landscaping, the area of a Playground shall be included.

3. **Buffering.** A Type C Buffer shall be provided along any Rear or Side property line adjoining Residential Use Districts.

4. **Parking and Traffic Plan.** In Residential Use Districts, the applicant shall provide and implement a parking and traffic plan that adequately mitigates the potential adverse impacts of increased traffic in the neighborhood.

#### C. Mortuary/Funeral Home/Crematory.

1. **Parking and Traffic Plan.** In Residential Use Districts, the applicant shall provide and implement a parking and traffic plan that adequately mitigates the potential adverse impacts of increased traffic in the neighborhood.

#### D. Vehicle Service (Minor).

1. **Storage Restrictions.** Vehicles subject to repair may only be stored overnight on the site within a Building. No vehicle subject to repair shall be parked/stored within any Right-of-Way.
2. **Material Storage.** All materials associated with the repair operation shall be stored within a fully enclosed and secured Building. Tires and combustible materials shall be stored within a Building with a fire suppression system that complies with the Town's Building and fire codes.
3. **Repair Activities.** All vehicle repair activities shall occur within a Building.
4. **Bays.** Repair bay doors shall not face a Street.

### 3.3.5 RETAIL, DINING, AND ENTERTAINMENT USES – ADDITIONAL USE PROVISIONS

#### A. Adult Establishments.

##### 1. Limitation on Adult Establishment Activity.

- a. No Building, premises, Structure, or other facility that contains any adult establishment shall contain any other kind of adult establishment.
- b. No Building, premises, Structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained shall contain any adult establishment.
- c. Maximum occupancy of a viewing booth in an adult mini motion picture theater is 1 person.

##### 2. Prohibited Locations for Adult Establishments. Adult establishments are prohibited within the following areas:

- a. **Proximity to Adult Establishments.** The establishment, enlargement, reconstruction, resumption or structural alteration of any adult establishment is prohibited within 1,000 feet of another adult establishment. The distance between 1 adult establishment and another adult establishment shall be measured in a straight line, without regard to intervening Structures or objects, from the closest exterior structural wall of each such adult establishment.
- b. **Proximity to Protected Uses and Protected Districts.** The establishment, enlargement, reconstruction, resumption or structural alteration of any adult establishment is prohibited within 1,000 feet of any existing Religious/Assembly Use, Town Park, School (K-12), Family Child Care Home, Child Care Center or Residential Use District within the Town or its Extraterritorial Jurisdiction. The distance between 1 adult establishment and other protected Uses noted above shall be measured in a straight

line, without regard to intervening Structures or objects, from the closest exterior structural wall of each Use.

3. **Exterior Display.** Notwithstanding any other provisions of this UDO to the contrary, all exterior displays for an adult establishment shall comply with the following regulations.
  - a. **Display.** No adult establishment shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, Sign, show window or other opening from any Public Right-of-Way.
  - b. **Number of Signs.** Not more than 1 business Wall Sign is permitted for an adult establishment and said business Wall Sign shall be permitted only on the front façade of the Building. All other signs or sign Structures are prohibited.
  - c. **Sign Surface Area.** The maximum sign Surface Area of a business Wall Sign for an adult establishment is 3% of the total area of the first 18 feet or actual Building Height, whichever is less, of the front façade of the Building or tenant space occupied by the adult establishment; or 40 square feet, whichever is less.
  - d. **Illumination of Signs.** Signs and Sign Structures may be illuminated, provided, however, such illumination does not include exposed neon, outdoor light fixtures (e.g., spot or flood lights) or any flashing or animated lights.

#### B. Amusement & Entertainment, Indoor.

1. **Maximum Area.** 5,000 square feet of Gross Floor Area.

#### C. Amusement & Entertainment, Outdoor.

1. **Locational Limitations.** In the RR District, Uses are limited to amphitheater and outdoor theater.
2. **Setbacks.** In the RR District, amphitheaters and outdoor theaters shall be set back a

minimum of 200 feet from a Residential Use District.

3. **Buffers.** A Type B Buffer shall be provided along the property boundaries that abut a Residential Use District. Natural and native site vegetation shall be maintained within the required Buffers.
4. **Noise Study.** A noise study may be required to identify the potential audible impacts and best management practices to mitigate said impacts to neighboring properties. A Conditional Zoning District (CD) may include conditions that limit the capacity, hours-of-operation, and spatial arrangement.

#### D. Bar/Nightclub/Tasting Room.

1. **Licensing Requirements.** All bars, nightclubs, and tasting rooms are subject to state and local licensing requirements.
2. **Tasting rooms.** Tasting Rooms are permitted with a microbrewery (Neighborhood Manufacturing Use) as part of their brewing operations. Tasting rooms are limited to 25% of the Gross Floor Area of the microbrewery.
3. **Locational Limitations.** Bars, nightclubs, and/or tasting rooms shall not be established or expanded within 300 feet of a School (K-12) In the BRT District, Uses are limited to tasting room only.
4. **Outdoor Areas.** When adjacent to Residential Use Districts, outdoor areas (e.g., Patios, Decks, or lounging areas) shall be enclosed by a minimum 6-feet high opaque fence or similar feature to mitigate potential visual and/or audible impacts to adjacent properties. This does not apply to outdoor seating within the public Sidewalk. As part of a Special Use Permit review, the additional standards may be imposed to ensure compatibility.
5. **Prepared Food Service.** Bars, nightclubs and tasting rooms are permitted to serve prepared food (including mobile vendors) in addition to the drinking activities. Mobile vendors are permitted as Temporary Use (Section 3.5).

#### E. Drive in/Drive Through.

1. **Applicability.** The provisions of this subsection apply to facilities where food or other products/services may be purchased or services may be obtained by motorists without leaving their vehicles and by maneuvering around the site in a dedicated lane. The provisions of this section are not applicable to public voting establishments, medical testing/treatment centers, and/or charity/food bank distribution.
2. **Locational Limitations.** Drive Through windows shall be located on the side or rear Building façades – the service windows shall not be located on the front, Street-facing façade.
3. **Service speakers.** Service speakers shall be oriented away from adjacent Residential Use Districts and their audible impact shall be mitigated through volume control, deflective screens or similar features.
4. **Drive Through Circulation Lanes.**
  - a. Except in the CB District, no circulation lane is permitted between the Building and the Street. All such circulation must occur in the Side – Interior or Rear Yard of the site.
  - b. Where permitted in the CB District, circulation in the Front Yard of the Building is permitted provided that screening is provided a minimum 4 feet in height. The screening must be comprised of a wall that matches the materials of the principal Structure with foundation plantings to Buffer the wall from the Sidewalk.
  - c. At least 6 stacking spaces must be provided per Drive Through lane, beginning behind the first point at which the vehicle must stop (which may be the order board, a pre-order board or payment/pick-up window).
  - d. Door openings for Drive Through Uses that include an overhead door for cars (such as car washes) must not face the Street.

## F. Electronic Gaming Operations.

1. **Definitions.** As used in this Section only, the following terms shall be defined as set forth below:

- a. **Game of Chance:** A game whose outcome is strongly influenced by randomizing device, and upon which, contestants may or may not wager money or anything of monetary value.
- b. **Establishment of an Electronic Gaming Operation:** any of the following:
  - i. The opening or commencement of an Electronic Gaming operation as a new business;
  - ii. The conversion of an existing business, whether or not an Electronic Gaming operations, to any of the Electronic Gaming operations defined herein;
  - iii. The addition of any of the features of 1 or more of the Electronic Gaming operation defined herein to an existing business;
  - iv. The addition of any of the Electronic Gaming operations defined herein to any other existing Electronic Gaming operation; or
  - v. The relocation of any Electronic Gaming operation.
- c. **Nonconforming Electronic Gaming Operations:** any Building, Structure or land legally established as an Electronic Gaming operation prior to the effective date of this UDO, but which would be prohibited, regulated or restricted under the provisions of this UDO.
- d. **Reconstruction of an Electronic Gaming Operation:** the rebuilding or restoration of any nonconforming Electronic Gaming operation Use which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion or other calamity or act of God if the damage or destruction

exceeds 50% of the fair market value of the Structure or the facilities affected.

## 2. Prohibited Locations.

- a. Within 1,000 feet of another Electronic Gaming operation.
- b. Within 1,000 feet of any existing Religious Use, Assembly Use, Town Park, School (K-12), Family Child Care Home, Child Care Center or Residential Use District within the Town or its Extraterritorial Jurisdiction.

3. **Permitted Locations.** An Electronic Gaming operation may be established, enlarged, reconstructed, resumed, or structurally altered only on a Lot or Outlot located in the HI District subject to the grant of a Special Use Permit.

## 4. Measurement of Distances.

- a. The distance between 1 Electronic Gaming operation and another Electronic Gaming operation shall be measured in a straight line, without regard to intervening Structures or objects, from the closest exterior structural wall of each such Electronic Gaming operation.
- b. **Distance to Protected Uses and Protected Districts** – The distance between an Electronic Gaming operation, and any existing Religious/ Assembly Use, Town Park, School (K-12), Family Child Care Home, Child Care Center or Residential Use District shall be measured in a straight line, without regard to intervening Structures or objects, from the closest exterior structural wall of the Electronic Gaming operation to the nearest Lot Line of the Religious/ Assembly Use, Town Park, School K-12, Family Child Care Home, Child Care Center or Residential Use District.

## 5. Exterior Display.

- a. **Number of Signs** – Not more than 1 business Wall Sign shall be permitted for an Electronic Gaming operation and said business Wall Sign shall be permitted only on the front façade of the Building. All other Signs or Sign Structures shall be prohibited.
  - b. **Sign Surface Area** – The Sign Surface Area of a business Wall Sign for an Electronic Gaming operation shall not exceed the lesser of:
    - i. 3% of the total area of the lower 18 feet or actual Building Height, whichever is less, of the front façade of the Building or tenant space occupied by the Electronic Gaming operation; or,
    - ii. 40 square feet.
  - c. **Illumination of Signs** – Signs and Sign Structures may be illuminated, provided, however, such illumination shall not be by way of exposed neon, outdoor light fixtures (e.g., spot or flood lights) or any flashing or animated lights either: interior to the Sign; on the exterior of the Sign; or, as a border to the Sign).
- 6. Findings Required.** A petition requesting the approval of a Special Use Permit for an Electronic Gaming operation shall be reviewed at a public hearing per the requirements of Chapter 11.

## G. Fueling Stations.

1. **Applicability.** The provisions of this subsection shall apply to all retail vehicle fueling stations and the associated components thereof. These provisions shall not apply to accessory fuel pumps that are a part of industrial Uses that does not provide retail fuel sales to the general public. This section shall not apply to facilities with less than 2 electric vehicle DC fast charging stations (or the successor technology), or similar facilities. This Section is intended to supplement the requirements for EV stations found in Chapter 6.

## 2. Canopies.

- a. Canopies are considered an Accessory Structure to the Fueling Station and shall not be located in the Front or Side – Corner Yard.
  - b. All fueling pumps shall be covered with a Canopy or roof Structure.
  - c. Canopies and related elements, including fuel dispensers, support columns, planters, etc., shall be constructed of the same Building materials, colors, and textures as the primary Structure.
  - d. Canopies/roof Structures shall be Setback a minimum of 15 feet from the Right-of-Way and shall be outside of all required Setbacks. Canopies shall be designed to only cover the pump islands and drive up lanes for fueling.
  - e. Interest shall be added to the Canopy through the use of: roof line variations; separation of roof pitches; varying the direction of roof pitches; use of mansard roofs, hip roofs, gambrel roofs; inclusion of dormers; or, other variation in roof design.
- 3. On-site Circulation.** New fueling stations shall provide for on-site circulation for fuel dispensing trucks and similar vehicles. Tank refueling and delivery shall not be staged from or within the Right-of-Way.
- 4. Underground Facilities.** Underground facilities (including septic tanks and finger systems, cisterns, cellars, basements, underground storage tanks, etc.) shall not be located in or under any required Setback or Perimeter Buffer.
- 5. Residential Buffering/Mitigation.** When adjacent to a Residential Use District the following standards shall apply:
- a. A Type C Buffer shall be provided along the property boundaries that abut a Residential Use District.
  - b. All fueling pump islands, fuel storage apparatus, and Canopy elements shall be set back at least 30 feet from any Residential Use District.



**6. Siting and Design.** In all Use Districts where fueling stations are permitted, the following standards shall apply:

- a. Fueling pumps shall only be permitted when in conjunction with a retail sales and service Use (e.g., convenience store, retail store).
- b. Fueling pumps shall be provided/ sited interior to the site and screened from the public Right-of-Way by a Building, wall, or similar site element.
- c. When subject to a Special Use Permit, additional limitations on the number of and the location of fueling stations on a given site to protect adjacent Uses and to strengthen the planned urban character of the corridor may be considered, among other criteria.

### 3.3.6 PUBLIC AND INSTITUTIONAL USES – ADDITIONAL USE PROVISIONS

#### A. Airport, Public or Private.

- 1. Special Submittal Requirements.** In addition to the other requirements of this UDO, applicants for new and/or expanded airports shall submit the following items with their applications.
  - a. Proof of compliance with all county, state and federal laws, regulations and requirements. The applicant shall submit copies to the Town of any applicable/ associated permitting materials to state and federal aviation agencies.
  - b. Complete plans for all airport facilities, including approach zones, horizontal zones and conical zones.
  - c. A plan/survey depicting trees and/ or Structures which extend into any existing/planned approach zone, horizontal zone or conical zone. Said materials shall include the dimensions of trees or Structures.
- 2. Airport, Airfield, and Runway Design – FAA Standards.** All new airport facilities including the airport terminal Building,

airfield and runway shall comply with FAA design standards.

- 3. Clear space.** In order to reduce danger from low-flying planes approaching and taking off from the airfield, designated clear space shall be provided at the end of a runway pursuant to the following:
  - a. 750 feet for airstrips.
  - b. 1,000 feet for class I airfields.
  - c. 2,000 feet for class II or class III airfields.
  - d. 2,500 feet for class IV airfields.
- 4. Aprons and ramps.** Aprons and ramps shall be perpendicular to runways and taxiways.
- 5. Construction within the airfield**
  - a. Structures within the airfield shall be constructed of material which will provide not less than two hours' fire-resistant construction according to the standards established by the American Society of Testing Materials or the requirements of the National Fire Protection Association.
  - b. All airports shall be fenced; such fences shall be a minimum of 8 feet in height.
  - c. Storage of gasoline shall be underground and in accordance with the requirements of all applicable state and local laws and ordinances.

#### B. Cemetery.

- 1. Locational Limitations.** Tombstones, crypts, monuments, and mausoleums shall be located a minimum of 20 feet from any side or Rear Lot Line and at least 30 feet from a Street Right-of-Way.
- 2. Perimeter Fencing.** A brick wall or an ornamental fence made of wood or vinyl picket or wrought iron a maximum of 4 feet in height shall be installed along the perimeter of the Cemetery.

#### C. Civic Building.

1. All civic Buildings and their associated site improvements shall be subject to Development Plan review as described in Chapter 11.

**D. Penal or Correctional Institution.**

1. **Locational Restrictions.** Penal and Correctional Institutions may not be established within ½ mile of a Residential Use District or School (K-12).

**E. Religious Use.**

1. **Applicability.** The provisions of this subsection shall apply to new or modifications to religious institutions, places of worship, and their Accessory Uses. This subsection does not apply to individual religious practices.
2. **Permitted Accessory Uses.** Permitted Accessory Uses include but are not limited to Cemeteries, Child Care Center, residential care facilities, retail Uses, and similar facilities
3. **Private Schools and Colleges.** K-12 schools and/or college-equivalent operations which require state/federal certification/permits may be allowed pursuant to the District provisions. These educational Accessory Uses may require a separate review and approval process.

**F. Outdoor Event and Recreational Space.**

Outdoor event areas (e.g., pavilions) and recreational spaces (e.g., sports fields, Playgrounds) shall be Setback at least 50 feet from a Residential Use District. This does not apply to trails and pathways.

**G. School (K-12).**

1. **Passenger/Student Loading Zones.** The applicant shall provide a passenger/student loading zone plan that shows the location, circulation, and traffic management provisions. To ensure compatibility with neighboring Uses, the Administrator or the Town Council as appropriate may limit the location, capacity, hours-of-operation, and spatial arrangement of the passenger loading zones.
2. **Special District Required.** All High School Campuses greater than 40 acres in size shall be permitted in Special Districts only.

**3. Outdoor Recreational Space.**

- a. Active recreational areas such as sports fields and Playgrounds shall be set back at least 50 feet from a Residential Use District. This does not apply to trails and pathways.
- b. Outdoor stadiums or similar sports arenas shall be Setback at least 100 feet from a Residential Use District. To ensure compatibility with neighboring Uses, a Conditional Zoning District (CD) may include conditions, among others, to limit the location, capacity, hours-of-operation, and spatial arrangement of the outdoor stadium and similar sports arenas.
- c. Lighting shall be directed away from neighboring properties.
- d. Concession services may be allowed as an Accessory Use to provide food, beverage, and school/sports-related merchandise to patrons/students.
- e. The applicant/school operator may allow the general public to use outdoor recreational amenities.
- f. A Type C Perimeter Buffer shall be provided along any Rear or Side property line adjoining a Residential Use District.

**3.3.7 RECREATION USES – ADDITIONAL USE PROVISIONS****A. Campground.**

1. **Minimum Campground Size.** The minimum size for any new Campground or RV Park size is 20 acres.
2. **Campsite Setback.** Campsites shall be Setback at least 50 feet from the Campground's property boundary.
3. **Utility Requirements for RV Campsites.** Each Recreational Vehicle campsite shall be connected to an approved water supply system which provides an accessible, adequate, safe, and potable supply of water. An adequate and safe sewer system shall be provided in all Campgrounds which allow Recreational Vehicles for overnight use. All electrical utilities shall be underground.

4. **Personal Services.** Each Campground shall provide a central service Building containing toilets, showers, and other plumbing fixtures as specified in the most current edition of the North Carolina State Plumbing Code.
5. **Common Buildings.** Campgrounds are allowed Accessory Buildings to accommodate guest gatherings, periodic events, and administrative operations. Each common Building shall be limited to 20,000 square feet Gross Floor Area.
6. **Trash Service.** The storage, collection, and disposal of trash and refuse shall comply with all applicable Town, County, and State regulations.

**B. Recreation Facility, Indoor.**

1. **Accessory Use.** An Indoor Recreation Facility less than 10,000 square feet is permitted as an Accessory Use to a residential Subdivision or Development Plan.
2. All Projects are subject to Development Plan Review as described in Chapter 11.

**C. Recreation Facility, Outdoor.**

1. **Setbacks.** Playgrounds and recreational elements areas shall be subject to the Setbacks for the District. This shall not include picnic Structures/tables, paths, trails, and/or Sidewalks.
2. **Lighting.** Lighting shall be directed away from neighboring properties.
3. **Concession Services.** Concession services shall be limited to the hours of 8:00am and 6:00pm – these hours may be adjusted to coincide with a Town-permitted event (e.g., night-time movie showing, special community event, wedding, and similar activity).

**D. Shooting Ranges, Outdoor.** Outdoor Shooting Ranges are subject to the following standards.

1. The minimum Lot Area shall be 10 acres.
2. The Use shall include and maintain a projectile-proof backstop, consisting of concrete, steel, earth or a combination thereof, at least 15 feet high behind all target areas.

3. The hours of operation shall be limited to 9:00 a.m. and 7:00 p.m.
4. The noise level shall not exceed 63 dBA as measured at the property boundary.
5. The perimeter of the shooting range activity, including the firearm discharge area and surrounding berms, shall be enclosed by a fence or wall, a minimum of 6 feet in height.

### 3.3.8 AGRICULTURE, MANUFACTURING, AND DISTRIBUTION USES – ADDITIONAL USE PROVISIONS

**A. Agricultural (Intensive).**

**1. Setbacks.**

**a. Agricultural-related Buildings.**

Agricultural-related Buildings such as barns, greenhouses, and processing facilities (but not including living quarters and offices) shall be Setback 500 feet from Residential Use Districts.

**b. Livestock Pens and Fowl Coops.** These facilities shall be Setback 500 feet from Residential Use Districts. Livestock grazing areas and pasture lands are not subject to this Setback provision.

**c. Food Growing Fields and Orchards.** Food growing fields and orchards shall be Setback 50 feet from Residential Use Districts.

**2. Sales Allowances.**

- a. Materials produced on-site may be sold to third-party, off-site sales establishments. (Example: selling produce to a retail store is permitted as part of a commercial agricultural activity.)
- b. Accessory retail activities may be sold on-site. These sales activities shall be limited to products and materials that relate to an existing agricultural operation on the site. (Example: a grower may sell produce grown onsite.)

**3. Other Accessory Uses/Operations.**

Accessory offices and living quarters that relate to the agricultural activity may be



permitted on-site. On-site veterinary services to care for on-site livestock and fowl are also allowed.

4. **Compatibility Conditions.** To ensure compatibility with neighboring Uses, the approving authority may condition a Special Use Permit to limit the location, capacity, hours-of-operation, and spatial arrangement of the agricultural activities.

#### B. Distribution and Logistics.

1. **Location.** In the IVMX, such Uses are limited to a maximum Building area of 100,000 square feet.
2. **Service and Loading Areas.** Service and loading areas shall be sited on the side or rear of the Building they serve. Said areas shall not be oriented to a Right-of-Way. Where sites abut multiple Rights-of-Way, with the exception of US 1 or NC 540, this standard shall apply to the Right-of-Way with the highest roadway classification. For sites fronting on US 1 or NC 540, the loading and service areas shall be located at least 300 feet from the Right-of-Way and be separated from the Right-of-Way by Type C Buffer.
3. **Lighting.** Lighting shall be directed away from neighboring properties.
4. **Circulation Plan.** The applicant shall provide a circulation plan that shows the site access locations, freight/customer circulation patterns/plans, and staging areas.
5. **Freight Vehicles, Service Vehicles, Storage Trailers, and Material Storage.** Freight/maintenance/service vehicles, shipping trailers, material storage, and related equipment shall be stored within Buildings and/or in compliance with outdoor storage requirements.

#### C. Landfill.

1. **Buffers.** The landfill shall provide a minimum 100 feet wide Type C Buffer around the property boundaries.
2. **Separation Requirements.** Bio hazardous or hazardous waste storage and treatment facilities shall not be located within 1/2 mile of a Residential Use District.

3. **Remediation Plan.** The applicant shall prepare and submit a remediation plan to define the methods, alterations, and maintenance procedures to manage the property when the landfill operation ceases. The remediation plan shall include design elements and site modifications to improve the property's appearance from off-site view and to guard against potential contamination to surrounding properties.

4. **Other Requirements.** Landfill operations shall comply with all local, state, and federal laws, regulations, orders, consent orders, decrees, permit conditions or judgments. The applicant shall provide copies to the Town of any associated state/federal permits and reporting materials that are in association with the landfill Use.

5. **Circulation Plan.** The applicant shall provide a circulation plan that shows the site access locations, freight/customer circulation patterns/plans, and staging areas.

#### D. Neighborhood Manufacturing.

1. **Manufacturing Operations.** All manufacturing operations shall occur within an enclosed Building.
2. **Size.** The maximum size for a neighborhood manufacturing operation is 15,000 square feet.
3. **Storage.** Outdoor storage must be in the Rear Yard and completely screened from view with a Type C Buffer and shall not exceed 20% of the total site. No open storage of junk or salvage materials shall occur on the site.
4. **Accessory Use Allowances.** Accessory retail shops, tasting rooms, and similar activities may be allowed in conjunction with a Neighborhood Manufacturing Use subject to the Use Table.
5. **Operations.** Any industrial Use (and incidental operations) that involves manufacturing, processing, assembly, storage operations are permitted, provided that the manufacturing, processing, assembly or storage in no way involves any junk or

salvage operations. Any noise, vibration, smoke, gas, fumes, odor, dust, fire hazard, dangerous radiation or other injurious or obnoxious conditions related to the operation shall not create a nuisance beyond the premises.

**E. Resource Extraction.**

**1. Excavation Setbacks.**

- a. Excavations of earth shall be Setback 150 feet of any Right-of-Way.
- b. Excavations of earth shall be Setback 200 feet to an adjoining Lot or parcel.

**2. Submittal Requirements.** In addition to the other requirements of this UDO, the applicant shall provide the following information with their application.

- a. **Geotechnical Report.** The applicant shall submit a geotechnical report prepared by a licensed geologist. The report shall identify the site soils, soil stability, and ground water location (if applicable). The report shall include best management recommendations, so the extraction activities do not pose a hazard to adjacent properties and natural resources.
- b. **Site Plan.** The applicant shall prepare and submit a site plan depicting the proposed site improvements, extraction activity location, on and off-site circulation, vehicle/equipment staging areas, Buffers, and similar features.
- c. **Circulation Plan.** The applicant shall provide a circulation plan that shows the site access locations, freight/customer circulation patterns/plans, and staging areas.
- d. **Operational Narrative.** The applicant shall submit an operational narrative that describes the intended extraction materials, hours of operation, planned activity duration (e.g., number of years in operation), extraction methods, and hazard mitigation measures.
- e. **Remediation Plan.** The applicant shall submit a remediation plan to

define the methods, alternation, and maintenance procedures to manage and improve the property when the resource extraction operations cease. The remediation plan shall include design elements and site modifications to improve the property's appearance from off-site view and to guard against natural and personal safety hazards.

3. **Compatibility Conditions.** To ensure compatibility with neighboring Uses and to protect the natural environment, the Special Use Permit may include conditions to limit the location, capacity, hours-of-operation, spatial arrangement of the extraction activities, and conditions relating to the remediation plan and the components therein subject to state/federal limitations.

**F. Storage, Self-Service.**

1. **Separation.** Self-Service Storage Uses shall have a minimum separation radius from other Self-Service Storage Uses, as measured from property line to property line, of 1,320 feet or 1/4 mile.
2. **Climate Control.** All storage units located in a multi-story Building or Structure shall be climate controlled with a working HVAC system.
3. **Outdoor Storage and Operations.** Outdoor storage shall be prohibited.
4. **Vehicle Rentals.** No more than a total of 6 vehicles and/or trailers for rent shall be parked on site at any time. When parked on-site, they shall be in the Rear Yard screened from view by a fence, wall or Type C Buffer.
5. **Interior Colors.** Interior architecture that is visible from the exterior (e.g., elements located within 10 feet and visible through translucent windows), including walls, doors, etc., shall have a color pallet that has been approved in a manner consistent with the exterior of the Building.
6. **Front Façade.** There shall be no exterior storage unit access doors on the front façade of any Building facing a Thoroughfare.

### 3.3.9 INFRASTRUCTURE USES – ADDITIONAL USE PROVISIONS

#### A. Infrastructure/Utilities (Major).

##### 1. Major Essential Services Standards and Limitations.

The following provisions apply to major essential services.

- a. **Fencing and Buffering.** All treatment operations, power generation, and electrical substations shall occur behind a minimum 6 ft high fence. Fencing materials shall be compatible with development in the surrounding area, as determined by the Administrator. A security wire (barbed, razor, etc.) may be located on the top of the fence and angled towards the inside of the fence. Type C screening shall be installed around the perimeter of the fenced area, except for entry gates or doors.
- b. **Residential Buffering.** All treatment operations shall be Setback 100 feet from a Residential Use District or platted Lots intended for residential purposes.
- c. **Facilities in the DMX zone.** Treatment facilities, pumps, electrical substations, and similar features shall occur within an enclosed Building and/or behind a wall feature to screen said elements from the public Right-of-Way. These facilities shall be designed/maintained in a manner that preserves the compact, walkable character of the DMX zone.

##### 2. Solar Energy Systems (Large and Small).

- a. **General.** All Solar Energy Systems constructed, reconstructed, installed, moved or maintained within the Town shall comply with all regulations in this section.
- b. **Purpose and scope.** The Town finds that it is in the public interest to encourage the use and development of Solar Energy Systems as a clean, renewable energy source and to help promote local, clean jobs. The purpose of this section is to facilitate the effective and efficient use of Solar Energy Systems

while protecting the public health, safety and welfare of residents.

- c. **Zoning.** Small-scale Solar Energy Systems are a permitted Accessory Use within all zones, whether as part of a Structure or incidental to 1 or more Structures.
- d. **Height.** Roof-mounted Solar Energy Systems may exceed the height limits applicable to each District by five feet. Ground-mounted Solar Energy Systems may be up to 10 feet in height.
- e. **Setback.**
  - i. **Yard.** Ground-mounted Solar Energy Systems in Residential Use Districts shall be installed either in the Side Yard or Rear Yard to the extent practicable.
  - ii. **Setback.** Ground-mounted Solar Energy Systems Accessory to a principal Use may be located no closer than 1/2 of the Setback that would otherwise apply from the Front, Side, or Rear Lot Line.
- f. **Building permit.** A Building permit is required for the construction of a solar energy system.
- g. **Development Plan Review.** A Development Plan is required for large-scale Solar Energy Systems prior to Building permit approval. Development Plan documents shall include documentation that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
- h. **Lot coverage and impervious surface.** The area covered by ground-mounted Solar Energy Systems, where the ground beneath is permeable or pervious, shall not be included in calculations for Lot coverage or impervious cover. Wild flower ground coverage is encouraged.

- i. **Emergency access.** Roof-mounted Solar Energy Systems shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof. For Buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of 1 3-foot wide clear access pathway from the eave to the ridge on each roof slope where Solar Energy Systems are located as well as 1 3-foot smoke ventilation Buffer along the ridge.
  - ii. Rooftops that are flat shall have a minimum 3-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.
- i. **Solar access.**
  - i. No Building permit shall be issued if the proposed Building, wall, fence, or other Structure shall shade more than 10 percent of the absorption area of an existing solar energy system located on any other property between the hours of 10:00 a.m. and 2:00 p.m. The Administrator may modify this requirement if it finds that strict compliance would unduly limit property development, or unduly interfere with the development potential as envisioned for the area in the Comprehensive Plan or UDO.
  - ii. If the owner of the property where the solar energy system is installed is willing to relocate the system, the Town has the discretion to require the property owner whose Structure, fence, wall or vegetation may obstruct the solar energy system to pay the reasonable relocation costs.
  - iii. In order to prevent development on a neighboring property under this subsection, a solar energy system shall be functioning as intended to contribute to the energy needs of the property on the date that the city deems the Building permit application complete.
- j. **Historic district.** Solar Energy Systems in a historic district should be designed, sized, and located to minimize their effect on the character of a historic Structure. Examples include:
  - i. Place Solar Energy Systems to avoid obscuring significant features or adversely affecting the perception of the overall character of the property.
  - ii. Minimize visual impacts by locating Solar Energy Systems back from the front façade.
  - iii. Consider installing Solar Energy Systems on an addition or secondary Structure where applicable.
  - iv. Use the least invasive method feasible to attach the solar energy system to a historic roof such that it avoids damage to significant features and historic materials and can be removed and the original character easily restored.
  - v. All Solar Energy Systems within the historic district require a Certificate of Appropriateness from the Historic Preservation Commission
- k. **Abandonment and decommissioning of medium- and large-scale Solar Energy Systems.**
  - i. **Removal Requirements.** Any large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify

the Town by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) **Disposal of solid and hazardous waste.** Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (b) **Stabilization or re-vegetation of the site as necessary to minimize erosion.** The Town may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

- ii. **Abandonment.** Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than 1 year without the written consent of the Town. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Development Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

#### **B. Infrastructure/Utilities (Minor).**

- 1. **Fencing and Buffering.** Fencing materials shall be compatible with development in

the surrounding area, as determined by the Administrator. A security wire (barbed, razor, etc.) may be located on the top of the fence and angled towards the inside of the fence. All above ground Buildings, Structures, operations, or equipment shall be landscaped to provide Type B screening or in accordance with the Engineering Design & Construction Standards.

#### **C. Parking Garage.**

- 1. **Development Plan.** All Parking Garages will be subject to Development Plan Review.

#### **D. Parking Lot – Principal Use**

- 1. **Setbacks.** A Parking Lot not otherwise associated with a Primary Building shall be subject to the Primary Building for the District but it shall not be less than 20 ft from all Front, Side, and Side-Corner Lot Lines.
- 2. **DMX District.** Parking Lots in the DMX District are subject to the following design standards.
  - a. Parking Lots shall be designed so they can be adaptively reused for future Building pads, event spaces, and similar downtown-oriented Uses/activities.
  - b. Parking Lot surfaces shall be limited in size and segmented into smaller paved areas to reduce their visual impact on the downtown area. Individual Parking Lot surface areas shall be limited to 150 linear feet along Rights-of-Way.
  - c. Vehicle Parking Area screening shall be provided as required by Section 5.3.2.

#### **E. Wireless Telecommunications Equipment and Wireless Telecommunications Towers**

- 1. **Purpose and Intent.** In accordance with N.G.G.S. §160D-930 et al this subsection creates the framework for the siting of Wireless Telecommunications Facilities in a manner which protects the public health, safety and general welfare of the community, provides comprehensive service to the community, and implements the Town's Policies for said facilities. The provisions of



this subsection are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the Town.

**2. Town's Policies.** The following policy statements are set forth to provide guidance to wireless communication facility providers in the placement of Wireless Telecommunication Facilities within the Town and its Extraterritorial Jurisdiction.

- a. Facilitate the comprehensive provision of Wireless Telecommunication services to the residents and businesses of the Town and its Extraterritorial Jurisdiction.
- b. Maximize the use of existing and approved Telecommunication Towers, Buildings, and Structures to accommodate new Wireless Telecommunication Antennas in order to minimize the number of Telecommunication Towers needed to comprehensively serve the community.
- c. Minimize the number, height, obtrusiveness, and the visual impacts of Telecommunications Towers, associated equipment, and Buildings.
- d. Direct and allow Wireless Telecommunication Facilities to areas which are least disruptive to residential, Park, Open Space, and greenway Uses and to be as unobtrusive and invisible as reasonably possible.
- e. Ensure that the height of Telecommunications Towers has the least visual impact and is no greater than required to achieve service area requirements and potential Co-Location.
- f. Site Telecommunications Towers to minimize locations which are visually solitary or prominent when viewed from residential areas or any public way.
- g. Site Telecommunications Towers at locations which are obscured by vegetation, tree cover, topographic features, Buildings or other Structures to the maximum extent feasible.

- h. Protect views of and vistas from architecturally or historically significant Structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of Telecommunications Towers.
- i. Avoid potential damage to adjacent properties from telecommunication towers failure through structural design standards and Setback requirements.

**3. General Applicability.** The provisions, of this subsection shall apply to the following:

- a. Wireless Telecommunication Facilities (towers and associated equipment) that are or will be operated by a licensed Wireless Telecommunication service provider which consists of the equipment and Structures involved in the receiving or transmitting of electromagnetic waves associated with Wireless Telecommunication services.
- b. Small Wireless Telecommunication Towers that meet both of the following characteristics:
  - i. Each Antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an Antenna that has exposed elements, the Antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet;
  - ii. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services; and

- iii. An Antenna Array feature that is attached to a Telecommunications Tower or Building to transmit or receive radio waves. For this subsection, this does not include Antenna Dishes or other Antenna features on individual homes or businesses that are intended to receive radio or television broadcasts, or internet communication for said use.
  - c. **Co-Location of Wireless Telecommunication Facilities and Equipment.** Activities that involve the Co-Location of Wireless Telecommunication Facilities and equipment on existing towers, Buildings, and public infrastructure elements shall be deemed a Permitted Use in the Base zones and subject to the associated review and permitting procedures of Chapter 11.
  - d. **New Standalone Wireless Communication Towers (New Towers).** New standalone wireless towers may be permitted in a District by Special Use Permit per table 3.2-A. Activities that involve the construction, reconstruction and/or establishment of new, standalone wireless communication towers shall require review pursuant to a Special Use Permit procedure as outlined in Chapter 11.
4. **Amateur Radio Exemption.** These provisions neither apply to nor shall be construed to apply to Amateur Radio Operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.
5. **Interference with Public Safety Telecommunications.** No new or existing telecommunications service shall interfere with public safety telecommunications. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Town at least 10 calendar days in advance of such changes and allow the Town to monitor interference levels during the testing process.
6. **Compliance with Other Laws.** A Telecommunications Tower shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All Telecommunications Towers shall comply with all ordinances of the Town which are not in conflict with this subsection.
7. **Wireless Telecommunications Facilities Establishment and Siting Alternatives Analysis.**
- a. **Co-Location Preference.** The Town shall promote the Co-Location of Wireless Telecommunications Equipment on existing towers, Buildings, or utilities elements. New standalone Wireless Telecommunication facilities (Towers) may only be allowed where co-located of said facilities on existing towers, Buildings, or public infrastructure elements is deemed infeasible through a siting alternatives analysis.
  - b. **Siting Alternatives Analysis.** For all new, standalone Wireless Telecommunication Towers, the applicant shall provide a siting alternatives analysis to determine whether Co-Location on existing Structures is feasible within the applicant's search ring, as defined by N.G.G.S. §160D-931(17) including information pertaining to the fair market value of similar contracts – this shall be provided as part of the permitting process and submittal requirements pursuant to Chapter 11. The siting alternatives analysis shall determine the feasibility of co-locating the new telecommunications facilities/equipment in the following situations. (i) Co-Location on existing

towers; (ii) Placement on Town-owned Structure or Building; (iii) Placement on Existing Structure or Building; and (iv) Construction of New Tower Structure or Substantial Modification of Existing Structure. The following describes the various Co-Location situations.

- i. **Co-Location Standards.** The Co-Location or placement of new telecommunications Antennas upon existing Telecommunications Towers, light poles, and/or Buildings.
- ii. **Town-owned Structure or Building.** The utilization of existing Town-owned Structures and Buildings for placement of Antenna and associated equipment or Buildings, including surface-mounted and roof-mounted applications of telecommunication Antennas on existing Buildings and Structure-mounted applications of telecommunication Antennas on water towers, electric-line transmission towers, or other existing Structures.
- iii. **Existing Structure or Building Utilization.** The utilization of all other existing Structures and Buildings for placement of Antenna and associated equipment or Buildings, including surface-mounted and roof-mounted applications of telecommunication Antennas on existing Buildings and Structure-mounted applications of telecommunication Antennas on existing Structures.
- c. **Consulting Option.** As part of the review procedures, the Administrator shall determine the sufficiency of the information. The Town may choose to hire an outside consultant to conduct a third-party review of the siting alternatives analysis in the following situations: (i) where there are disputes of the findings between the applicant and the Administrator and/or (ii)

where expert consultation is deemed necessary to reach conclusions of the analysis. Where the Town utilizes a consultant in its application review, the fee for such services shall be fixed in advance as part of the application fee for a new telecommunications facility.

8. **Telecommunication Tower and Antenna Array Design Standards.** The following design standards apply to new telecommunication towers and associated Antenna Array facilities. These standards do not apply to Co-Location activities on existing towers, Buildings, or public infrastructure elements.
  - a. **Height.** The maximum height of a Telecommunications Tower, including Antenna Array, shall be less than 200 feet above grade; whereas, Small Wireless Telecommunications Towers shall be limited to 50 feet above grade.
  - b. **Location.** Telecommunication towers and Antenna Arrays shall not be located within 300 feet of a Thoroughfare.
  - c. **Guys and Guy Anchors.** All guys and guy anchors shall be located within the Buildable Area of the Lot and shall not be located within any required Setback, required landscape area, and wetland feature/Buffer.
  - d. **Security Fencing.** Securing fencing shall surround the a Telecommunications Tower base, all guy anchors and equipment. The compound area and all guy anchors shall be secured with a fence of not less than 6 feet in height nor more than 10 feet in height. A security wire (barbed, razor, etc.) may be located on the Telecommunications Tower-side of the fence but shall not extend above the top of the fence. The type of fence selected shall, in the determination of the Administrator, be compatible with development in the surrounding area. A chain link fence, if used, shall be black vinyl coated.



**e. Structural Design.**

A Telecommunications Tower shall be designed and built so as to:

- i. Be capable of use by at least two wireless communications providers for a Telecommunications Tower less than 80 feet in height;
- ii. Be capable of use by three or more wireless communications providers for a Telecommunications Tower of 80 feet in height or greater;
- iii. Accommodate Antenna Arrays consisting of 9 to 12 Antennas for each Array, provided, however, this regulation shall not apply to Slick Antenna applications;
- iv. Locate such Antenna Arrays within 15 vertical feet of each other;
- v. Have no more than 3 degrees of twist and sway at the top elevation; and,
- vi. Provide internal cable routing for all tapering monopole telecommunication towers.
- vii. Meet or exceed associated State and Federal structural standards relating to telecommunication standards (e.g., EIA-222)

**f. Signs Prohibition.** No lettering, symbols, images, trademarks, Signs, or advertising shall be placed on or affixed to any part of a Telecommunications Tower, Antenna Array or Antenna, other than as required by Federal Communications Commission regulations regarding tower registration or other applicable law.

**g. Falling Safety.** New Wireless Telecommunications Towers shall be designed and located on the property in a manner that would avoid safety hazards on surrounding Uses in the event of a fall. If the Telecommunications Tower should fall along its longest dimension, the tower shall remain within the Lot Lines and avoid Dwelling Units, habitable Structures, Public

Street Rights-of-Way, utility lines and other Telecommunications Towers.

**h. Lights.** No signals, lights or other illumination shall be permitted on Telecommunications Towers unless required by the Federal Communications Commission, the Federal Aviation Administration, or the Town.

**i. Engineering Compliance for Modifications.** If any additions, changes or modifications are to be made to a Telecommunications Tower, the Administrator may require proof, through the submission of engineering and structural data, that the addition, change or modification conforms to structural wind load and all other requirements of the Town's Building Code.

## 9. Separation and Location.

**a. New Wireless Telecommunication Towers.** New Telecommunication Towers are subject to the following minimum separation radius from another Telecommunications Tower - in determining the required separation between telecommunication towers of different heights, the required separation for the taller tower shall apply.

- i. 1/4 mile radius for proposed Telecommunications Towers less than 80 feet in height;
- ii. 1/2 mile radius for proposed Telecommunications Towers of 80 feet in height or greater but less than 120 feet in height; or
- iii. A 1-mile radius for proposed Telecommunications Towers 120 feet in height or greater.

**b. Small Wireless Telecommunication Towers.** New small Wireless Telecommunication Towers are subject to the following minimum separation radius from another Telecommunications Tower, measured from the bases.

- i. For the same Wireless Telecommunication provider. Each new Small Wireless Telecommunication Facility shall not be located such that the anticipated coverage ring of the Small Wireless Telecommunication Facility substantially overlaps the coverage ring of any other Wireless Telecommunication Facility. Substantial overlap shall be defined as the more than 10% overlap between the anticipated coverage ring of a new Small Wireless Telecommunication Facility and the coverage ring of other existing facilities of the same provider.
  - Coverage Ring shall be defined as the approximate area of coverage that each Small Wireless Telecommunication Facility is able to provide; or in the case of new Small Wireless Telecommunication Facilities, the approximate area the Small Wireless Telecommunication Facility is anticipated to provide.
  - Coverage is defined as the area in which a person or entity can establish an electronic connection with the Small Wireless Telecommunication Facility.
- ii. For different Wireless Telecommunication providers. Each new Small Wireless Telecommunication Facility of different providers shall not be located within three hundred 300 feet of another Small Wireless Telecommunication Facility unless the applicant can show that locating the Small Wireless Telecommunication Facility within the prescribed distance is necessary.
- c. **Deviations.** As part of a Special Use Permit review, the Town may

authorize deviations from these separation standards due to special circumstances relating to natural features, scarcity of available land, and telecommunications operating standards.

#### **10. Wireless Telecommunications Antennas Mounted on Existing Buildings or Structures.**

The following design standards apply to Antennas associated with wireless communication operations and mounted on existing Buildings and Structures.

- a. **Roof-Mount Elements.** Roof-mounted Wireless Telecommunications Antennas are permitted on Buildings and Structures in all Districts, except for Detached Dwellings or Attached Dwellings. Said elements shall be subject to the following standards.
  - i. Whip telecommunication/Antenna features (an Antenna which transmits signals in 360 degrees) shall not exceed the height of the Building by more than 15 feet and shall be no closer than 15 feet to the perimeter of the Building.
  - ii. Non-whip telecommunication/Antenna features shall not exceed the height of the Building by more than 10 feet and shall be no closer than 10 feet to the perimeter of the Building.
  - iii. The telecommunications Antenna and associated equipment located on Buildings within a gateway corridor shall be screened in elevation view with enclosures or façades having an appearance that blends with the Building on which they are located; and be located so they are not overtly visible from an adjacent public Right-of-Way.
- b. **Surface-Mount Elements.** Surface-mounted telecommunications Antennas (an Antenna attached to a Building exterior wall) are permitted on Buildings or Structures in all Districts and subject to the following standards.

- i. Telecommunications/Antenna features shall be mounted flush with the exterior of the Building or Structure so that it projects no more than 30 inches from the surface to which it is attached.
  - ii. The telecommunications/Antenna appearance shall blend with the surrounding surface of the Building or Structure in terms of color and materials.
- c. **Elements Attached to Other Existing Structures.** Telecommunications Antennas are permitted on existing utility, lighting, Telecommunications Towers and other Structures in all Districts and subject to the following standards.
  - i. Existing utility, lighting, Telecommunications Towers, and other Structures used to affix telecommunication/Antenna features shall exceed 50 feet in height above grade
  - ii. The telecommunications Antenna shall not exceed the height of the existing Structure by more than 10 feet for a non-whip Antenna or 15 feet for a whip Antenna.
  - iii. Existing Structures may be rebuilt/modified to support the load of the new telecommunications Antenna and subject to the Town's Building permitting standards.
- d. **Separation Standards.** Telecommunications Antennas and associated features located on existing Buildings or Structures are not subject to the separation requirements stated above.
- e. **Photo Simulation Requirements.** As part of the application process, applicants shall provide photo simulations showing the site of the existing Structure with a photo realistic representation of the proposed telecommunications Antenna and the existing Structure or

any proposed reconstruction of the Structure as it would appear viewed from the closest Residential Use District and from adjacent public Right-of-Way. The applicant shall also submit photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications Antenna.

#### 11. Abandonment and Removal of Telecommunications Towers, Antenna Arrays, and Associated Equipment.

The following standards apply to all telecommunication features and their associated elements – these standards ensure inoperable features are removed, whereas, habitable Buildings are exempt from these requirements.

- a. **Abandonment.** Telecommunications Towers, Antenna Arrays, and associated equipment which have not been used for a period of 1 year shall be deemed abandoned and shall be removed from the site.
- b. **Notice Required.** The owner of the Telecommunications Tower and the last service provider to use a Telecommunications Tower shall notify the Administrator within 30 days that use of a Telecommunications Tower has been discontinued.
- c. **Security Fund (Cash/Bond).** Every Telecommunications Tower owner and all service providers shall establish a cash security fund, an irrevocable letter of credit, or bond security to secure the payment of removing the Telecommunications Towers, Antenna Arrays, and/or associated equipment that have been determined to be abandoned, or found to be in non-compliance with this UDO, and to provide the Town a fund from which to deduct fines and penalties for non-compliance with this UDO or other applicable laws in the following amounts:

- i. The amount to be provided for each Telecommunications Tower shall be \$25,000.
- ii. The amount for each Antenna Array on the Telecommunications Tower shall be \$5,000.
- d. **Security Reduction.** Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from the Town of the amount deducted and the deficiency created hereby.
- e. **Refund.** Within a reasonable period of time, not to exceed 3 months after the Telecommunications Tower and/or Antenna Array is removed, any remaining funds on deposit with the Town pursuant to this subsection, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

**12. Special Requirements for Small Wireless Telecommunications Facilities Located within the Public Right-of-Way.**

To protect the unique aesthetics of the Town, to minimize new visual, aesthetic, and public safety impacts, and to reduce the need for additional Antenna-supporting Structures, the Town prefers that Small Wireless Telecommunication Facilities be located outside the public Right-of-Way; co-located on existing utility poles or wireless support Structures; concealed; and have their accessory equipment mounted on the utility pole or wireless support Structure. The following requirements are intended to be reasonable for Small Wireless Telecommunication Facilities located within the public Right-of-Way while avoiding the intangible public harm of unsightly or out-of-character deployments and are implemented as requirements for an application for Small Wireless Telecommunication Facilities. Unless

otherwise defined by this UDO, all definitions are the same as defined in North Carolina General Statutes Chapter 160D-931.

**a. Siting Hierarchy of Small Wireless Telecommunication Facilities Located within the Public Right-of-way.**

Any applicant for a new Small Wireless Telecommunication Facilities shall evaluate the reasonable feasibility of co-locating new Antennas and equipment on existing utility poles, light pole fixtures, or wireless support Structures within the applicant's search ring. Co-Location on existing utility poles, light pole fixtures, or wireless support Structures is not reasonably feasible if Co-Location is technically or commercially impractical or the owner of the existing utility poles, light pole fixtures, or wireless support Structures has refused in writing to the requesting party, after having been offered the fair market fee for Co-Location, to enter into a contract for such use at fair market value. Minor alterations or adjustments to the location or technical specifications of the Small Wireless Telecommunication Facility as a result of co-locating on an existing utility pole, light pole fixture, or wireless support Structure shall not constitute a technical or commercial impracticality. The applicant shall provide to the Town all information necessary to determine whether Co-Location on existing utility poles, light pole fixtures, or wireless support Structures is reasonably feasible, including information pertaining to the fair market value of similar contracts. The Town shall determine the sufficiency of the information and may employ such experts as outside consultants to evaluate the information. In the event that the Town determines outside consultants are necessary, the fee for such consultant shall be fixed in advance as part of the application fee for a new

Small Wireless Telecommunication Facilities. Development of Small Wireless Telecommunication Facilities shall be in accordance with the following siting alternatives hierarchy. The order of ranking, from highest to lowest, shall be from sub-Section i., to sub-Section ii., outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

**i. Co-Location.** The Co-Location of Small Wireless Telecommunication Facility on existing utility poles, light pole fixtures, or wireless support Structures and associated equipment or Buildings shall comply with the following regulations:

**(a) Height.** Each new Small Wireless Telecommunication Facility shall not extend more than 10 feet above the existing utility pole, light pole fixture, or wireless support Structure on which it is colocated. No new Small Wireless Telecommunication Facility shall be co-located on any utility pole, light pole fixture, or wireless support Structure that is less than 15 feet above grade.

**(b) Separation.** Co-Location of Small Wireless Telecommunication Facilities on existing utility poles, light pole fixtures, or wireless support Structures are not subject to a separation requirement.

**(c) Objective Design Standards.** Small Wireless Telecommunication Facilities to be co-located on an existing utility pole, light pole fixture, or wireless support Structure shall be designed to match the style and color of the existing

utility pole, light pole fixture, or support Structure and designed such that all cabling is inside the existing utility pole, light pole fixture, or wireless support Structure, provided, however if cabling cannot be located inside the existing utility pole, light pole fixture, or support Structure that cabling is located within a solid enclosure that is designed to match the style and color of the existing utility pole, light pole fixture, or support Structure.

All Small Wireless Telecommunication Facilities shall be Stealth Antenna facilities. Stealth Antenna and accessory equipment must be shrouded or otherwise concealed.

To mitigate the visual impacts of unsightly or out-of-character Small Wireless Telecommunication Facilities, ground equipment shall be screened, to the extent possible as approved by the government body with jurisdiction of the Right-of-Way in which the Small Wireless Telecommunication Facility is to be located.

**(d) Engineer's Certification.** Prior to installation of a Small Wireless Telecommunication Facility or equipment, the Town shall be provided with an engineer's certification that existing utility pole, light pole fixture, or wireless support Structure will support the proposed Small Wireless Telecommunication Facility or Equipment.

**ii. New Small Wireless****Telecommunication Facilities.**

Construction of new Small Wireless Telecommunication Facilities on new utility poles or wireless support Structures and associated equipment or Buildings shall comply with the following regulations:

- (a) **Height.** The maximum height of new utility poles or wireless support Structures shall be 50 feet above grade. Each new Small Wireless Telecommunication Facility shall not extend more than 10 feet above the utility pole or wireless support Structure on which it is located. Notwithstanding the above, in no instance in an area zoned for Detached residential Dwellings where the existing utilities are installed underground shall a utility pole or wireless support Structure exceed 40 feet above grade. No new Small Wireless Telecommunication Facility shall be located on any utility pole or wireless support Structure that is less than 15 feet above grade.
- (b) **Location.** No portion of a new utility pole or wireless support Structure associated with a Small Wireless Telecommunication Facility may be placed in the public Right-of-Way in a manner that does any of the following: obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; public art or focal points, or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults

located underground to avoid obstructions or interference.

To the greatest extent possible, a new utility pole or wireless support Structure associated with a Small Wireless Telecommunication Facility shall align with existing utility poles, light pole fixtures, or wireless support Structures installed in the Right-of-Way.

- (c) **Separation.** New Small Wireless Telecommunication Facilities shall have the following minimum separation radius from another Small Wireless Telecommunication Facility:

For the same Wireless Telecommunication provider:

Each new Small Wireless Telecommunication Facility shall not be located such that the anticipated coverage ring of the Small Wireless Telecommunication Facility substantially overlaps the coverage ring of any other Wireless Telecommunication Facility. Substantial overlap shall be defined as the more than 10 percent overlap between the anticipated coverage ring of a new Small Wireless Telecommunication Facility and the coverage ring of any other existing Wireless Telecommunication Facility of the same provider; this definition shall also apply between the anticipated coverage rings of two or more new Small Wireless Telecommunication Facilities. Coverage Ring shall be defined as the approximate area of



coverage that each Small Wireless Telecommunication Facility is able to provide; or in the case of new Small Wireless Telecommunication Facilities, the approximate area the Small Wireless Telecommunication Facility is anticipated to provide. Coverage is defined as the area in which a person or entity is able to establish an electronic connection with the Small Wireless Telecommunication Facility.

- (d) **Review.** If an applicant desires that a new Small Wireless Telecommunication Facility be located within the prescribed distance and is necessary, such Small Wireless Telecommunication Facility shall be reviewed by the Administrator and approved on a case by case basis.
- (e) **Separation from different provider.** For different Wireless Telecommunication providers, each new Small Wireless Telecommunication Facility of different providers shall not be located within 300 feet of another Small Wireless Telecommunication Facility unless the applicant can show that locating the Small Wireless Telecommunication Facility within the prescribed distance is necessary. Such Small Wireless Telecommunication Facility shall be reviewed by shall be reviewed by the Administrator and approved on a case by case basis.
- (f) **Objective Design Standards.** Small Wireless Telecommunication Facilities and utility poles and wireless support Structures shall

be compatible with the surrounding area. Where existing Street light fixtures are present, the utility pole or wireless support Structure color shall match that of the Street light fixture pole and shall be located in such a manner as to visually appear to be part of a common scheme of Street light fixture pole placement. Within the adopted Village District Area Plan boundary as indicated in the Comprehensive Plan, utility poles and wireless support Structures shall be black powder coated.

Utility poles and wireless support Structures shall be made of galvanized steel or comparable material except when otherwise required by applicable federal or state regulations. Wood utility poles and wireless support Structures are prohibited.

Small Wireless Telecommunication Facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land Uses and the character of the community.

All Small Wireless Telecommunication Facilities shall be Stealth Antenna facilities. Stealth Antenna and accessory equipment must be shrouded or otherwise concealed.

To mitigate the visual impacts of unsightly or out-

of-character Small Wireless Telecommunication Facilities, ground equipment shall be screened, to the extent possible as approved by the government body with jurisdiction of the Right-of-Way in which the Small Wireless Telecommunication Facility is to be located.

- b. Maintenance.** All Small Wireless Telecommunication Facilities and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the use. This shall include keeping the Structures maintained to the visual standards established at the time of approval. The Small Wireless Telecommunication Facilities shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than 30 calendar days from the date of notification by the Town. In public Rights-of-Way, damaged or deteriorated components must be corrected within 5 business days of notification.

No lettering, symbols, images, trademarks, Signs, or advertising shall be placed on or affixed to any part of a Small Wireless Telecommunication Facility, other than as required by Federal Communications Commission regulations regarding Small Wireless Telecommunication Facilities registration or other applicable law.

- c. Filing Requirements.** All applications for a Small Wireless Telecommunications Facility shall be required to meet the filing requirements specified in the Development Procedures Manual.

### 3.3.10 OTHER USES – ADDITIONAL USE PROVISIONS

#### A. Outdoor Advertising Sign.

- 1. Purpose and Intent.** The purpose of this section is to establish regulations for Outdoor Advertising Signs that contain off-premise advertising and noncommercial messages to reduce visual clutter, reduce distractions for motorists, and reduce conflicts with traffic control Signs. These regulations are designed to:
  - a. Present and perpetuate uncluttered and natural views for the enjoyment and environmental enrichment of the citizens of Holly Springs, as well as visitors, in a manner that complies with the mandates of N.C.G.S. § 136-127, et. seq.
  - b. Promote economic prosperity, civic pride, quality of life, and the general welfare of citizens.
  - c. Enhance the aesthetic values of the Town.
  - d. Protect property values.
  - e. Promote safety of motorists.
- 2. Regulations.** Outdoor Advertising Signs shall comply with the Sign regulations of Chapter 9 in unless otherwise modified by this Section.
  - a. Location Limitations.** Outdoor Advertising Signs shall only be permitted within 150' of the Right-of-Way along and facing US 1 and NC 540.
  - b. Maximum Number.** A maximum of 1 Outdoor Advertising Sign is permitted per Lot.
  - c. Sign Type and Dimensional Regulations.** Outdoor Advertising Signs shall comply Table 3.3.10-A - Sign Regulations: Outdoor Advertising Signs.



### 3. Additional Limitations.

#### a. Prohibited Features.

- i. Moving, rotating, fluttering, blinking, and flashing elements.
- ii. Animation, video, audio, and pyrotechnic components.
- iii. Automatic changeable face Outdoor Advertising Signs.
- iv. Elements or messages delivered to personal electronic devices in the vicinity of the Sign or Structure.

- b. Spacing.** The distance between Outdoor Advertising Signs shall be measured from the nearest point of the Outdoor Advertising Sign as projected to the centerline of the Street upon which the Outdoor Advertising Sign is intended to be viewed to the nearest point of

the other Outdoor Advertising Sign as measured to its closest centerline point along the same Street.

- i. There shall be at least 2,500 linear feet between Outdoor Advertising Signs on the same side of the Street.
  - ii. There shall be at least 1,000 linear feet from any other Outdoor Advertising Sign on the opposite side of the Street.
  - iii. There shall be at least 20 linear feet between an Outdoor Advertising Sign Structure and an existing Building.
- c. Historic District.** No Outdoor Advertising Sign shall be located directly across the Street from, or within, a historic district.

**TABLE 3.3.10-A – SIGN REGULATIONS: OUTDOOR ADVERTISING SIGNS**

Use Type	Use	Sign Type	Sign Regulations				
			Maximum Number	Sign Zone	Maximum Sign Surface Area (sf)	Maximum Height (ft)	Materials
Other Uses	Outdoor Advertising Signs	Freestanding (Single-Faced)	1	Front, shall not be located within required Setback	24	6	Ornamental metal, stone, brick, masonry, or other permanent material

## 3.4 ACCESSORY USES, BUILDINGS, OR STRUCTURES

### 3.4.1 GENERAL APPLICABILITY

- A. Accessory Uses, Buildings or Structures are those which are clearly incidental and subordinate to a primary Use or Structure located on the same Lot.
- B. Accessory Uses, Buildings or Structures are permitted in all Districts, provided that the primary Use is a Permitted Use within the zoning District.
- C. Accessory Uses, Buildings or Structures are not permitted on a Lot without a primary Building.
- D. **Location Restrictions.**
  - 1. **Easements.** Accessory Uses, Buildings or Structures shall not encroach upon any platted or recorded easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted, and in the case of a Town Easement or an access easement, authorized by the Administrator.
  - 2. **Septic Areas.** Accessory Buildings or Structures (including fences, Patios, Decks, etc.) shall not be located above a septic system or septic repair area.
  - 3. **Sight Distance Triangles.** Accessory Uses, Buildings or Structures shall not encroach upon any sight distance triangles, as specified in the Town's Engineering Design & Construction Standards.
  - 4. **Perimeter Buffers.** Accessory Uses, Buildings or Structures shall not encroach upon a Perimeter Buffer unless otherwise permitted.
  - 5. **Setbacks.** Accessory Uses, Buildings or Structures shall comply with the required Setbacks of Section 2.2 unless otherwise modified by this Section. Encroachments are allowed as permitted in Table 2.3.6-A.

### 3.4.2 RESIDENTIAL USE DISTRICTS AND RESIDENTIAL USES IN ALL OTHER DISTRICTS

- A. **Applicability.** Residential Accessory Uses include but are not limited to: detached garages; carports; Porches; Decks; awnings; canopies; mini barns; storage sheds; Patios; outdoor fireplaces; bathhouses; cabanas; children's playhouses; swings; Game Courts, including tennis or basketball courts; fences; Driveways and Parking Areas; Signs; Swimming Pools; hot tubs; radio sending and receiving Antennas; satellite Dish Antennas; and, storage Buildings.
- B. **Accessory Building Limitations.**
  - 1. **Area.** The total square foot area of all detached Accessory Buildings on a Lot shall not exceed 50% of the Finished Floor Area of the primary Dwelling. For Lots greater than 2 acres in the RR District, the total square foot area of all detached Accessory Buildings on a Lot shall not exceed 100% of the Finished Floor Area of the primary Dwelling.
  - 2. **Maximum Number.** The maximum number of detached Accessory Buildings on a Lot shall not exceed the following:
    - a. **In the RR District:** Not applicable
    - b. **In all other Residential Use Districts:** 2
  - 3. **Location.** Detached Accessory Buildings are permitted in Rear and Side - Interior Yards only.
- C. **Accessory Dwelling Unit (ADU).**
  - 1. **Density and Quantity Limitations.** ADUs are exempt from the District's density limitations. An ADU shall contain no more than 2 bedrooms.
  - 2. **Size.** The Gross Floor Area of an ADU shall be no greater than 50% of the Finished Floor Area of the primary Dwelling located on the Lot or 1,000 square feet, whichever is less.
  - 3. **Location.** An ADU shall be located to the side or rear of the primary Dwelling Unit on the Lot and shall comply with all required Accessory Structure Setbacks.
  - 4. **Architectural Style.** The Building materials and architectural style of the ADU shall be compatible with the Building materials and

architectural style of the primary Dwelling Unit including siding materials, windows, and roof shape.

5. **Utilities.** ADUs may connect to the water, sewer, and electrical lines of the primary Dwelling on the Lot. The Town shall not require a separate meter for ADUs.
  6. **Parking.** 1 Off-Street Vehicle Parking Space is required for each ADU where On-Street Parking is not approved by the agency having jurisdiction.
  7. **Structural Type.** Manufactured homes, mobile homes, campers, trailers, or similar vehicles/Structures may not be approved as an Accessory Dwelling Unit except as Temporary Family Health Care Structures as permitted below.
  8. **Temporary Family Health Care Structure.** If the ADU is a Temporary Family Health Care Structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence, it shall be considered a permitted Accessory Use in any Residential Use District on Lots zoned for Detached Dwellings subject to the following:
    - a. A Temporary Family Health Care Structure used by an individual who is the named legal guardian of the mentally or physically impaired person shall be considered a permitted Accessory Use in any residential Zoning District on Lots zoned for Detached Dwellings in accordance with this section if the Temporary Family Health Care Structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.
    - b. Only 1 Temporary Family Health Care Structure shall be allowed on a Lot or parcel of land. Such Temporary Family Health Care Structures shall comply with all Setback requirements that apply to the primary Structure.
    - c. **Annual Permit Renewal Required:** The property owner must renew such Temporary Family Health Care Structure permit annually and provide evidence of compliance with this section on an annual basis as long as the Temporary Family Health Care Structure remains on the property. The Town may request an inspection of the Temporary Family Health Care Structure at reasonable times convenient to the caregiver, to confirm the use of the Structure.
    - d. No Signage, advertising, or any other promotion of the existence of the temporary health care Structure shall be permitted either on the exterior of the Temporary Family Health Care Structure or anywhere on the property.
    - e. Any Temporary Family Health Care Structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the Temporary Family Health Care Structure is needed for another mentally or physically impaired person, the Temporary Family Health Care Structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.
- D. Child Care Center (Accessory).**
1. **Buffering.** A Type B Buffer shall be provided along any Rear or Side property line adjoining existing Residential Use Districts.
  2. **Parking and Traffic Plan.** In Residential Use Districts, the applicant shall provide and implement a parking and traffic plan that adequately mitigates the potential adverse impacts of increased traffic in the neighborhood.
- E. Cluster Mailbox Units.**
1. **Location and Parking.** All cluster mailbox units shall be located to accommodate safe, short-term parking for mail delivery vehicles

and resident pick-up. Parking may be On-Street provided there is suitable width so as not obstruct to the flow of traffic, as indicated by Parking Areas on Street cross sections in the Engineering Design & Construction Standards. All such parking shall be out of any utility Rights-of-Way/ easements and sight distance areas.

2. **Appearance Standards (19 or less receptacles).** An individual cluster mailbox unit or combination of cluster mailbox units located within the same area containing 19 or less mail receptacles shall be subject to the follow appearances standards:
  - a. Shall provide a decorative base or pedestal cover; and
  - b. Shall provide a finial, crown, or other similar decorative cap.
3. **Appearance Standards (20 or more receptacles).** An individual cluster mailbox unit or combination of cluster mailbox units located within the same area containing 20 or more mail receptacles shall be subject to the follow appearances standards:
  - a. Shall be built into a wall as part of a Building façade; or
  - b. Shall be freestanding and shall be constructed with the following design and appearance requirements:
    - i. Primary Building material shall be consistent with the style of the development or Project;
    - ii. Sets on a decorative pedestal or is fixed to two decorative posts;
    - iii. Designed as an architectural feature to create identity of the Project or Subdivision; and
    - iv. Provides Foundation Landscaping around the base of the Structure per the requirements of Section 5.3.4 of this UDO.
4. **Signage.** All cluster mailbox units shall remain free and clear of Signs, except for any Sign required by any local law, state or federal governmental agency.

5. **Security Features.** Security lighting shall be provided.
6. **Maintenance.** The owner of the common area or private easement in which the cluster mail box unit or combination of cluster mail box units is located shall be responsible for maintenance of such unit(s).

#### F. Porches and Decks.

1. Porches and Decks shall comply with all Setback requirements that apply to the primary Structure, except for permitted encroachments in Section 2.3.6.

#### G. Family Child Care Home.

1. **Play Areas.** All play equipment shall be located in a fenced area away from any parking, loading, or service areas. Front Yards shall not be used as play areas.
2. **Resident Operator Required.** A Family Child Care Home is permitted in a private residence occupied by the authorized operator only.
3. **Buffering.** A Type B Buffer shall be provided along any Rear or Side property line adjoining Residential Use Districts.

#### H. Fences and Walls.

1. **Applicability.** These provisions are applicable to all fences and walls.
2. **Maximum Heights (as measured above grade)**
  - a. **Front Yard:** 4 feet
  - b. **Side-Corner Yard:** 4 feet, except fences in Side - Corner Yards located behind ½ of the depth of the Building footprint shall not exceed 6 feet
  - c. **Side – Interior and Rear Yards:** 6 feet
  - d. **Perimeter Street Frontage of a Subdivision:** 6 feet
3. **Finished Side to Face Outward.** The finished side of the fence shall face outward from the Lot upon which the fence is placed.
4. **Permitted Materials.**
  - a. **Front Yard, Side-Corner Yard, or Perimeter Street Frontage of a**

**Subdivision:** Wood or vinyl picket, brick wall or Ornamental Fence only.

**b. Side-Interior or Rear Yard:**

Wood, vinyl, Ornamental Fence, brick wall, or chain link.

- 5. Control of Access Fencing.** All new or replacement of control of access fencing along the Right-of-Way shall be black Ornamental Fence.

**I. Game Courts.** Game Courts shall not be located in any primary Structure Front Yard or primary minimum Side or Rear Setback provided, however, a basketball goal may be located in a Driveway in any Residential Use District.

**J. Grade Level Improvements.** Grade level improvements which do not include a foundation are as follows:

- 1. Front and Side-Corner Yards.** Permitted improvements include:

- a. Stoops;
- b. Walkways with a maximum width of up to 6 feet; and,
- c. Driveways and Parking Areas, provided that Driveways and Parking Areas shall meet the following standards:
  - i. On Lots 60 feet or wider, the width of the Driveway or Parking Area shall not exceed 20 feet or 50% of the Lot Width, whichever is greater, but not to exceed 45 feet; and
  - ii. On Lots narrower than 60 feet, the width of Driveways or Parking Areas constructed after the date of adoption of this UDO shall not exceed 12 feet; and
  - iii. The maximum width at the Right-of-Way is in accordance with the Engineering Design & Construction Standards; and
  - iv. Only 1 Driveway shall be permitted on an individual Lot or subplot.

- 2. Side-Interior Yards.** Permitted improvements include:

- a. General Grade-level improvements, and

- b. Interior Access Drives, provided, however that an interior Access Drive may only be located in 1 Side Yard and shall not exceed 12 feet wide and that the remainder of said Side Yard and any other Side Yard shall otherwise be maintained as Open Space free from Buildings or Structures.

- 3. Rear Yards.** Permitted improvements include:

- a. General Grade-level improvements, and
- b. Driveways and Parking Areas where necessary to provide access to an abutting rear alley provided that Driveways and Parking Areas meet the following standards:
  - i. The width of the Driveway or Parking Area shall not exceed 20 feet or 50% of the Lot Width, whichever is greater, but not to exceed 45 feet; and
  - ii. The maximum width at the property line is in accordance with the Town's Engineering Design & Construction Standards; and
  - iii. Only 1 Driveway shall be permitted on an individual Lot or subplot.
- c. Interior Access Drives, where necessary to provide access to an abutting rear alley with a maximum width of up to 20 feet.

**K. Home Occupations.**

1. Typical permitted Home Occupation activities include office Uses, personal services, education Uses, and retail Uses (online only) including the fabrication of goods and artisanal activities.
2. Home Occupations are limited to:
  - a. Family members residing within the Dwelling Unit and who make the Dwelling Unit their primary place of residence;
  - b. A maximum of 1 non-resident employee;
  - c. A maximum of 1 customer/client at the residence at any time, unless otherwise specified; or, a maximum

- of 5 students at a time for any classes held in association with the Home Occupation (baking, craft, dance, etc.).
3. The Use of the Dwelling Unit for a Home Occupation shall be incidental and subordinate to the Use for residential purposes by the occupants. No more than 10% of the Gross Floor Area of the Dwelling Unit shall be used in the conduct of the Home Occupation.
  4. There shall be no structural additions, enlargements or exterior alterations changing the residential appearance of the Dwelling Unit or the Lot or other visible indications of the conduct of the Home Occupation.
  5. There shall be no internal or external alterations, construction features, or use of electrical or mechanical equipment which would change the fire rating of the Structure.
  6. There shall be no traffic generated by a Home Occupation which is greater in volume than that which would be normally expected in the residential area.
  7. There shall be no equipment or process used in the Home Occupation which creates noise, vibration, glare, smoke, fumes, odors, or electrical interference detectable to the normal senses at any point beyond the Lot Line in such a manner as to annoy, disturb, frighten or otherwise interfere with the use and quiet enjoyment of adjacent properties, or which creates water usage or the production of sewage other than domestic in nature.
  8. There shall be no electrical or mechanical equipment utilized in the Home Occupation which will create any visual or audible interference with radio or television reception or which will cause fluctuations in line voltage off the premises.
  9. The Home Occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than vehicles normally associated with residential home delivery.
  10. There shall be no commercial vehicles and no more than 1 noncommercial vehicle associated with the Home Occupation.
- L. Mechanical Equipment and Underground Facilities.**
1. Mechanical equipment in a Front Yard shall be screened from view of the Street with landscaping, fencing, or other screening.
  2. Underground facilities (including by way of example, septic tanks and finger systems, cisterns, cellars, basements, etc.) shall not be located in any required Front, Side, or Rear Setback.
- M. Parking of Commercial and Recreational Vehicles.** Long-term parking of a commercial or Recreational Vehicle greater than 1 week shall be in the Side or Rear Yard only.
- N. Private Recreation as an Accessory Use.**
1. **Applicability.** Private recreation Uses, such as a clubhouse, Swimming Pool, Game Courts, meeting room, and the like, shall be considered a permitted Accessory Use to any residential Subdivision or Project when such private recreation Uses are indicated on a Development Plan or Subdivision Plan.
  2. **General Architectural and Site Design Requirements.** All Buildings and Structures associated with the private recreation Use shall be designed to be generally consistent with the colors, Building materials and architectural style of the residential Subdivision or Project.
- O. Satellite Dish Antennas.**
1. **Intent and Purpose.** These regulations are intended to allow satellite Dish Antennas to be located in a manner that does not unreasonably delay or prevent the installation, maintenance or use of the Antenna; does not unreasonably increase the cost of installation, maintenance or use of the Antenna; or preclude reception of an acceptable quality signal. The following regulations are intended to meet the above objectives without unnecessarily burdening the Federal interests in ensuring the availability of satellite services and in



promoting fair and effective competition among competing communication service providers.

- 2. General Provisions.** In any Residential Use District, satellite Dish Antennas shall be no greater than 1 meter (39.37”) in diameter shall be permitted as either ground mounted or roof mounted, provided that:

**a. If ground mounted, satellite Dish Antennas shall:**

- i. Not be located in any Front or Side Yard, or within the minimum primary Rear Setback; and,
- ii. Not exceed the Maximum Building Height allowed for an Accessory Structure.

**b. If roof mounted, satellite Dish Antennas shall:**

- i. Not exceed the lesser of 5 feet above the peak of the roof or the Maximum Building Height limit allowed for a primary Building;
- ii. Not extend beyond the horizontal limits of the roof area; and,
- iii. Be installed in accordance with plans certified by a registered engineer that the proposed installation complies with the standards listed in Section 623.0 and 624.0 of the BOCA Basic Building Code. Furthermore, written documentation of such compliance, including load distribution within the Building's support Structure, shall be furnished.

- P. Short-Term Rental.** It is unlawful to operate a Short Term Rental in any Dwelling Unit if any of the following are true:

1. More than 4 verified complaints for any ordinance violation, including but not limited to, the Town's noise ordinance, are received by the Town within any 12 month period; or

2. The property has been determined by the Chief of Police as being within the top 10% of properties with crime or disorder problems within the Town.

**Q. Swimming Pools.**

1. A Swimming Pool shall not be located in any Front Yard or in any Side – Corner Yard, except for permitted encroachments in Section 2.3.6.
2. Abandoned or unused Swimming Pools, situated on a premises which are not occupied for periods of 30 days or more, shall be drained or equipped with a cover adequate to prevent persons, children or animals from danger or harm.

**R. Trash/Recycling Containers.** Any trash/recycling container exceeding 36 cubic feet in capacity shall:

1. Be screened on at least 3 sides by a Building wall or a solid-walled enclosure using the primary masonry Building material of the primary Building, between 6 and 10 feet in height above grade, equipped with an opaque screen gate, excluding wood, and any solid-walled portion of the enclosure shall be provided with Foundation Landscaping;
2. Not be located in the Front Yard and,
3. Not be located in any Side or Rear Setback.

### 3.4.3 COMMERCIAL & MIXED-USE & EMPLOYMENT/ CAMPUS USE DISTRICTS AND NON-RESIDENTIAL USES IN RESIDENTIAL USE DISTRICTS

**A. Accessory Alcohol Sales.**

1. Retail establishments that sell alcohol in closed bottles (such as grocery stores, ABC stores, etc.) may also sell alcohol by the glass (open bottle sales) as an Accessory Use.
2. Such sales are not considered a bar or tasting room for the purposes of this Chapter.
3. Accessory Alcohol Sales shall be limited to 25% of the floor area of the Building.

**B. ATMs/Vending Machines.**

1. **ATMs Location.** Walk-up or Drive Through customer service windows or Automated Teller Machines (ATM's) shall be located so

as to not interfere or conflict with Sidewalks, pedestrian ways, Parking Areas, loading areas, Driveways, interior Access Drives, interior Access Driveways, perimeter landscape yards or foundation plantings. Drive Through ATMs are only permitted in the Zoning Districts listed in Table 3.2-A and must meet the standards in 3.3.5.D.

2. **ATM Design.** ATMs are considered an Accessory Structure and, as such, must meet the design requirements for Accessory Structures in Chapter 8.
3. **Vending Machine Location.** Vending machines shall abut the exterior wall of the Building; shall not be located in a required Setback or perimeter landscape Buffering.
4. **Size.** No individual machine shall exceed 24 cubic square feet.

#### C. Fences and walls.

1. **Applicability.** These provisions are applicable to all fences and walls.
2. **Maximum Heights (as measured above grade).**
  - a. **Front and Side-Corner Yard:** 6 feet.
  - b. **Side and Rear Yards:** 10 feet.
  - c. **Exceptions:** Front and Side-Corner Yard Fencing in Employment/Campus Use Districts: 8 feet.
3. **Permitted Materials.**
  - a. **Front and Side-Corner Yard:** Ornamental Fence only.
  - b. **Side or Rear Yard:** Black vinyl coated chain link or black Ornamental Fence.
  - c. **Exceptions:** Fencing in Employment/Campus Use Districts is exempt from the Permitted Materials requirements if the fencing is not visible from the Right-of-Way or any adjacent Residential Use District.
4. **Control of Access fencing.** All new or replacement of control of access fencing along the Right-of-Way shall be black Ornamental Fence.

#### D. Wall Murals.

##### 1. Maximum Area.

###### a. Buildings.

- i. Primary façade facing Front Lot Line: Subject to the maximum Wall Sign Surface Area allowances for the front façade in the Use District.
- ii. All other façades: 600 sq ft.

###### b. Structures. 600 sq ft.

##### 2. Maximum Number. 1 per Building or Structure.

##### 3. Materials.

- a. The materials used to produce the Wall Mural shall be appropriate for outdoor use (i.e., long lasting).
- b. Paint products shall be safe for masonry use if paint is applied to Type-1 materials. Alternate mediums that can be removed readily from Type 1 Building materials may be utilized (i.e. canvas, tile, metal panels, or similar Building materials with an approved attachment method, or materials such as applied sheet graphics and appliques). Other new materials can be utilized provided they are found to be non-detrimental to the surface on which applied.
- c. If a Wall Mural is constructed off-site on moveable panels to be installed on a façade, the attachment must comply with the NC Building Codes, subject to required permits and inspections. Panels must not cover window or door openings or otherwise impede building egress or pedestrian traffic or block/cover any intake or exhaust openings (maintaining proper clearance), the attached devices must not compromise the structure integrity of the surface to which the panels are attached, and the panels must be securely attached to prevent failure due to high wind conditions, vandalism or age.
  - i. All installation hardware must be rust resistant



- ii. Wooden panels must be sanded, sealed, and waterproofed (with proper primer and topcoat) on the front, sides, and back.
- 4. **Design.** Wall Murals shall be integrated with the Building or Structure's façade to enhance the architecture or aesthetics of the Building or Structure.
  - a. Colors used should be harmonious with the exterior colors of the Building or Structure. Neon, fluorescent, or reflective colors or materials are not permitted.
  - b. Wall Murals shall not project from the wall surface. Electrical or mechanical components or a changing image art display are prohibited.
  - c. Wall Murals shall not interrupt major architectural elements or features of a Building or Structure.
  - d. Wall Murals located on the wall of a Historic Structure shall comply with any applicable requirement of a Certificate of Appropriateness.
- 5. **Content.** Wall Murals shall not:
  - a. Contain commercial messages, logos, trademarked materials, universally recognized symbols or advertise or promote any business, product, goods, activity, services or interests; or,
  - b. Imitate, copy, purport to be, or may be confused with any authorized official Sign, traffic Sign, traffic signal, or traffic control device; or
  - c. Contain statements, words or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful.
- 6. **Installation and Maintenance.**
  - a. All surfaces must be power washed prior to installation.
  - b. Anti-graffiti coating (non-sacrificial) is required.
  - c. UV ray resistant paint is required.
  - d. Wall Murals shall be maintained in good repair, free from peeling paint or damage due to age, weather, vandalism, or the like. If for any reason the Wall Mural is removed, altered, or destroyed, the property owner is responsible for restoring the surface of the Wall Mural to the original condition.
- E. **Outdoor Display or Sales.**
  - 1. Outdoor display or sales of merchandise shall not be located in a required Setback or required landscaped areas except when placed on a Sidewalk in a Commercial & Mixed-Use District subject to the standards below:
  - 2. Outdoor display areas shall be designed and located so as to provide for the safe and efficient maneuvering of motor vehicles and pedestrians and shall maintain 5 feet of Sidewalk clear for pedestrian flow on or around Sidewalks, pedestrian ways; required Parking Areas, loading areas, Driveways, interior Access Drives, interior Access Driveways.
  - 3. For areas greater than 2,500 square feet, they shall only be those areas designated as outdoor display, or sales/rentals on an approved Development Plan; shall not apply to any previously approved site specific Development Plans or be located in any Foundation Landscaping Area or interior Parking Area landscaping.
  - 4. Such areas shall be considered Parking Areas for the purpose of determining and providing interior Parking Area landscaping when such outdoor display is used for the sale or rental of automobiles, trucks, busses, Recreational Vehicles, equipment and the like.
  - 5. **Size.** Such areas shall not exceed 5% of the Gross Floor Area or 10,000 square feet, whichever is less.
  - 6. **Buffering.** A Type C Buffer shall be installed and maintained for portions of the outdoor sales area that abut a Residential Use District or property.
- F. **Outdoor Seating.**
  - 1. Outdoor seating may be located in any Yard;

2. Shall be permitted only along the business' tenant bay or storefront façade;
3. Shall not block the entrance to the business or Building; and,
4. Shall be located so as not to interfere with Sidewalks or pedestrian ways by maintaining 5 feet of Sidewalk clear for pedestrian flow.
5. Shall provide parking bumpers or other separation measures such as bollards, ornamental fencing, seatwalls, or planters as deemed necessary by the Administrator if the outdoor seating area is located adjacent to a vehicle Parking Area or Street.

#### **G. Outdoor Storage.**

##### **1. Commercial & Mixed-Use Districts.**

Storage of materials not for sale but associated with the primary Use:

- a. Shall be Accessory to the primary Use;
- b. Shall only be located along the rear façade of the Building or those area(s) designated as outdoor storage on an approved Development Plan;
- c. Shall not exceed the lesser of: 5% of the Gross Floor Area; or, 10,000 square feet, for each non-related and separately operated Use;
- d. Shall not be located within any Setback or Buffer;
- e. Shall be enclosed within a chain link, lattice, ornamental fence, solid walled, or similar type fenced area, including entry/exit gates made of materials compatible with the fence. If a solid wall is constructed, the primary masonry Building material of the primary Building shall be used;
- f. The height above grade of said fence shall be at least 6 feet and shall not exceed the lesser of 20 feet or the height of the roofline; and
- g. Materials or products stored within the fenced storage area shall not exceed the height of the fence.

#### **2. Employment/Campus Use Districts.**

##### **a. Proximity to Residential.**

All operations, servicing and processing located either within 100 feet of a Residential Use District (except outside storage, off Street parking and off Street loading) shall be conducted within completely enclosed Buildings.

##### **b. General Standards.**

All storage of materials or products shall be either within completely enclosed Buildings or, within a defined storage area in compliance with the following:

- i. Enclosed within a chain link, lattice, ornamental fence, solid walled, or similar type fenced area, including entry/exit gates made of materials compatible with the fence.
- ii. The height above grade of said fence shall be at least 6 feet and shall not exceed 20 feet.
- iii. Materials or products stored within the fenced storage area shall not exceed the height of the fence.
- iv. The fenced storage area shall be surrounded by landscaping installed in compliance with the requirements for a Type C Buffer.

##### **c. Amount of Outdoor Storage and Operations.**

The total area devoted to outdoor storage and operations shall not exceed 30% of total Lot Area in the BRT District and 50% of total Lot Area in the HI District.

#### **H. Helipads.**

- 1. Permitted by Right.** Helipads and other similar vertical takeoff and landing areas shall be permitted as an Accessory Use by right in the Employment/Campus Use Districts.

#### **I. Mobile Classrooms.**

1. Mobile classrooms shall only be permitted as a Temporary Use by a Religious/Assembly Use or School (K-12);
2. Mobile classrooms shall be permitted only by the grant of a Special Use Permit;

3. Applicants for a mobile classroom shall submit a site plan which indicates a proposed permanent development of the site at the time of filing a petition for a mobile classroom Special Use Permit; and,
4. A mobile classroom Special Use Permit shall be conditioned upon the Applicant making progress towards accomplishing the goals of development indicated the site plan within a reasonable period of time as established in the grant of the Special Use Permit.

**J. Parking of Commercial and Recreational Vehicles.**

1. **Commercial & Mixed-Use Districts.** The total number of business passenger vehicles shall not exceed 3 passenger vehicles per business with a GVWR  $\leq$  6,000 LBS and shall meet the following requirements:
  - a. The vehicle(s) are used in the normal day-to-day operation of the business Use;
  - b. The vehicle(s) must be parked on the same property as the business location;
  - c. To the greatest extent possible, the vehicle(s) shall be parked beside or behind the Building in which the Use is located, parking in the front of the Building shall only be permitted if side and rear parking is not available.
  - d. Vehicle(s) shall be placed so as to minimize visibility from Right-of-Way to the greatest extent possible.
2. **Employment/Campus Use Districts.** The total number of business passenger vehicles shall not exceed 5 passenger vehicles per business with a GVWR  $\leq$  8,500 lbs.
  - a. Additional business passenger vehicles and non-passenger vehicles may be stored on the same property in compliance with the outdoor storage requirements.
  - b. Business passenger vehicles must be parked on the same property as the business location.

**K. Trash/Recycling Containers.**

1. **Screening.** Trash/Recycling containers shall be screened on at least 3 sides by a Building

wall or a solid-walled enclosure using the primary masonry Building material of the primary Building, between 6 and 10 feet in height above grade, equipped with an opaque screen gate, excluding wood, and any solid-walled portion of the enclosure shall be provided with Foundation Landscaping.

2. **Location.** Trash/Recycling Containers shall not be located in the Front Yard or in any required Setback or landscape area.

## 3.5 TEMPORARY USES

### 3.5.1 APPLICABILITY

- A. **Permits Required.** A Temporary Use, Building or Structure which is in compliance with the provisions of this Section, shall be allowed on a Lot in any District as noted.
- B. **Permitted Temporary Uses, Buildings and Structures.** The Temporary Uses noted in this section are permitted subject to the noted requirements. For Temporary Uses not listed, the Administrator shall determine if there is a similar Use category that can be applied.
- C. **Duration.** Except as specifically identified in this section, a Temporary Use, Building or Structure shall be permitted for a period not to exceed 1 year and may be renewed 1 or more times by the Administrator, for good cause shown, for an additional period(s) not to exceed a total of 1 year beyond the original expiration date.
- D. **Compliance with Development Standards.** All applicable Development Standards and Setback requirements in the District in which the Temporary Use, Building or Structure is located apply unless noted. Temporary construction trailers, freestanding sales offices, and other Temporary Uses which shall not be converted into a permanent primary or Accessory Use, shall be exempt from the requirement to provide a hard surfaced Parking Areas.
- E. **Cessation of Use.** All Buildings, Structures or debris associated with the Temporary Use shall be removed from the site immediately upon completion or cessation of the Temporary Use or expiration of the time period set forth above.

## 3.5.2 SPECIFIC STANDARDS FOR TEMPORARY USES

TABLE 3.5-A - TABLE OF TEMPORARY USE PROVISIONS				
Temporary Use	Permitted District(s)	Permit Required	Maximum Length of Time per Site and Applicant	Other Conditions
Auction/Pre-Priced Sale	All	Not Required	3 days per year	N/A
Seasonal Sales (e.g., Christmas trees, pumpkins, fireworks)	All	Required	45 days per year	All unsold merchandise must be removed within 7 days of the holiday, whichever comes first.
Construction or Sales Office (or other structures associated with the development of a property)	All	Required	Sales offices shall be removed upon the first sale of 90% of the Lots or units in the project;  AND Construction offices, and all other Structures associated with the development of the property, shall be removed upon completion of construction, the expiration of an unrenewed Building permit, or the issuance of a final certificate of occupancy, whichever occurs first.	Such Uses must be located on the same site as the development/ construction they are associated with;  All Structures shall meet the required Setbacks for the applicable District to the extent practicable given the location of existing Buildings and improvements on the site and the location of permitted construction areas;  Such Structures shall not be regularly occupied by anyone except construction or sales personnel; and  Under skirting shall be installed around the entire perimeter of the Building or Structure.
Farmer's Market or Seasonal Market	RR, Commercial & Mixed-Use/ Employment /Campus Use	Required	None, site plan to be resubmitted annually	Limit of 2 days per week.
Mobile Vendors (Food Carts/Trucks, Clothing, Veterinary Services, etc.)	All	Required	30 days - may be renewed up to a maximum of 90 days per year	May not be located on a vacant Lot;  Such Uses located on a Sidewalk must maintain at least 5 feet of unobstructed pedestrian space;  Such Uses located in a Parking Lot shall not impede vehicular circulation;  Shall not be provided a temporary power pole;  Such Uses shall not operate between the hours of 10 PM and 6 AM;  Such Uses must comply with Article VI, Division 2 of the Town Code of Ordinances related to noise; and  These conditions may be waived by the Administrator when such Uses are included as part of a larger Temporary Use.

**TABLE 3.5-A - TABLE OF TEMPORARY USE PROVISIONS**

Temporary Use	Permitted District(s)	Permit Required	Maximum Length of Time per Site and Applicant	Other Conditions
<b>Outdoor Storage of Personal Property (short-term)</b>	All	Not Required	1 week	Excludes junkyards and any construction-related storage;  Such Uses shall only be permitted as an Accessory Use; and  Such Uses shall meet all applicable Setback requirements, except that portable, modular storage containers designed to be transported by a private moving company may encroach within the Setback area so long as they are located on a private residential Driveway.
<b>Retail Sales (Non Seasonal)</b>	All	Required	90 days per calendar year	A temporary display or sale of goods for commercial purposes shall take place on a developed Lot where the primary Use is retail sales, or on an immediately adjacent developed Lot of such a project;  The hours of operation shall be the same as the hours of operation of the primary Use; and  No activities of the Use may encroach into or disturb required landscaping or interrupt the provision of emergency services, traffic circulation, and pedestrian movements (permitting a minimum of five (5) feet of Sidewalk clear for pedestrian flow).
<b>Sale of Vehicles at Place of Residence</b>	All	Not Required	No maximum	Vehicles such as automobiles, motorcycles, Recreational Vehicles and other similar vehicles may be sold provided that they are operational and titled to a resident living on the premises; and  No more than 2 items may be sold at a time.
<b>Special Event</b>	Commercial/ Mixed-Use/ Employment /Campus  & Lots in Permitted Non- Residential Use	Required	3 days at a time, up to 7 times per year	Activities of the special event shall not encroach into or disturb required landscaping or interrupt the provision of emergency services, traffic circulation, and pedestrian movements (permitting a minimum of 5 feet of Sidewalk clear for pedestrian flow); and  Those special events located within common areas or Open Space areas shall not be required to obtain a UDO Permit and will not be counted against the maximum number of special events per calendar year.
<b>Storage of Construction Equipment</b>	All	Required	Duration of construction activity	Such Use must be incidental to construction or development occurring on the site.  Must be associated with a valid Building permit.

**TABLE 3.5-A - TABLE OF TEMPORARY USE PROVISIONS**

Temporary Use	Permitted District(s)	Permit Required	Maximum Length of Time per Site and Applicant	Other Conditions
<b>Vendors (Charitable)</b>	All	Not Required	3 days at a time, up to 2 time per year	<p>Vendors shall not be for commercial purposes, only for charitable and fundraising organizations;</p> <p>Vendors shall provide documentation from the Home Owners Association or Owner of the property stating the dates in which the vendor will be present;</p> <p>Temporary food vendors for charity or fundraising purposes may be conducted by a group or individual twice a calendar year within the common Open Space of a recorded, platted residential Subdivision containing a Parking Lot and shall not exceed three consecutive days in duration; and</p> <p>The temporary food vendors for charity or fundraising purposes shall only be conducted during the hours from sunrise to sunset.</p>
<b>Yard/Garage/Porch Sale</b>	All	Not Required	3 days at a time, up to 2 times per year	<p>Only normal household merchandise may be sold;</p> <p>Sale shall only be conducted during the hours from sunrise to sunset;</p> <p>All personal property exhibited outdoors during a sale shall be placed within a Building or Structure or otherwise removed from the premises immediately following the end of the sale; and</p> <p>More than 1 owner may combine a sale onto 1 Lot.</p>
<b>Any Other Use or Event Not Listed</b>	All	Required	To be determined by the Administrator based upon the nature of the proposed Use and any potential adverse impacts to surrounding properties.	



## 3.6 PERFORMANCE STANDARDS

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### 3.6.1 APPLICABILITY

All Uses shall comply with the following performance standards.

### 3.6.2 VIBRATION

No primary Use or Accessory Use or activity shall cause earth vibration or concussions that are detectable beyond the Lot lines without the aid of instruments.

### 3.6.3 POLLUTANTS OR CONTAMINANTS

No primary Use or Accessory Use shall discharge across Lot lines, in the land, water or air, any noxious, toxic or corrosive matter, fumes or gases, or any other pollutants or contaminants that tend to be injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property.

### 3.6.4 ODOR

No primary Use or Accessory Use shall emit across Lot lines odors in such quantities as to be readily detectable at any point along the Lot lines.

### 3.6.5 NOISE

No primary Use or Accessory Use shall produce noise in such a manner as to annoy, disturb, frighten or otherwise interfere with the use and quiet enjoyment of adjacent properties or be in violation of the Noise Ordinance. Operational or production noise shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.

### 3.6.6 HEAT

No primary Use or Accessory Use shall produce heat perceptible from any point beyond the Lot lines.

### 3.6.7 GLARE

No primary Use or Accessory Use shall produce glare perceptible from any point beyond the Lot lines.



HOLLY SPRINGS

*North Carolina*