



11 ADMINISTRATION & DECISION-MAKING BODIES

11.1 PURPOSE AND INTENT

The provisions of this Chapter are intended to identify the review procedures, application submittal requirements, and roles of associated decision-making bodies for the various types of applications, permits, development and Subdivision petitions, Variances/administrative adjustments, waivers, plans, and other approvals (referred to in this Chapter as “UDO Applications/Permits”) that are a prerequisite of development/land Use activity in the Town and its Extraterritorial Jurisdiction.

11.2 GENERAL PROVISIONS AND APPLICABILITY

11.2.1 APPLICABILITY AND CONTENTS

This Chapter is applicable to UDO Applications/Permits in the Town including all new applications and amendments to previously approved Projects. Where there are ambiguities in the associated review procedures and approval criteria for a particular UDO Application/ Permit, the Administrator shall interpret said procedures and identify the review process for said Project(s). This Chapter establishes the Town’s rules and policies for the following:

- A. **Decision-Making Bodies.** This Chapter establishes the decision-making bodies and their associated authorities as they relate to UDO implementation and application review. For some UDO Applications/Permits, certain decision-making bodies may serve in an advisory role to provide recommendations to a higher-level board or Town Council.
- B. **Review Matrix.** This Chapter establishes a review matrix that identifies the procedures and decision-making bodies for each UDO Application/Permit.
- C. **Review and Submittal Requirements.** This Chapter establishes and details the review procedures for each specific UDO Application/Permit.

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11.2.2 REVIEW AND ACTION FORMATS

- A. Action Formats Described.** Each UDO Application/Permit shall be processed as 1 of 3 action formats listed below. The Review Matrix in Section 11.4 details the review requirements for specific applications, development petitions, and land Use-related requests.
- 1. Legislative Actions.** Legislative actions involve policy decisions, amendments, and other decisions to amend the Town's regulations. These actions affect a wide range of residents and land areas. Legislative actions include adoption of or amendments to the Comprehensive Plan, UDO, zoning map, Development Standards, design manuals, and similar policy/regulatory documents. Legislative actions require a public hearing and broad public notice pursuant to Section 11.5.
 - 2. Quasi-Judicial Actions.** Quasi-judicial actions involve the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving Variances, Special Use Permits, and appeals of administrative determinations. Decisions on the approval of Subdivision plans and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with 1 or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making body. Quasi-judicial actions require a public hearing and public notice pursuant to Section 11.5.
 - 3. Administrative Actions.** Administrative actions include the Administrator's review, analysis, and determination of a UDO Application/Permit's compliance with this UDO and other ordinances. Administrative actions include a clear and objective

analysis of the application's compliance with applicable standards.

- B. Review Format Determination.** Where there are conflicts between this Chapter and North Carolina State General Statutes (NCGS), the General Statute shall apply. The Administrator shall provide a determination where there are ambiguities whether an application, request, or Town action would be considered Legislative, Quasi-Judicial, or Administrative in nature.

11.2.3 PROCEDURES MANUAL

- A. Allowances.** The Administrator may create and implement a Procedures Manual (or equivalent) that outlines the submittal requirements and review procedures for the various development petitions, permits, land Use activities, and notice standards of this UDO. Before the manual is used for Town business, the Town Council shall adopt said manual and amendments thereto. The manual shall reflect the laws, requirements, and limitations of this UDO and may not be used to circumvent UDO requirements. Where there are conflicts between the manual and this UDO, the provisions of the UDO shall apply.

11.3 DECISION-MAKING BODIES

- A. Decision-making Bodies Established.** This section establishes the various decision-making bodies as they relate to UDO Applications/Permits. This section establishes these bodies, their associated authority, and membership.
- B. Review and Recommendation Roles.** The various decision-making bodies described herein may also serve as recommendation and advisory bodies to higher level authorities for certain UDO Applications/Permits as specified in this Chapter.
- C. Conflict of Interest.** No person shall make a final decision or recommendation on any UDO Application/Permit if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on said individual or if the applicant or other person subject to that decision is a person with whom the staff or decision-making member has a close familial, business, or other associational

relationship. In addition, all staff and decision-making members shall be subject to the conflict of interest clauses of NCGS § 160D-109.

11.3.1 UDO ADMINISTRATOR AND TOWN STAFF

- A. **Establishment.** The Development Services Department shall oversee, maintain, and administer the provisions of the UDO and long-range planning actions within the Town's jurisdiction. The Development Services Department may consult with other Town departments, governmental agencies, and/or consultant experts to provide additional technical review for UDO Applications/Permits and land Use/town planning activities. Exceptions to this authority shall apply where specifically codified in this UDO.
- B. **Staff Roles.** The following describes the various Town staff roles as they relate to this UDO.
 - 1. **Administrator.** For this UDO, the Administrator shall be the Director of Development Services or any Town Staff designated by the Director to administer this UDO.
 - 2. **Town Staff.** The Administrator may appoint staff to administer the provisions of this UDO. Town staff work under the direction of the Administrator and shall provide administrative, technical, and analytical support
 - 3. **Plat Review Officer.** The Administrator shall appoint the Plat Review Officer(s) whose role is to certify that a proposed Final Plat or other instrument required to be recorded in connection with this UDO meets all statutory requirements for recording, as a prerequisite for the recording of any such Final Plat or other instrument by the Wake County Register of Deeds.
 - 4. **Environmental Appeal Committee.** The Town Manager shall appoint Town staff pursuant to Chapter 8, Article III of the Code of Ordinances to serve on the Environmental Appeal Committee. The Environmental Appeal Committee shall review, consider, and decide all appeals and Variances from the requirements of Chapter

8 of the Code of Ordinances and as amended (which are separate but in addition to the provisions of this UDO).

- C. **Duties and Authority.** This UDO grants the Administrator the following duties and authority. The Administrator shall be appointed and work under the guidance of the Town Manager. The Administrator may designate some or all these duties to Town staff individuals (also referred to as the "designee" in this Chapter).
 - 1. **Department Administration.** The Administrator supervises the general administration of the Development Services Department. The Administrator may designate staff to assist in the daily administration of the duties and responsibilities set forth in this UDO. The Administrator shall provide and maintain information for the public relative to all matters arising out of this UDO.
 - 2. **UDO Administration.** The Administrator shall interpret, enforce, and administer this UDO; receive and review all applications required by this UDO; issue UDO Permits; and number and file all Certificates of UDO Compliance. The Administrator shall, when requested by the Town Council, Planning Board, or Board of Adjustment, or when the interests of the Town require, make investigations in connection with matters referred to in this UDO.
 - 3. **Department Records.** The Administrator shall keep the records of the Development Services Department, including, without limitation, records of applications, permits issued, certificates issued, inspections made, reports rendered, and notices or orders issued. The Administrator shall provide records of all recommendations, final determinations, and decisions made pursuant to this UDO to the Town Clerk.
 - 4. **Administrative UDO Applications/Permits.** The Administrator shall review and act on UDO Applications/Permits as allowed by this UDO and pursuant to Table 11.4-A: Review Matrix of this Chapter. This

authority shall be reserved for applications that allow for administrative action.

5. Staff Reports and Recommendations.

The Administrator may prepare and transmit to the Town Council, Planning Board, Board of Adjustment, and advisory committees the applicable staff reports, analysis, and potential recommendations of the Development Services Department on all UDO Applications/Permits, or matters requiring official action from said decision-making bodies.

6. Zoning Map. The Administrator shall maintain the Official Zoning Map and designate all map amendments granted under the terms of this UDO.

7. Final Plat Recordation. The Administrator shall determine compliance of a proposed Final Plat with the regulations contained in this UDO and notify the Plat Review Officer if a Final Plat has received approval from the various reviewing parties (e.g., Town Departments and review staff).

8. Long-Range Planning and Special Projects.

The Administrator shall perform such other duties as the Town Council, Planning Board, or Board of Adjustment may direct in accordance with the provisions of this UDO. The Administrator shall maintain the Comprehensive Plan and other long-range policy documents. The Administrator may initiate special Projects, long-range planning initiatives, and similar activities that focus on land Use, mobility, environmental protection, economic development, historic preservation, housing, and/or community engagement.

11.3.2 DEVELOPMENT REVIEW COMMITTEE (DRC)

A. Establishment. The Development Review Committee (DRC) for the Town and its Extraterritorial Jurisdiction is hereby established to provide interdepartmental collaboration to review and take actions on certain UDO Applications/Permits as outlined in this UDO and pursuant to Table 11.4-A: Review Matrix.

B. Composition/Membership. The DRC membership shall include representation from

the following Town departments: Development Services, Utilities and Infrastructure, Parks and Recreation, Public Works, Police, Fire, Administration, and Economic Development. Each department may designate specific Town staff to serve on the committee.

1. The Administrator shall maintain a DRC membership roster, assign alternate members, and fill vacancies. The Administrator shall serve as the DRC Chairperson to lead meetings (as necessary) and to oversee committee operations.
2. The DRC shall include 8 voting members representing the various Town departments as designated by the Town Manager. Other DRC members shall include Town Staff that work in an advisory role to provide technical assistance relating to UDO Application/ Permit review.
3. The Chairperson may designate members of Town Staff to represent the Committee for Type – 0 Sketch Plan Reviews.

C. Duties and Authority. This UDO grants the DRC the following duties and authority.

1. DRC-authorized Application/Permits. The DRC reviews and acts on UDO Applications/Permits as allowed by this UDO and pursuant to Table 11.4-A: Review Matrix of this Chapter. Where authorized, the DRC may move to approve, approve with conditions, or deny a UDO Application/ Permit based on the provisions of this UDO.
2. Conduct Special Studies. As directed by the Administrator or the other decision-making bodies, the DRC may conduct special studies and Town planning-related subjects to the Town Council.
3. Notice and Meeting Conduct. The DRC shall conduct notice and meeting procedures pursuant to the provisions of this UDO.

D. DRC Application/Permit Review Procedures.

1. **Standard Review Procedure.** UDO Applications/Permits shall be circulated to the applicable DRC members for review and comment. Each member shall review the application for consistency with the applicable UDO provisions. Where the

application does not fully comply, the member shall provide written comments to the Administrator. The Administrator shall collect all staff comments and provide to the applicant for revisions and resubmittal.

- a. For Type 2a applications/permits (pursuant to Table 11.4-A: Review Matrix), the DRC shall approve the permit when the applicant has demonstrated full compliance with the UDO.

2. **Discussion Limitations.** For Type 0 applications/permits any and all discussion, comment, or opinion presented at a DRC meeting regarding proposed UDO Applications/Permits are not to be construed as a recommendation of Town staff, the Planning Board, the Board of Adjustment, or Town Council to approve or deny any proposed Project at time of official determination.

11.3.3 PLANNING BOARD

- A. **Establishment.** The Planning Board is established to be advisors to the Town Council on long-range planning activities and subject to the duties outlined in the NCGS § 160D-301. The Planning Board shall provide review and technical recommendations to Town Council on all matters relating to land Use policy, zoning map designations, UDO text, and Development Standards. This is in addition to the powers and duties established in Chapter 2, Article IV of the Code of Ordinances (and as amended).
- B. **Composition/Membership.** The Planning Board shall consist of 9 members, 8 of whom shall be residents living within the corporate limits of the Town and 1 who resides within the Town's Extraterritorial Jurisdiction.
 1. **Appointments.** Members shall be appointed to serve on the Planning Board for 3-year terms. The Town Council shall appoint residents residing within the corporate limits. The Wake County Board of Commissioners shall appoint the 1 member who resides outside the corporate limits but within the Town's Extraterritorial Jurisdiction. Whereas, if the County fails to appoint the member

within 90 days of a vacancy, the Town Council shall make the appointment.

- a. Terms for members shall expire on the last day of February. Town Council shall schedule the appointments so that terms overlap and do not create 4 or more vacancies when individual tenures expire.
 - b. All Planning Board members may serve until the expiration of their terms or until their successors have been appointed.
 - c. The Town Council reserves the right to remove members at any time based on a pattern of absenteeism, or poor ethical performance.
2. **Vacancies, Reappointment, and Extensions.** When a Planning Board member's term expires, the Town Council may choose to reappoint said member or appoint a new individual to fill the vacancy pursuant to the limitations outlined above. The Town Council may extend the appointment for any Planning Board member after their term expires to avoid vacancies. The Town Council shall employ notice and procedures to recruit potential Planning Board members.
 3. **Representation.** To the greatest extent practicable, the Town Council shall appoint a diverse Planning Board membership who collectively possess expertise/experience in the following town planning-related topics: architecture, urban design, historic preservation, land Use policy, land Use law, environmental protection, housing, equity/social justice, and engineering/land development. Attendance at the Citizen's Academy or equivalent training is a prerequisite to being appointed to the Planning Board.
 4. **Compensation.** The Planning Board members shall be appointed without compensation. However, the Town may reimburse members for Town-related expenses and continuing education events. Said reimbursement activities shall be preapproved by the Administrator.

- C. Duties and Authority.** This UDO grants the Planning Board the following duties and authority.
- 1. Planning Board-authorized UDO Applications/Permits.** The Planning Board shall review and act on UDO Applications/Permits as authorized by this UDO and pursuant to Table 11.4-A: Review Matrix of this Chapter. Where authorized, the Planning Board may move to approve, approve with conditions, or deny an application/permit based on the provisions of this UDO.
 - 2. Review and Recommend UDO Applications/Permits, Town Policies, and Ordinances.** The Planning Board shall review and provide recommendations to Town Council for certain UDO Applications/Permits pursuant to Table 11.4-A: Review Matrix of this Chapter, and Legislative Actions involving text/map amendments.
 - 3. Special Studies.** The Planning Board shall review and make recommendations pertaining to special studies and town planning-related subjects to the Town Council (as directed).
- D. Planning Board Meetings.**
- 1. Frequency.** The Planning Board shall hold at least 1 meeting monthly unless there is no business to be discussed or acted upon. All its meetings shall be in accordance with NCGS §143-318.9 through NCGS §143-318.18, and NCGS §160D-308. The Administrator may authorize additional monthly meetings to accommodate the Planning Board's workload.
 - 2. Quorum.** A quorum shall consist of at least half of the regular members for the purpose of taking any official action required by this UDO.
 - 3. Chairperson and Vice Chair Appointments.** Each March, the Planning Board shall hold an organizational meeting and elect a Chairperson and Vice Chairperson to conduct meetings. The terms

for both individuals shall be 1 year or until successors have been elected and installed, with eligibility for reelection.

- 4. Rules of Transaction.** The Planning Board shall adopt rules of transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations. The Planning Board may direct the Administrator to conduct these duties on its behalf.
- 5. Member Participation.** All members shall have the authority to participate in discussions of the Planning Board and shall have voting power on all matters of business.

11.3.4 BOARD OF ADJUSTMENT (BOA)

- A. Establishment.** The Board of Adjustment (BOA) is established to conduct hearings and take action on certain quasi-judicial UDO Applications/Permits as outlined in this UDO to ensure compatibility with surrounding land Uses and natural environments. The Board of Adjustment is also established to take action on applicant-initiated appeals of administrative decisions.
- B. Composition/Membership.** The Board of Adjustment shall consist of 5 regular members and 3 alternate members, of which 4 of the regular members and 2 of the alternate members shall reside within the corporate limits of the Town of Holly Springs and 1 regular member and 1 alternate member shall reside within the Town's Extraterritorial Jurisdiction.
 - 1. Appointments.** Members shall be appointed to serve on the Board of Adjustment for 3-year terms. The Town Council shall appoint the 4 regular members and 2 alternate members residing within the corporate limits. The Wake County Board of Commissioners shall appoint the 1 regular member and 1 alternate member who reside outside the corporate limits but within the Town's Extraterritorial Jurisdiction. Whereas, if the County fails to appoint a member within 90 days of a vacancy, the Town Council shall make the appointment.

- a. Terms for members shall expire on the last day of February. Town Council shall schedule the appointments so that terms overlap and do not create 4 or more vacancies when individual tenures expire.
 - b. All Board of Adjustment members may serve until the expiration of their terms or until their successors have been appointed.
 - c. The Town Council reserves the right to remove members at any time based on a pattern of absenteeism, or poor ethical performance.
 - d. An alternate member appointed from within the corporate limits of the Town of Holly Springs may serve on the Board of Adjustment as a regular member only in the absence, temporary disqualification, or to fill a vacancy pending appointment of a regular member appointed from within the Town of Holly Springs' corporate limits. The alternate member from the Town of Holly Springs' Extraterritorial Jurisdiction may serve on the Board of Adjustment as a regular member only in the absence, temporary disqualification, or to fill a vacancy pending appointment of the regular member from the Town of Holly Springs' Extraterritorial Jurisdiction.
2. **Vacancies, Reappointment, and Extensions.** When a Board of Adjustment member's term expires, the Town Council may choose to reappoint said member or appoint a new individual to fill the vacancy pursuant to the limitations outlined above. The Town Council may extend the appointment for any Board of Adjustment member after their term expires to avoid vacancies. The Town Council shall employ notice and procedures to recruit potential Board of Adjustment members.
 3. **Representation.** To the greatest extent practicable, the Town Council shall appoint a diverse Board of Adjustment membership who collectively possess expertise/experience in the following town planning-related topics: architecture, urban design, historic preservation, land Use policy, land Use law, environmental protection, housing, equity/social justice, and engineering/land development. Attendance at the Citizen's Academy or equivalent training is a prerequisite to being appointed to the Board of Adjustment.
 4. **Compensation.** The Board of Adjustment members shall be appointed without compensation. However, the Town may reimburse members for Town-related expenses and continuing education events. Said reimbursement activities shall be preapproved by the Administrator.
- C. **Duties and Authority.** This UDO grants the Board of Adjustment the following duties and authority.
 1. **Board of Adjustment -authorized UDO Applications/Permits.** The Board of Adjustment shall review and act on UDO Applications/Permits as allowed by this UDO and pursuant to Table 11.4-A: Review Matrix of this Chapter – these items include Special Use Permits and Variances. The Board of Adjustment may review and take action on Variance requests that are associated with a concurrent quasi-judicial UDO Application/Permit pursuant to Table 11.4-A: Review Matrix of this Chapter. Where authorized, the Board of Adjustment may move to approve, approve with conditions, or deny a UDO Application/Permit based on the provisions of this UDO. The Board of Adjustment shall apply any applicable UDO criteria in making its decision and provide findings thereof.
 2. **Appeals.** The Board of Adjustment shall review and take action on appeals of administrative decisions (including those actions from the Administrator and/or the DRC). The Board of Adjustment may move to approve, approve with modifications/limitations, or deny the request for appeal.

D. Board of Adjustment Meetings.

1. **Frequency.** The Board of Adjustment shall hold at least 1 meeting monthly unless there is no business to be discussed or acted upon. All its meetings shall be in accordance with NCGS §143-318.9 through NCGS §143-318.18, and NCGS §160D-308. The Administrator may authorize additional monthly meetings to accommodate the Board of Adjustment's workload.
2. **Quorum.** A quorum shall consist of at least half of the regular members for the purpose of taking any official action required by this UDO.
3. **Chairperson and Vice Chair**
Appointments. Each March, the Board of Adjustment shall hold an organizational meeting and elect a Chairperson and Vice Chairperson to conduct meetings. The terms for both individuals shall be 1 year or until successors have been elected and installed, with eligibility for reelection.
4. **Rules of Transaction.** The Board of Adjustment shall adopt rules of transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations. The Board of Adjustment may direct the Administrator to conduct these duties on its behalf.
5. **Member Participation.** All regular members or alternate members, when serving as a regular member, shall have the authority to participate in discussions of the Board of Adjustment and shall have voting power on all matters of business.

11.3.5 TOWN COUNCIL

- A. **Introduction and Acknowledgment.** To effectuate the purpose of this UDO, the Town Council shall have all the power vested by GS § 160D, et. seq. regarding the implementation of the Comprehensive Plan and this UDO, including but not limited to the powers set forth in this Chapter, other provisions of this UDO, and applicable law.

- B. **UDO-related Duties and Authority.** This UDO outlines Town Council's role and duties to review and take action on certain UDO Applications/Permits and long-range Town planning activities. This UDO assigns the following duties and authority to Town Council.

1. Town Council-authorized UDO

Applications/Permits. The Town Council shall review and act on UDO Applications/Permits as authorized by this UDO and pursuant to Table 11.4-A: Review Matrix of this Chapter. These items include, but not limited to, Annexations, Comprehensive Plan amendments, special planning initiatives, zoning map changes, UDO text amendments, certain Major Modifications, Major Subdivisions, Zoning Vested Right and Development Agreements. Where authorized, the Council may move to approve, approve with conditions/limitations, or deny a UDO Applications/Permits based on the provisions of this UDO.

2. **Special Studies.** The Town Council may initiate Long-range Plans, special studies, and other Town planning-related subjects. The Council may direct such studies to the Administrator to implement.
3. **Variances.** The Town Council may review and take action on Variance requests that are associated with a concurrent quasi-judicial UDO Application/Permit pursuant to Table 11.4-A: Review Matrix of this Chapter.

11.4 REVIEW MATRIX

- A. **Applicability.** This UDO identifies the review types for each UDO Application/Permit and/or other approval that may be a prerequisite to land usage and development activity within the Town and its Extraterritorial Jurisdiction. The Review Matrix (Table 11.4-A) establishes the general review type; the associated UDO Applications/Permits, the decision-making bodies; and the appeal authority.

TABLE 11.4-A - REVIEW MATRIX TABLE

Review Type	Application/Petition Types	(*H) = Public Hearing Format Required				
		Sketch Plan Review	Applicant Neighborhood Meeting	Review and Recommendation Body	Final Decision-Making Body	Appeal Authority
Type 0 - Sketch Plan	<ul style="list-style-type: none"> Sketch Plan / Pre-Submittal Meeting 	N/A	Not Required	Town Staff / Various Departments	<i>Development Review Committee (DRC)</i> <i>(For Non-Binding Review Only)</i>	N/A
Type 1 – Administrative Action (Administrator review)	<ul style="list-style-type: none"> Administrative Adjustments Administrator's Interpretation Construction Drawings Environmental Permits (involving the requirements of Chapter 8 of the Holly Springs Code of Ordinances) Exempt Subdivision Final Plat Minor Modifications (involving previously approved applications/ petitions) Minor Residential Subdivision (involving 4 or less resulting lots AND no new Street Right-of-Way) Permitted Uses (pursuant to Table 3.2 AND not involving a Development Plan) UDO Permit/Temporary Use Permit 	Not Required	Not Required	N/A	Administrator	1st Appeal: Board of Adjustment (BOA) (*H) 2nd Appeal: Superior Court
Type 2a – Administrative Action (Development Review Committee / DRC review)	<ul style="list-style-type: none"> Development Plans (not involving properties in the DMX, Buildings over 40,000-sf, and/or Special Use Permits) 	Required	Required (see Section 11.5 and Table 11.5-A)	Town Staff / Various Departments	Development Review Committee (DRC)	1st Appeal: Board of Adjustment (BOA) (*H) Except, appeals relating to Environmental Permits require a Type 2b Review 2nd Appeal: Superior Court
Type 2b – Quasi-judicial Action (Environmental Appeal Committee Review)	<ul style="list-style-type: none"> Environmental and/or Riparian Modifications, Variance, and/or Waiver (involving the requirements of Chapter 8 of the Holly Springs Code of Ordinances) 	Not Required	Not Required	Town Staff / Various Departments	Environmental Appeal Committee (*H)	Board of Adjustment (*H)

TABLE 11.4-A - REVIEW MATRIX TABLE

Review Type	Application/Petition Types	(*H) = Public Hearing Format Required				
		Sketch Plan Review	Applicant Neighborhood Meeting	Review and Recommendation Body	Final Decision-Making Body	Appeal Authority
Type 3 – Quasi-judicial Action (Board of Adjustment Review)	<ul style="list-style-type: none"> Special Use Permit Development Plan (involving concurrent Type 3 applications/petitions) Major Modifications (involving previously approved Type 3 applications/petitions) Variance (involving concurrent Type 3 applications/petitions) 	Required	Required (see Section 11.5 and Table 11.5-A)	Town Staff / Various Departments	Board of Adjustment (*H)	Superior Court
Type 4 – Quasi-judicial Action (Board of Adjustment Review)	<ul style="list-style-type: none"> Appeals of Administrative Decisions Variance 	Not Required	Not Required	Town Staff / Various Departments	Board of Adjustment (*H)	Superior Court
Type 5 – Quasi-judicial Action (Town Council Review)	<ul style="list-style-type: none"> Development Plans (involving properties in the DMX, and/or Buildings over 40,000-sf, not involving Special Use Permits) Major Subdivisions (Preliminary Plats) Major Modifications (involving previously approved Type 5 applications/petitions) Variance (involving concurrent Type 5 applications/petitions) 	Required	Required (see Section 11.5 and Table 11.5-A)	Town Staff / Various Departments AND Planning Board	Town Council (*H)	Superior Court
Type 6 – Legislative Action (Town Council Review)	<ul style="list-style-type: none"> Zoning Map Amendments Major Modifications (involving previously approved Type 6 applications/petitions) 	Required	Required (see Section 11.5 and Table 11.5-A)	Town Staff / Various Departments AND Planning Board	Town Council (*H)	Superior Court
Type 7 – Other Actions (Town Council Review)	<ul style="list-style-type: none"> Comprehensive Plan Amendments Long-range Plans / Special Studies (or equivalent) Other Town Planning Policy/Regulatory Actions UDO Text Amendments Zoning Vested Right(s) RESERVED 	Not Required	Not Required	Town Staff / Various Departments AND Planning Board	Town Council (*H)	Superior Court (when applicable)

B. Review Matrix.

- Review Required.** Each UDO Application/ Permit shall be processed and reviewed pursuant to the required review type (Types 1 – 7) as established in Table 11.4-A - Review Matrix. Each review type is

summarized in Table 11.4-A along with the associated application/permit, decision-making authority, and appeal authority. The subsequent sections of this Chapter provide additional provisions and requirements for specific UDO Applications/Permits.

- 2. Table of Permitted Uses.** Certain land Uses are assigned a permitting allowance pursuant to the property's Zoning District. Table 3.2. – Table of Permitted Uses in Chapter 3 of this UDO lists the land Uses that are allowed as a Permitted Use ("P"), Special Use Permit ("SUP"), or within a Conditional Zoning District ("CD"). New Uses (or expansions of existing) shall obtain Town approval pursuant to Table 11.4-A.
- 3. Other Plans.** The Town may adopt Long-range Plans, Special Studies, or equivalent for specific areas of the community. Where those plans include specific land

Use allowances, the Town shall process and review the associated land Use and development activity pursuant to Table 11.4-A - Review Matrix.

- 4. Neighborhood Meetings.** The Town requires applicants to host a neighborhood meeting for certain UDO Applications/Permits to inform surrounding residents, property owners, businesses, and government agencies about the proposal prior to submitting a formal application. For other UDO Applications/Permits, a neighborhood meeting is optional. Table 11.4-A specifies which development petitions/

TABLE 11.5-A - NOTICE SCHEDULE TABLE				
Proposed Application/Petition Review Type	Mailing Notice Standards	Site Posting (N1)	Advertising (new publication)	Application Neighborhood Meeting
Type 2a – Administrative Action (Development Review Committee / DRC review)	Not Required	Not Required	Not Required	Required: Mailing notice 500-ft radius around subject site
Type 2b – Quasi-judicial Action (Environmental Appeal Committee)	Not Required	Not Required	Not Required	Not Required
Type 3 – Quasi-judicial Action (Board of Adjustment review)	Required: 500-ft radius around subject site	Required	Not Required	Required: Mailing notice 500-ft radius around subject site
Type 4 – Quasi-judicial Action (Board of Adjustment review)	Required: 500-ft radius around subject site	Required	Not Required	Not Required
Type 5 – Quasi-judicial Action (Town Council Review)	Required: 500-ft radius around subject site	Required	Not Required	Required: Mailing notice 500-ft radius around subject site
Type 6 – Legislative Action (Town Council Review)	Required: Mailing notice 500-ft radius around subject site (N2).	Required	Required: Local newspaper publication	Required: Mailing notice 500-ft radius around subject site. Not Required: Town initiated
Type 7 – Legislative Action (Town Council Review)	Not Required	Not Required	Required: Local newspaper publication	Not Required
N1: When multiple parcels are included, a posting on each individual parcel is not required.				
N2: If a zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, the expanded published notice provided for in NCGS 160D-602 may be used in lieu of mailing notice.				

applications require a neighborhood meeting. Section 11.5 details the standards to comply with the UDO's neighborhood meeting requirements.

- 5. Withdrawal of UDO Application/Permit Due To Inactivity.** Petitioners/Applicants must make a complete re-submittal of UDO Application/Permit materials within 90 calendar days of issuance of written comments from the Administrator or recommendation from the Planning Board or the UDO Application/Permit will be deemed withdrawn by the Petitioner/Applicant. This applies to all review procedures unless specified otherwise in this UDO. If the petitioner/applicant cannot make a complete resubmittal within the 90 calendar day window and wishes to keep the application active, they must make a written request to the Administrator with an explanation of the reason resubmittal will be delayed. If the Administrator determines sufficient extenuating circumstances exist, a 1-time 60 day extension may be authorized. If the Petitioner/Applicant wishes for the Project to be reconsidered after the UDO Application/Permit is deemed withdrawn, a new UDO Application/Permit will be required and shall follow the entire review procedures as specified for the particular UDO Application/Permit from the beginning.

11.5 PUBLIC NOTIFICATION

- A. Applicability.** The public notification requirements herein apply to UDO Applications/Permits that are deemed quasi-judicial or legislative. Where there are potential conflicts between these notification standards and North Carolina General Statutes (and as amended), the General Statutes shall apply.
- B. Notice Schedule.** Table 11.5-A - Notice Schedule establishes the required notice for certain UDO Applications/Permits based on the review type. The Administrator shall issue notice prior to each hearing pursuant to the subsections herein – this shall also apply to any subsequent appeal hearing before a Town decision-making body (e.g., Board of Adjustment).
- C. General Notice Content and Requirements.** Where public notice is required by the Town, the notice shall include the content and be distributed pursuant to the applicable provisions of NCGS § 160D-403, 106D-403, 160D-601, and 160D-602.
- D. Site Posting Standards.**
- 1. Required Notification Type.** When required pursuant to Table 11.5-A, the Administrator shall post a Sign on the subject property in a location clearly visible from each Right-of-Way adjacent to the property.
 - 2. Required Period of Notice.** The Sign shall be posted not less than 10 days, but not more than 25 days, prior to all public hearings. The Administrator shall remove said Sign after the final public hearing occurs.
- E. Advertising Standards.**
- 1. Required Notification Type.** When required pursuant to Table 11.5-A, the Administrator shall notice the proposed UDO Application/Permit as a distinctive advertisement in a local, published newspaper of general circulation in Wake County, NC.
- F. Neighborhood Meeting Standards.**
- 1. Neighborhood Meeting Timeline/Sequencing.** When required pursuant to Tables 11.4-A and 11.5-A, the applicant shall host a neighborhood meeting prior to submitting the associated UDO Application/Permit. The neighborhood meeting shall take place no more than 12 weeks prior to the application date.
 - 2. Required Meeting Notification.**
 - a. The applicant shall notify interested parties of the neighborhood meeting through written mailing notices pursuant to Table 11.5-A.
 - b. The notice shall be sent by first class mail and be postmarked not less than 10 days, but not more than 25 days, prior to the date of the neighborhood meeting.
 - c. Prior to mailing the written notices, the applicant shall notify the Administrator of the scheduled meeting date and

- time and receive authorization from the Administrator to hold the meeting and mail the notices.
- d. Mailing notices shall be sent to all physical addresses and property owners, including property owners' associations (or equivalent) and tenants, within the required mailing notice area.
 - e. The neighborhood meeting notifications shall include the following minimum information pertaining to the application/permit:
 - i. Project and applicant names;
 - ii. Location of proposed action (i.e., address or major cross Streets);
 - iii. Description of the UDO Application/Permit;
 - iv. Time, date, and location of the neighborhood meeting. For virtual meetings, the notice shall include a weblink and Access numbers (as applicable);
 - v. The telephone number and email address to contact the applicant hosting the neighborhood meeting.
- 3. Meeting Location/Access.** The neighborhood meeting shall occur at a physical location and/or in a web-based (virtual) format.
- a. For physical meetings, the venue, whether in a Building or outside, shall be rated to accommodate at least 50 participants (pursuant to fire capacity restrictions). The venue shall be generally accessible to neighbors that reside in close proximity to location of proposed action. The applicant shall be responsible for reserving the venue/Building, obtaining all leases/approvals, and paying all applicable fees.
 - b. For web-based meetings, the applicant shall utilize readily available software that is free to Access for the public.

4. Meeting Format (Information Presented).

The applicant shall schedule a neighborhood meeting for at least a 1-hour duration. The meeting shall occur on a Monday, Tuesday, Wednesday, or Thursday and not on nationally recognized holidays. The meeting shall occur between the hours of 4:00pm and 8:00pm. At a minimum, the applicant shall orally explain the proposed UDO Application/Permit in terms of location, size, and proposed land Uses and density, and the requested action from the Town. The applicant shall solicit written and/or oral comment from the participants.

5. Neighborhood Meeting Summary Report.

The applicant shall prepare a summary report that explains the meeting format, time/location it occurred, the number of attendees/participants, and a summation of the oral/written participant comments. The applicant shall submit a copy of the neighborhood meeting summary report and proof the required notification occurred to the Administrator as part of the initial application.

11.6 ZONING MAP, COMPREHENSIVE PLAN, AND UDO TEXT AMENDMENTS

- A. Purpose and Intent.** The provisions listed in this section are intended to establish the allowances, limitations, and procedure for applicants to request amendments to the Zoning Map, Comprehensive Plan, UDO Text, and other land Use related policy documents/plans.
- B. Submittal Requirements.** Applicants shall provide the following information as part of all amendments to the Zoning Map, Comprehensive Plan, UDO Text, and/or other land Use related policy documents/plans.
 - 1. Application.** The applicant shall submit a formal application. The Administrator shall create and provide said application. The Administrator may waive any application

requirement where the type of Use or scale of Project makes providing that information unnecessary or impractical.

2. **Site Survey / Existing Conditions.** For amendments involving specific sites/properties (“site specific amendments”), the applicant shall provide a land survey depicting the existing site conditions and improvements. In lieu of a survey, applicants may submit a current aerial photograph with labeling of existing conditions and printed to scale.

3. **Project Narrative.** Applicants shall provide a Project narrative that describes the request, identifies existing conditions, and provides an analysis of the request and its consistency with the Comprehensive Plan. The Administrator shall list the narrative requirements on the application form for amendments to the Zoning Map, Comprehensive Plan, and UDO Text.

- C. **Approval Limitations.** The Town Council shall have the authority to limit its approval of the proposed amendment (e.g., lessen the land area for map amendments) to protect the interests of the surrounding area, preserve the spirit and intent of the UDO, and to promote the health, safety, enjoyment, and welfare of people residing or working in or adjacent to the property.

- D. **Procedures.** The following provisions establish the review procedures for amendments to the Zoning Map, Comprehensive Plan, UDO Text, and other land Use related policy documents/plans.

1. The Town Council shall review and take action on applications for amendments to the Zoning Map, Comprehensive Plan, and UDO Text pursuant to Table 11.4-A: Review Matrix of this Chapter.
2. When required pursuant to Tables 11.4-A and 11.5-A, the applicant shall host a neighborhood meeting and provide a neighborhood meeting summary report as part of its initial application submittal to the Town.

3. Applicants shall provide the submittal items listed in 11.6.B.
4. The Administrator will review the amendment application and provide written technical comments to the applicant based on the proposal’s compliance with the applicable UDO standards and Comprehensive Plan policies. The Administrator (through their written comments) may require revisions to the proposal to achieve compliance with the Town’s policy/regulatory documents. The applicant shall revise its submittal, as necessary, to respond to the Administrator’s comments. The Administrator will direct a staff member to write a staff report with findings and a recommendation. The Administrator will forward the revised application materials and its staff report to the Town Council for review.
5. The Town Council shall conduct a legislative public hearing. After the legislative public hearing, and prior to the consideration of an amendment to the Zoning Map, Comprehensive Plan, or UDO Text, the proposed amendment shall be forwarded to the Planning Board for review and recommendation.
6. The Planning Board shall conduct a public meeting and vote to recommend Town Council approve or deny the proposed amendment application.
7. The Town Council shall conduct a public meeting and vote to approve, approve with limitations, or deny the proposed amendment application.

11.6.1 CONDITIONAL ZONING DISTRICT (CD)

- A. **Applicability.** The provisions of this subsection establish additional submittal requirements for zoning map amendments to a Conditional Zoning District (CD).
- B. **Additional Submittal Requirements.** Applicants requesting a zoning map amendment to a Conditional Zoning District (CD) shall provide the following information with their submittal

in addition to those items required in subsection 11.6.B:

1. Design Goals. The applicant shall provide a section to the Project narrative that lists the Design Goals as provided in Section 2.4 of this UDO. The narrative shall demonstrate how the Project is consistent with those goals.

2. Plan Required. There are 2 Plan options available for Conditional Zoning Districts (CD):

a. Option 1: Development Plan or Subdivision Plan (Preliminary Plat).

A Development Plan or Subdivision Plan (Preliminary Plat) shall be tied to the Conditional Zoning District (CD).

- i. Development Plans and Subdivision Plans (Preliminary Plat) shall meet all requirements of this Chapter and UDO.
- ii. Subdivision Plans (Final Plats) shall be reviewed following the processes and procedures outlined in this Chapter.

iii. Modified Procedures.

- (a) Development Plans or Subdivision Plans (Preliminary Plat) tied to the Conditional Zoning District (CD) shall be reviewed as a Type 6 - Legislative Action.

(b) Construction Drawings.

Following approval of the Option 1 Conditional Zoning District (CD), the applicant shall prepare and submit Construction Drawings for the Development Plan or Subdivision Plan (Preliminary Plat) as a separate application to the Town pursuant to Table 11.4-A: Review Matrix and the requirements of Section 11.14.

(c) Major Subdivisions – Non-residential. Subsequent Development Plans for Lots or Outlots within a Major Subdivision – Non-residential shall be reviewed pursuant to Table 11.4-A: Review Matrix of this Chapter unless otherwise authorized by the Town Council.

b. Option 2: Master Plan. A master plan shall be tied to the Conditional Zoning District (CD).

- i. The master plan is a schematic design that is intended to illustrate the proposed layout of land Uses, Lots, Buildings, Streets, Open Spaces, and other features. The master plan shall depict the location of:
 - (a) Proposed land Uses, including the acreage for each land Use and planned density limitations for each; and
 - (b) Proposed Lots, property lines, Lot dimensions, and Building Setback lines; and
 - (c) Proposed Building locations, vehicle Parking Areas, and Loading Areas; and
 - (d) Proposed Streets (with Street dimensions), alleys, Sidewalks or sidepaths, and greenways; and
 - (e) Proposed Parks, Tree Preservation Areas, and other Open Spaces; and
 - (f) Proposed Perimeter Buffer landscaping areas including widths, materials, quantities, and design scheme; and
 - (g) Proposed primary utility line locations, sizes, and connections.

- ii. Following approval of the Option 2 Conditional Zoning District (CD), the applicant shall submit a Development Plan or Subdivision Plan (Preliminary Plat).
 - (a) Development Plans and Subdivision Plans (Preliminary Plat) shall meet all requirements of this Chapter and UDO.
 - (b) Development Plans or Subdivision Plans (Preliminary Plat) shall be reviewed and approved pursuant to Table 11.4-A: Review Matrix of this Chapter.
 - (c) Subdivision Plans (Final Plats) shall be reviewed following the processes and procedures outlined in this Chapter.
 - c. **Exceptions.** The Administrator may waive the Development Plan, Subdivision Plan (Preliminary Plat), or master plan requirement if the only purpose of the Conditional Zoning District (CD) is to modify the Use Provisions of the Base District and where the type of Use or scale of Project makes providing that information unnecessary or impractical.
 - 3. **Development Standards.** The applicant shall identify on the Development Plan, Subdivision Plan (Preliminary Plat), or master plan the Development Standards of the Base District that apply to all developments within the Project boundaries. The Development Standards shall identify any Development Standard and/or land Use provision modified from the Base District standard subject to the provisions in Section 2.4 of this UDO.
 - 4. **Design Manual.** When not otherwise required by this UDO, the Conditional Zoning District (CD) shall include Building and site design standards in a design manual. The manual shall illustrate Building and site design standards, architectural styles, and color and material specification for design compatibility and consistency within the Conditional Zoning District (CD). The design standards shall coincide with or exceed the Town's design standards pursuant to Chapter 8 of this UDO unless otherwise modified to align with the Town's Land Use and Character goals and provide for exceptional design equal or greater to the Base District requirements.
 - 5. Additional special limitations and/or conditions may also be proposed by the applicant in writing and incorporated into the application. Site-specific commitments shall be limited to those that address the conformance of the Project and Use of the site, per the Comprehensive Plan, Ordinance regulations, and/or the impacts reasonably expected to be generated by the Project or Use of the site.
- C. Modifications to Approved Conditional Zoning Districts (CD)**
- 1. Conditional Zoning Districts (CD) shall adhere to approved Development Plans or Subdivision Plans (Preliminary Plats), or master plans, special limitations and/or conditions. Modifications to Development Plans or Subdivision Plans (Preliminary Plat), or master plans, special limitations and/or conditions will require a new application for a Zoning Map Amendment unless an approved Minor Modification, Administrative Adjustment, or Variance is approved to allow the change.
 - 2. **Minor Modifications.** Minor Modifications to approved Development Plans or Subdivision Plans (Preliminary Plat), or master plans, tied to a Conditional Zoning District (CD) are limited to those Minor Modifications established in Section 11.16 of this UDO, except that any changes that increase the Density of the Project, change allowed Uses, or conflict with special limitations and/or conditions cannot be considered through a Minor Modification and shall require a new application for a Zoning Map Amendment.
 - 3. If multiple parcels of land are subject to a Conditional Zoning District (CD), the owners of individual parcels may apply for

modification so long as the modification would not result in other properties failing to meet the terms of the Conditional Zoning District (CD). Any modifications approved apply only to those properties whose owners petition for the modification.

11.7 ANNEXATION

- A. General.** The Town Council may annex property into the corporate limits in accordance with NCGS §160A-31, §160A-55, §160A-58.1, and §160A-58.7
- B. Voluntary Annexation Requirement.** An applicant shall submit a voluntary annexation petition (or equivalent thereof) concurrent with any UDO Application/Permit other than a Comprehensive Plan or Zoning Map amendment. The Town Council may later process the annexation when the property is eligible for inclusion in the Town Corporate limits pursuant to NCGS §160A-31.
 - 1. Waiver of Voluntary Annexation.** Where a property owner determines that conformance with the voluntary annexation requirements would create an unreasonable hardship or burden, a request for a waiver may be submitted to the Administrator. The request will be reviewed by the Town Manager who may grant a waiver of the requirements after considering the following factors:
 - a. The property is less than 50% contiguous to the Corporate Town Limits;
 - b. The property is not within a reasonable distance to connect to municipal water and/or sewer; and/or
 - c. The property does not gain Access from a Town maintained roadway.

11.8 UDO PERMITS

- A. Applicability.** The provisions of this section apply to the UDO Applications/Permits that are subject to the review and decision-making bodies pursuant to Table 11.4-A: Review Matrix.

- B. UDO Permits.** The following provisions apply to UDO Permits and their associated requirements.

- 1. General.** A UDO Permit shall be required prior to the alteration, change, expansion, placement, construction, or location of any Building, Structure, improvement, Sign, or land Use activity unless specifically exempted by this UDO. The Administrator may use a Building Permit and its associated review procedures to constitute a UDO Permit for activities that are subject to a Type 1 Review pursuant to Table 11.4-A.
- 2. Conditions for Issuance of a UDO Permit.** The Administrator shall not issue a UDO Permit or other permit for any Building, Structure, improvement, Sign or Use of land to be altered, changed, placed, erected, or located, unless:
 - a. The Building, Structure, improvement, Sign or Use and its location conform to the provisions of this UDO;
 - b. Sufficient infrastructure and utility improvements have been installed to protect the public health, safety and welfare;
 - c. The Lot/parcel has water and sanitary service pursuant to this UDO and Wake County Public Health and Medical Services (or equivalent) standards; and
 - d. The development activity occurs on a legal Lot of Record; and
 - e. The application obtained an approval or approval with conditions pursuant to the decision-making body outlined in Table 11.4-A: Review Matrix.
- 3. UDO Permit Required.** Notwithstanding the generality of the previous section, a UDO Permit shall be required for the following:
 - a. Any new construction or addition to a Building or Structure which includes a foundation or provides additional usable space for a Permitted Use;

- b. Any new or expanded Parking Area; Loading Area; interior Access Drive; or Interior Access Driveway;
 - c. Any new or expanded Sign or Sign Structure;
 - d. Any expanded Sign Surface Area or change of Sign Surface Area to include or increase any Changeable Copy Sign;
 - e. Any additional impervious surface and/or Sidewalk coverage;
 - f. Any in-ground Swimming Pool or above ground Swimming Pool able to be mechanically filtered or able to hold or contain water over 24 inches in depth;
 - g. Any fence, except for fences accessory to any individual Detached Dwelling or Attached Dwelling;
 - h. Any changes to landscaping plan that is a part of an associated UDO Application/Permit for the property; and
 - i. Any removal of a tree or vegetation that is otherwise protected by this UDO or development approval.
4. **UDO Permit Exemptions.** No UDO Permit shall be required for minor repairs or alterations to Buildings, Structures, improvements, or Signs where:
- a. No increase in Finished Floor Area or usable space is created;
 - b. No increase in any dimension of any portion (including but not limited to Changeable Copy) of a Sign is created; and
 - c. All proposed improvements comply with the required Front, Side, and Rear Setback requirements of the applicable District.
5. **Duration of UDO Permits.** Unless otherwise specified in this Chapter, an UDO Permit shall be valid for 6 months after date of issuance. The Administrator shall have the power to extend the period of validity of any UDO Permit 1 or more times,

provided, however, the total time period of all extension(s) shall not exceed 1 year.

6. **Public or Semi-Public Water and Sanitary Sewer Required.** An application for a UDO Permit for any Building, Structure, improvement, or Use shall not be approved until it has been ascertained by the Administrator that:
- a. The proposed Building, Structure, improvement, or Use will be served by a public or semi-public water and sanitary sewer system; or,
 - b. The proposed Building, Structure, improvement, or Use will be served by a water system and septic system, or other method of sanitary waste disposal approved by all required authorities; or
 - c. The proposed Use is preservation or storage in nature and would not generate a need for water and sanitary sewer service.
7. **Record of UDO Permits.** A record of all UDO Permits shall be kept on file in the Development Services Department and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the Building or land affected and shall be available for public inspection. Said records shall also be provided to the Town Clerk.
8. **Revocation.** The Administrator may revoke a UDO Permit for construction, development, or land Use activities that occur in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval. In these situations, the Administrator shall provide notice of the revocation to the permit applicant by posting a notice or revocation on the property; personal service; certified mail; or, registered mail, return receipt requested. The Administrator shall exercise the enforcement powers pursuant to Chapter 6, Division 2 of the Code of Ordinances.

C. UDO Permit Application and Approval Requirements.

1. **Application.** The Administrator shall create a formal application and list the associated submittal requirements so that applicants provide enough information for the Administrator and the decision-making bodies to conduct a thorough review to determine compliance with this UDO. An applicant shall file a complete application with the required submittal items with the Administrator.
2. **Additional Submittal Requirements.** The applicant shall provide the additional submittal items for the specific application/permit type as may be listed in the subsequent sections of this Chapter (e.g., **Development Plans require a plan set**).
3. **Review Procedure.** The Administrator will review and process the application/permit pursuant to Table 11.4-A: Review Matrix. The final decision-making body therein will take action on the application. If the application/permit receives an approval or approval with conditions from the final decision-making body, the applicant may advance the Project to the next associated UDO Permit process.

11.8.1 CERTIFICATE OF UDO COMPLIANCE

- A. **Certificate Requirement.** The Administrator shall issue a Certificate of UDO Compliance before a Building or expansion is constructed, sites are graded, Streets are constructed, and/or a Use is established or expanded on a property pursuant to the allowances and limitations of this UDO. The Administrator shall not issue a Certificate of Occupancy until receipt of a Certificate of UDO Compliance has occurred. Activities specifically exempt from a UDO Permit and listed 11.8.B.4 are not required to obtain a Certificate of UDO Compliance.
- B. **Issuance Procedures.**
 1. **Timeline.** Within 3 business days of completion of work on the proposed

Building, Structure or Use, the applicant for an UDO Permit shall notify the Administrator of the completion of work authorized by the UDO Permit.

2. **Inspections.** The Administrator shall schedule and conduct an inspection of the premises to determine whether the site development, construction, and/or land Use activity comply with the provisions of this UDO and the associated UDO Permit.
3. **Issuance Provision.** The Administrator shall issue a Certificate of UDO Compliance where the proposed Building, Structure or Use has been developed, located, or to be Used in accordance with the provisions of this UDO and the associated UDO Permit.
 - a. **Minor Outstanding Improvements.** An applicant may issue a construction guarantee (e.g., performance bond and/or letter of credit) to the Town pursuant to subsection 11.14.1 of this Chapter where only minor requirements of the associated UDO Permit have not been met at the time of inspection to progress the Project towards completion and to obtain a Certificate of UDO Compliance.

11.9 SKETCH PLAN

- A. **Purpose and Intent.** The provisions of this section are intended to create a pre-submittal process for applicants to seek guidance and preliminary Development Review Committee review pertaining to a proposed land Use and/or development/Subdivision activity prior to making a formal submittal for a UDO Application/Permit. The process will allow the Development Review Committee to review applicant's preliminary land Use and development design ideas and provide recommendations (or refinements thereto) that would direct the proposal towards full compliance with this UDO and the Town's Comprehensive Plan. The Sketch Plan process is intended to be a recommendation in nature and

will not constitute a binding decision relating to the associated Project.

- B. Applicability.** The provisions of this section are applicable when an applicant files an application for Sketch Plan review.
- 1. Required Situations.** A Sketch Plan review may be required for certain UDO Applications/Permits pursuant to Table 11.4-A: Review Matrix of this Chapter. When required, a Sketch Plan shall be submitted prior to a formal application for the associated UDO Permit.
 - 2. Optional Situations.** All applicants are permitted to request a Sketch Plan review for any land Use, development, or Subdivision Project. In those situations, the applicant shall request a Sketch Plan review prior to a formal application submitted for the associated UDO Permit.
- C. Review and Application Procedures.**
- 1. Review Process.** A Sketch Plan shall be reviewed by the Development Review Committee as part of a Type 0 Review pursuant to Table 11.4.-A: Review Matrix in this Chapter.
 - 2. Submittal Requirements.** Applicants shall file an official application to the Administrator including all supplemental materials listed therein. This may include a conceptual drawing or other graphic depiction of the proposed site improvements.
 - 3. Development Review Committee Review.** The Development Review Committee shall review the Sketch Plan pursuant to the relevant UDO sections, the Comprehensive Plan, and/or other Town policy documents/ordinances in reaching a determination. Any and all discussion, comment, or opinion presented at a Development Review Committee meeting regarding proposed UDO Applications/Permits are not to be construed as a recommendation of Town staff, the Planning Board, the Board of Adjustment, or Town Council to approve or deny any proposed Project at time of official determination.

11.10 DEVELOPMENT PLANS

- A. General.** The provisions of this subsection apply to all UDO Applications/Permits involving a Development Plan. Applicable decision-making bodies are listed in Table 11.4-A: Review Matrix of this Chapter (based on the site location, Project size and/or development intensities).
- B. Land Connection and Duration.**
1. Approved Development Plans shall be granted to the properties that are the subject of the application (not the individual).
 2. A Development Plan approval is valid for a period of 12 months after the date of approval. Such 12 month period shall be administered as follows:
 - a. Single Phase or Section Project or Subdivision.** Construction Drawings for a single phase or section Project or Subdivision shall be submitted not more than 12 months after the date on which the Development Plan was approved.
 - b. Multiple Phase or Section Project or Subdivision.** Construction Drawings for the first phase or section of a Project or Subdivision shall be submitted not more than 12 months after the date on which the Development Plan was approved. The construction drawing deadline for submitting any subsequent phase or section of such Project or Subdivision shall be 12 months from the date of the most recent Certificate of Occupancy or the date of recording of the most recent Final Plat for any preceding phase or section of such Project or Subdivision.
 - c. Extensions.** The Town Council may extend said approval by up to 1 year, but in 6-month increments, where the applicant requests an extension and demonstrates a compelling reason for such delay. Compelling justification may include, but not limited to, delays in Building Permit review, disasters, and local contractor/materials shortages.

C. Activities Requiring a Development Plan. The following development and site modification activities require a Development Plan and associated approvals. The provisions herein do not exempt an applicant from the Town's Building Permit standards.

1. All new Buildings and construction and additions and expansions to existing Buildings, Structures, or pavement, except:
 - a. Individual Detached Dwellings and Attached Dwellings involving up to 3 contiguous units are exempt from Development Plan requirements.
 - b. Accessory Uses/Structures that are associated with a Detached or Attached Dwelling Unit are exempt from Development Plan requirements.
2. All development activities that require new or modified stormwater management facilities.
3. All new roadways and Streets.
4. All mining and excavation activities that meet the thresholds for a Special Use Permit.

D. Development Plan Submittal Requirements.

1. **Application.** The applicant shall prepare and submit a formal application detailing the site location, ownership, and proposed land Use/development activities. The Administrator shall create and provide the formal applications including the required submittal items.
2. **Plan Set.** Applicants shall provide a series of plan sheets to depict the proposed construction and site improvement elements of the Project and to show compliance with this UDO. The Administrator shall list the plan set requirements on the application form for Development Plans.
3. **Associated Studies.** The applicant shall submit associated studies that may be warranted for the proposed development/land Use activities as listed on the application. The required studies may be identified in a Sketch Plan review (pre-submittal meeting) prior to application submittal. Associated studies may include,

but are not limited to, storm reports, traffic studies, and similar technical information.

4. Development Plan Preparation.

Development Plan elements shall be prepared pursuant to the following:

- a. Property surveys and new legal descriptions shall be prepared by a licensed professional surveyor to conduct work in the State of North Carolina.
 - b. Development Plans, grading plans, utility plans, and similar plans shall be prepared by a licensed civil engineer to conduct work in the State of North Carolina.
 - c. Architectural elevations shall be prepared by a licensed architect to conduct work in the State of North Carolina.
 - d. Tree preservation plans shall be prepared by a licensed landscape architect or certified arborist to conduct work in the State of North Carolina.
- 5. Criteria.** For Development Plans processed and reviewed pursuant to a Type 5 - Quasi-judicial Action, the applicant shall provide a written response to each of the review criteria.

E. Review Criteria. For Type 5 - Quasi-judicial Actions, the decision-making body shall consider the following review criteria in determining whether to approve, approve with conditions, or deny a Development Plan. These criteria shall be used to evaluate whether the proposal will cause significant adverse impacts on adjacent properties.

1. **Criterion 1:** The land Uses and development intensity of the proposed Project will not have significant adverse impacts on adjacent properties and are consistent with the character of the Zoning District and the land Uses authorized therein.
2. **Criterion 2:** The proposed Project provides for the preservation, improvement, and/or enhancement of Open Spaces and provides sufficient land dedicated for public Parks or an equivalent fee-in-lieu.
3. **Criterion 3:** The proposed layout of Streets, Lots, utilities, water metering, and public

improvements, and their relation to the topography of the land, reflect a design which can be economically served by the Town with public services and facilitates the Use and future development of adjacent properties.

4. **Criterion 4:** The proposed Building or site design enhances the public realm, maximizes natural surveillance and visibility, facilitates pedestrian Access and circulation, and reinforces the Town's character.
5. **Criterion 5:** The design of the Project furthers the goals and policies of the Comprehensive Plan.

F. Development Plan Procedures. The following provisions establish the required procedures for Development Plans.

1. Table 11.4-A: Review Matrix of this Chapter shall specify the decision-making body for the proposed Development Plan.
2. The applicant shall host a neighborhood meeting pursuant to 11.5.F of this Chapter and provide a Neighborhood Meeting Report as part of its initial application submittal to the Town.
3. The applicant shall submit a Development Plan that demonstrates full compliance with the provisions of the UDO.
4. The Administrator will review the Development Plan and provide written technical comments to the applicant based on the Development Plan's compliance with the applicable UDO standards. The Administrator (through their written comments) may require revisions to the Development Plan to achieve compliance with the UDO. The applicant shall revise said Development Plan to respond to The Administrator's comments.
5. The Administrator will write a staff report with findings and a recommendation. The Administrator will forward the revised Development Plan and staff report to the decision-making body for action.
6. For Type 2a – Administrative Actions, the decision-making body will vote to approve,

approve with conditions, or deny the application. For Type 5 - Quasi-judicial Actions, the decision-making body will conduct a quasi-judicial public hearing, obtain public and expert testimony, and then take action on the application. The decision-making body will vote to approve, approve with conditions, or deny the application.

7. The applicant shall prepare and submit Construction Drawings as a separate application to the Town pursuant to Table 11.4-A: Review Matrix and the requirements of Section 11.14.
8. Future development, Building/site alterations, and land Use activities on the subject site shall be consistent with the approved Development Plan application and any associated conditions of approval. In the event, the Development Plan is denied by the decision-making body, the applicant shall only develop or Use the property as allowed by this UDO – this may require new applications.

11.11 SUBDIVISION AND RECOMBINATION ACTIVITIES

- A. General.** The provisions of this section establish the allowances, limitations, submittal requirements, and review procedures for Subdivisions and Lot reconfiguration activities that result in new or modified Lots, parcels, and/or tracts.
- B. Land Connection and Duration.**
 1. Approved Subdivision and Lot reconfiguration applications shall be granted to the properties that are the subject of the application (not the individual).
 2. Approved Subdivision and Lot reconfiguration applications expire 12 months after the date the approval is granted if a Final Plat or other applicable legal instruments are not recorded with Wake County and/or if Building Permits have not been issued. For multi-phased Projects, the expiration shall only apply to the initial

development phase. Applicants shall apply for and obtain associated Building Permits within this timeframe. The Town Council may extend said approval by 1 year where the applicant requests an extension and demonstrates a compelling reason for the delay. Compelling justification may include, but is not limited to, delays in Building Permit review, County records processing, disasters, and local contractor/material shortages.

C. Submittal Requirements.

1. **Application.** The applicant shall prepare and submit a formal application detailing the site location, ownership, and proposed Subdivision activities. The Administrator shall create and provide the formal applications including the required submittal items.
2. **Plan Set.** Applicants shall provide a Subdivision plan that depicts the proposed Lot configurations, tracts, easements, and Rights-of-Way, as applicable, to show compliance with this UDO. The Administrator shall list the plan set requirements on the application form for Subdivisions.
3. **Subdivision Plan Preparation.** Subdivision Plan elements shall be prepared pursuant to the following:
 - a. Property surveys and new legal descriptions shall be prepared by a licensed professional surveyor to conduct work in the State of North Carolina.
 - b. Development Plans, grading plans, utility plans, and similar plans shall be prepared by a licensed civil engineer to conduct work in the State of North Carolina.
 - c. Architectural elevations shall be prepared by a licensed architect to conduct work in the State of North Carolina.
 - d. Tree preservation plans shall be prepared by a licensed landscape architect or certified arborist to conduct work in the State of North Carolina.

4. **Criteria.** For Major Subdivisions processed and reviewed pursuant to a Type 5 - Quasi-judicial Action, the applicant shall provide a written response to each of the review criteria.

D. Review Criteria.

For Type 5 - Quasi-judicial Actions, the decision-making body shall consider the following review criteria in determining whether to approve, approve with conditions, or deny a Major Subdivision. These criteria shall be used to evaluate whether the proposal will cause significant adverse impacts on adjacent properties.

1. **Criterion 1:** The land Uses and development intensity of the proposed Project will not have significant adverse impacts on adjacent properties and are consistent with the character of the Zoning District and the land Uses authorized therein.
2. **Criterion 2:** The proposed Project provides for the preservation, improvement, and/or enhancement of Open Spaces and provides sufficient land dedicated for public Parks or an equivalent fee-in-lieu.
3. **Criterion 3:** The proposed layout of Streets, Lots, utilities, water metering, and public improvements, and their relation to the topography of the land, reflect a design which can be economically served by the Town with public services and facilitates the Use and future development of adjacent properties.
4. **Criterion 4:** The proposed Building or site design enhances the public realm, maximize natural surveillance and visibility, facilitates pedestrian Access and circulation, and reinforces the Town's character.
5. **Criterion 5:** The design of the Project furthers the goals and policies of the Comprehensive Plan.

11.11.1 MAJOR SUBDIVISIONS (RESIDENTIAL & NON-RESIDENTIAL)

- A. **Applicability.** The provisions of this subsection apply to new Major Subdivisions that will result in 5 or more residential Lots, 2 or more non-

residential Lots, and/or include new Streets/roadways.

B. Major Subdivisions (Plats) Two-Part Review Process. Major Subdivisions and the associated Plats shall be reviewed in a two-part process as follows:

1. Preliminary Plats.

- a. Preliminary Plats are required prior to Plat approval and recording. Preliminary Plats illustrate the proposed parcels, tracts, Lots, Rights-of-Way, and easements. Preliminary Plats shall reflect the standards outlined in Chapters 7 and 8 of this UDO, Town Engineering Design and Construction Standards, and applicable State of North Carolina laws.
- b. The review process and final decision-making body for Preliminary Plats are defined in Table 11.4-A: Review Matrix listed in this Chapter.
- c. A Preliminary Plat (Major Subdivision) application shall be reviewed concurrently with an associated Development Plan application/permit.

2. Final Plats.

- a. Final Plats include the legally adopted instruments that establish the new Plat. Final Plats are prepared and processed after the Town's decision-making body approves the Preliminary Plat, the associated Development Plan (as applicable), and any required site improvements are completed or committed by a construction guarantee (e.g., Streets, utilities) pursuant to the associated Construction Drawings.
- b. Final Plats shall be approved by the Administrator (Type 1 Review) and as defined in Table 11.4-A: Review Matrix listed in this Chapter.
- c. The Administrator shall direct the Plat Review Officer to record the Plat with Wake County.

C. Major Subdivisions (Plat) Procedures. The following provisions establish the required procedures for Major Subdivisions:

1. Table 11.4-A: Review Matrix of this Chapter shall specify the decision-making body for the proposed Major Subdivision.
2. The applicant shall host a neighborhood meeting pursuant to 11.5.F of this Chapter and provide a Neighborhood Meeting Report as part of its initial application submittal to the Town.
3. The applicant shall submit a Preliminary Plat that demonstrates full compliance with the provisions of the UDO.
4. The Administrator will review the Preliminary Plat and provide written technical comments to the applicant based on the Plat's compliance with the applicable UDO standards. The Administrator (through their written comments) may require revisions to the Preliminary Plat to achieve compliance with the UDO. The applicant shall revise said Plats to respond to the Administrator's comments. The Administrator will write a staff report with findings and a recommendation. The Administrator will forward the revised Plat and staff report to the decision-making body for action.
5. The decision-making body will conduct a quasi-judicial public hearing, obtain public and expert testimony, and then take action on the application. The decision-making body will vote to approve, approve with conditions, or deny the application.
6. The applicant shall prepare and submit Construction Drawings as a separate application to the Town pursuant to Table 11.4-A: Review Matrix and the requirements of Section 11.14.
7. Future Subdivision activity, development, and land Use activities on the subject site shall be consistent with the approved Preliminary Plat, an associated Development Plan and any conditions of approval, and the approved Construction Drawings. In the event the Major Subdivision/Preliminary Plat is denied by the decision-making body, the applicant shall only develop or Use the

property as allowed by this UDO – this may require new applications.

8. After associated (and required) site improvements are completed pursuant to the associated Construction Drawings, the applicant shall prepare and submit a Final Plat application for Type 1 review to the Town. Alternatively, the applicant may choose to institute a construction guarantee for the site improvements in lieu of construction; in those situations, the applicant may apply for Final Plat approval.

- a. **Administrator Review.** The Administrator shall review the Final Plat against the applicable UDO standards and associated Preliminary Plat approval and confirm the associated site improvements have been completed (or secured through a construction guarantee). The Administrator will provide written comments to the applicant; the applicant will revise the Final Plat materials as applicable.
- b. **Town Plat Review Officer.** The Administrator will transmit the Final Plat and its findings to the Plat Review Officer. The Plat Review Officer will certify that a proposed Final Plat meets all statutory requirements for recording with Wake County.

11.11.2 MINOR RESIDENTIAL SUBDIVISIONS

- A. **Applicability.** The provisions of this subsection apply to new minor residential Subdivisions that will result in 4 Lots/parcels or less AND do not involve new Streets/roadways (e.g., subdividing land along an existing roadway).
- B. **Minor Residential Subdivisions Procedures.** The following provisions establish the required procedures for minor residential Subdivisions.
 1. The Administrator shall review and take action on minor residential Subdivision proposals pursuant to Table 11.4-A: Review Matrix of this Chapter as a Type 1 Review.
 2. Applicants shall prepare a proposed land survey document that graphically illustrates the proposed Subdivision activities in terms

of Lot Lines and easements. The applicant shall provide proposed legal descriptions for each proposed Lot, tract, and easements (if applicable).

3. The Administrator will review the minor residential Subdivision application and provide written technical comments to the applicant based on the plan's compliance with the applicable UDO standards. The Administrator (through written comments) may require revisions to the Subdivision proposal to achieve compliance with the UDO. The applicant shall revise said Subdivision plan to respond to Administrator comments. The Administrator may approve, approve with conditions, or deny the application.
4. Future Subdivision activity shall comply with the approved Subdivision plan in terms of Lot Line locations and easements.
5. The applicant shall record the approved Subdivision plan and associated legal descriptions with Wake County.
6. The applicant (or subsequent property owners) shall not further subdivide any portion of the subject land as a Minor Residential Subdivision for a period of 3 years from the date the plan is recorded with the County. However, the land may be further subdivided within this timeframe only as a Major Subdivision pursuant to subsection 11.11.1. of this Chapter.

11.11.3 EXEMPT SUBDIVISIONS

- A. **Applicability.** The provisions of this subsection apply to exempt Subdivision activities/situations as described below and pursuant to NCGS §160D-802:
 1. The combination or recombination of portions of previously subdivided and recorded Lots where the total number of Lots is not increased and the resultant Lots are equal to or exceed the standards of this UDO.
 2. The division of land into parcels greater than 10 acres where no Street Right-of-Way dedication is involved.

3. The public acquisition by purchase of strips of land for the widening or opening of Streets or for public transportation system corridors.
4. The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 Lots, where no Street Right-of-Way dedication is involved and where the resultant Lots are equal to or exceed the standards of this UDO.
5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

B. Procedures. The following provisions establish the required procedures for exempt Subdivisions.

1. The Administrator shall review and take action on exempt Subdivisions pursuant to Table 11.4-A of this Chapter as a Type 1 Review.
2. Applicants shall prepare a proposed land survey document that graphically illustrates the proposed Lot amendment or Subdivision activities in terms of Lot Lines and easements. The applicant shall provide proposed legal descriptions for each proposed Lot and easements (if applicable).
3. The Administrator will review the Exempt Subdivision application and provide written technical comments to the applicant based on the proposal's compliance with the applicable UDO standards. The Administrator may require revisions to the proposal to achieve compliance with the UDO. The applicant shall revise said property diagram to respond to the Administrator's comments. The Administrator will approve the application when the applicant demonstrates full compliance with applicable UDO provisions.
4. Future Subdivision activity and Lot modifications shall comply with the approved application in terms of Lot Line locations and easements.
5. The applicant shall record the approved property diagram (or land survey documents)

and associated legal description(s) with Wake County.

11.12 SPECIAL USE PERMITS

- A. Applicability.** The provisions of this section shall apply to new Uses or expansions of existing Uses that are listed as "Special Use Permits" or "SUP" on Table 3.2.A – Table of Permitted Uses of this UDO.
- B. Submittal Requirements.** Applicants shall provide the following information as part of all Special Use Permit applications.
 1. **Application.** The applicant shall submit a formal application; the Administrator shall create and provide said application.
 2. **Plan Set.** Applicants shall provide a Development Plan pursuant to Section 11.10 as part of the Special Use Permit application where site improvements are proposed in concert with the Special Use Permit request.
 3. **Criteria.** The applicant shall provide a written response to each of the review criteria listed in this subsection.
- C. Review Criteria.** The decision-making body shall consider the following review criteria in determining whether to approve, approve with conditions, or deny the Special Use Permit. These criteria shall be used to evaluate whether the proposal will cause adverse impacts on adjacent properties.
 1. **Criterion 1:** The proposed Use will not be injurious to the public health, safety, comfort, convenience, or general welfare;
 2. **Criterion 2:** The proposed Use will not injure or adversely affect the adjacent area;
 3. **Criterion 3:** The proposed Use will be consistent with the character of the District, land Uses authorized therein, and the Comprehensive Plan;
 4. **Criterion 4:** The proposed Use shall conform to all Development Standards of the applicable District (unless a Variance or Administrative Adjustment is issued for said standard);

5. **Criterion 5:** Roadways, Access Drives, and/or Driveways are or will be sufficient in size and properly located to: ensure automotive,, bicyclist, and pedestrian safety and convenience, traffic flow as set forth in this UDO and, control and Access in case of fire or other emergency;
 6. **Criterion 6:** The location and arrangement of the Use on the site, screening, buffering, landscaping, and pedestrian accessways harmonize with adjoining properties and the general area and minimize adverse impacts; and,
 7. **Criterion 7:** The type, size, and intensity of the proposed Use (including but not limited to such considerations as the hours of operation and numbers of people who are likely to utilize or be attracted to the Use) will not have significant adverse impacts on adjoining properties or the neighborhood.
- D. Approval Conditions.** The decision-making body shall have the authority to impose conditions as deemed necessary to protect the interests of the surrounding area, preserve the spirit and intent of the UDO, and to promote the health, safety, enjoyment, and welfare of people residing or working in or adjacent to the property.
- E. Procedures.** The following provisions establish the review procedures for Special Use Permit applications.
1. The decision-making body shall review and take action on Special Use Permit applications pursuant to Table 11.4-A: Review Matrix of this Chapter as a Type 3 Review.
 2. Applicants shall provide the submittal items listed in 11.12.B of this Chapter.
 3. The Administrator will review the Special Use Permit application and provide written technical comments to the applicant based on the proposal's compliance with the applicable UDO standards and the review criteria. The Administrator (through their written comments) may require revisions to the proposal to achieve compliance with the UDO. The applicant shall revise its submittal to respond to the Administrator's comments. The Administrator will direct a staff member to write a staff report. The Administrator will forward the revised application materials and its staff report to the decision-making body for action.
 4. The decision-making body shall conduct a public hearing and vote to approve, approve with conditions, or deny the Special Use Permit application.
- F. Associated Development Plans.** Special Use Permit proposals that include site improvements (e.g., roads, utilities, Buildings, etc.) shall include an associated Development Plan application pursuant to Section 11.10 in this Chapter. Associated Development Plans may be reviewed concurrently with the Special Use Permit application.
- G. Land Connection and Duration.**
1. Approved Special Use Permits shall be granted to the properties that are the subject of the application, not the applicant.
 2. In general, a Special Use Permit approval is valid for a period of 12 months after the date of approval; except for wireless facilities which is valid for 24 months.
 - a. Extensions. A written extension of the 12 month time limit may be granted by the Town Council, if the applicant requests in writing on or before the 12 month anniversary of the Special Use Permit approval. Extensions of time, in 6 month increments not to exceed a total of 1 year, for submitting Construction Drawings may be granted by the Town Council for good cause.

11.13 VARIANCES AND ADMINISTRATIVE ADJUSTMENTS

- A. Applicability.** The provisions of this section establish the allowances, limitations, and procedures for applicants to seek deviations and modifications from certain dimensional and design standards of this UDO as a Variance or Administrative Adjustment. The Town may

grant a Variance or administrative adjustment where the subject site, existing improvements, and/or applicant has a unique situation that results in a hardship for property Use or development.

1. **Variations.** Variations include a process where applicants may seek deviations and/or modifications from certain UDO dimensional and/or design standards. Variations may be approved through a formal application and approval before the Board of Adjustment in a public hearing format. Subsection 11.13.1 establishes requirements, allowances, and limitations for Variance requests.
2. **Administrative Adjustments.** Administrative adjustments include a process where applicants may seek minor and limited reductions from certain UDO dimensional and/or design standards. Administrative adjustments may be approved through a formal application and approval from the Administrator. Subsection 11.13.2 establishes the requirements, allowances, and limitations for administrative adjustment requests.

B. Prohibited activities. The Town may not grant a Variance or administrative adjustment for any of the following.

1. Density and Building intensity limitations of this UDO and the Comprehensive Plan.
2. District land Use restrictions pursuant to Table 3.2.A – Table of Permitted Uses of this UDO.
3. Review and procedural requirements of this UDO.
4. Any condition of approval imposed upon the property/development as part of an associated UDO Application/Permit (e.g., Special Use Permit, Conditional Zoning District (CD)).
5. State and federal regulations, whereas any deviations from said standards shall be sought through the associated government agency.
6. Environmental permits and riparian modifications relating to Chapter 8 of the

Code of Ordinances – those situations are processed as a Type 2b Review pursuant to Table 11.4-A: Review Matrix.

C. Submittal Requirements. Applicants shall provide the following information as part of all Variance and administrative adjustment requests.

1. **Application.** The applicant shall prepare and submit a formal application detailing the site location, ownership, and proposed development activities. The Administrator shall create and provide the formal applications including the required submittal items.
2. **Plan Diagram.** Applicants shall provide a plan diagram that depicts the proposed development activity. The Administrator shall list the plan diagram requirements on the application form.
3. **Review Criteria.** The applicant shall provide a written response to each of the review criteria listed in this section.

D. Review Criteria. The decision-making body shall consider the following criteria in determining whether to approve, approve with conditions, or deny the Variance or administrative adjustment application. These criteria shall be used to evaluate whether an applicant has an unnecessary hardship imposed by unique site characteristics, development patterns, or similar condition.

1. **Criterion 1.** Unnecessary hardship would result from the strict application of this UDO. It is not necessary to demonstrate that, in the absence of the Variance/ administrative adjustment, no reasonable Use can be made of the property.
2. **Criterion 2.** The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the public, may not be the basis for granting a Variance/ administrative adjustment. Whereas, a Variance/administrative adjustment may be granted when necessary and appropriate to

make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. **Criterion 3.** The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a Variance/administrative adjustment is not a self-created hardship.
4. **Criterion 4.** The requested Variance/administrative adjustment is consistent with the spirit, purpose, and intent of this UDO such that public safety is secured, and substantial justice is achieved.

E. Approval Conditions. The decision-making body shall have the authority to impose conditions as deemed necessary to protect the interests of the surrounding area, preserve the spirit and intent of the UDO, and to promote the health, safety, enjoyment, and welfare of people residing or working in or adjacent to the property.

F. Land Connection.

1. Approved Variances/administrative adjustments shall be granted to the properties that are the subject of the application (not the individual).

11.13.1 VARIANCES

- A. Variance Allowances.** Applicants may request Variances to the dimensional standards listed in this UDO unless specifically prohibited in subsection 11.13.B herein.
- B. Procedures.** The following provisions establish the review procedures for Variance applications.
 1. The decision-making body shall review and take action on Variance applications pursuant to Table 11.4-A: Review Matrix of this Chapter.
 2. Applicants shall provide the submittal items listed in 11.13.C of this Chapter.
 3. The Administrator will review the Variance application and provide written technical comments to the applicant based on the proposal's compliance with the applicable

UDO standards and the review criteria. The Administrator (through their written comments) may require revisions to the proposal to achieve compliance with the UDO. The applicant shall revise its submittal to respond to the Administrator's comments. The Administrator will direct a staff member to write a staff report. The Administrator will forward the revised Variance application materials and its staff report to the decision-making body for action.

4. The decision-making body shall conduct a public hearing and vote to approve, approve with conditions, or deny the Variance request.
5. The decision-making body may review and take action on Variance requests as a quasi-judicial action that are associated with a concurrent quasi-judicial UDO Application/Permit pursuant to Table 11.4-A: Review Matrix of this Chapter.

11.13.2 ADMINISTRATIVE ADJUSTMENTS

A. Administrative Adjustments.

1. The Administrator is authorized to approve requests that deviate from required Setbacks set forth in this Ordinance by up to 10 percent of the required Setbacks or 24 inches, whichever is greater, upon determination that 1 or more of the following conditions exists:
 - a. There are site or structural conditions that preclude strict adherence to the Setback requirements, including but not limited to: the Lot does not meet the dimensional standards established for the Zoning District in which it is located; the Lot has topographic limitations that require placement of the Structure into the required Setback area; or the Structures is physically in line with an existing, legally established wall or walls of a principle Structure already within the Minimum Setback area.
 - b. The part of the proposed Structure that encroaches into the Minimum Setback area is necessitated by a

life-safety Ordinance, flood hazard reduction, Americans with Disabilities Act standard or other public safety Ordinance requirements.

- c. The proposed Structure will allow the preservation of significant existing vegetation.
 - d. A good faith error was made in the location of a Building foundation due to either construction or survey error.
2. The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory, and the Administrator may decline to make such modification. In the event this occurs, the applicant shall have the right to submit an application to the Board of Adjustment to grant a Variance to these requirements.
 3. Nothing in this section shall be construed as limiting the Administrators' duties and rights under this Chapter, or an applicant's right to appeal the decision of the Administrator to the Board of Adjustment.

B. Procedures. The following provisions establish the review procedures for administrative adjustments.

1. The Administrator shall review and take action on Administrative Adjustment applications pursuant to Table 11.4-A: Review Matrix of this Chapter as a Type 1 Review.
2. Applicants shall provide the submittal items listed in Section 11.13.C of this Chapter.
3. The Administrator will review the administrative adjustment application and provide written technical comments to the applicant based on the proposal's compliance with the applicable UDO standards and the review criteria. The Administrator (through their written comments) may require revisions to the proposal to achieve compliance with the UDO. The applicant shall revise its submittal to respond to the Administrator's comments.

4. The Administrator will approve, approve with conditions, or deny the administrative adjustment request.

11.14 CONSTRUCTION DRAWINGS

A. General. The provisions of this section establish the requirements for Construction Drawings that may be required prior to the commencement of any earth work, site preparation or construction activity at any Project or Subdivision.

1. Construction Drawings show the proposed development designs and methods that an applicant/developer intends to construct on a property. Construction Drawings are intended to show enough detail to guide construction activities and achieve a predictable outcome in terms of location, scale, and design.
2. Construction drawings are submitted after other UDO Applications/Permits (e.g., Development Plans, Special Use Permits) have been approved. Construction Drawings are intended to be more detailed than other plans/drawings that may have been submitted with earlier UDO Permits which were a prerequisite to the Project.

B. Land Connection and Duration.

1. Approved Construction Drawings shall be granted to the properties that are the subject of the application (not the individual).
2. The Construction Drawings approval is valid for a period of 12 months after the date of approval.

C. Activities Requiring Construction Documents. The following development and site modification activities require Construction Drawings.

1. All Projects that require a Development Plan pursuant to Section 11.10 or Subdivision Plan pursuant to Section 11.11 of this Chapter.
2. All Projects that involve grading an area greater than 20,000 square feet.

D. Engineering Design and Construction Standards. Construction Drawings shall confirm to the requirements outlined in the

Engineering Design and Construction Standards in addition to the provisions of this UDO.

E. Submittal Requirements. The following lists the submittal requirements for Construction Drawings review.

1. **Application.** The applicant shall prepare and submit a formal application detailing the site location, ownership, and proposed land Use/development activities. The Administrator shall create and provide the formal application including the required submittal items.
2. **Plan Set.** Applicants shall provide a series of plan sheets to depict the proposed construction and site improvement elements of the Project and to show compliance with this UDO and any condition of approval from any other associated UDO Permit. The Plan Set shall include construction details, as appropriate, to guide site development as designed and predicted. The Administrator shall list the plan set requirements on the application form for Construction Drawings.
3. **Associated Studies.** The applicant shall submit any associated studies that may be warranted for the proposed development/land Use activities as listed on the application. Studies used and approved as part of other associated UDO Permits may be resubmitted with the Construction Drawings. Associated studies under this provision may include, but are not limited to, storm/drainage reports, traffic studies, and similar technical information.
4. **Construction Drawing Preparation.** Construction Drawing elements shall be prepared pursuant to the following:
 - a. Property surveys and new legal descriptions shall be prepared by a licensed professional surveyor to conduct work in the State of North Carolina.
 - b. Development Plans, grading plans, utility plans, and similar plans shall be prepared by a licensed civil engineer to conduct work in the State of North Carolina.

- c. Architectural elevations shall be prepared by a licensed architect to conduct work in the State of North Carolina.
- d. Tree preservation plans shall be prepared by a licensed landscape architect or certified arborist to conduct work in the State of North Carolina.

11.14.1 CONSTRUCTION GUARANTEES

- A. **Guarantee Requirement.** An applicant may provide a Construction Guarantee in the form of a performance bond, irrevocable letter of credit, or cash deposit in lieu of constructing, installing, and dedicating the public infrastructure, utility improvements or other site improvements (including but not limited to landscaping) prior to Final Plat approval for Subdivisions. In doing so, the applicant may issue assurance in accordance with Town requirements and options herein as a financial guarantee for the completion, installation, dedication and maintenance of those public infrastructure and utility improvements, or other site improvements.
- B. **Benefit and Agent Authorization.** Construction Guarantee methods shall be issued for the benefit of the Town. The Administrator shall be listed as the authorized agent for the Town Council for all infrastructure and Public Right-of-Way installations and improvements. While not required, if submitted, the Administrator shall be listed as the authorized agent for the Town Council for on-site, non-utility related private improvements, and Street trees in the Right-of-Way (e.g., landscaping).
- C. **Construction Guarantee Amount (minimum).** Developers/applicants shall provide a Construction Guarantee in an amount equal to 125% of the reasonably estimated cost of completion, as established pursuant to an estimate submitted to and approved by the Administrator, as appropriate, for the completion of all remaining improvements and installations required by this UDO and associated permits.
- D. **Construction Guarantee Effect and Duration.** The Construction Guarantee (including performance bonds, irrevocable letters of credit, and/or cash deposits), shall remain in effect

and available to the Town until the following activities have been completed:

1. The Project and the associated site improvements comply with the terms and provisions of this UDO and other associated applications/permits; the following additional provisions apply to specific Subdivision/development types by land Use.
 - a. For Detached Dwelling or Attached Dwelling Subdivisions, prior to the Plat being recorded all items must be completed from a punch list that was generated by the Town and ready to be placed under 1 year warranty; or
 - b. For Attached Dwellings, Apartment Dwellings, Commercial & Mixed-Use or Campus/Employment Projects or Subdivisions, prior to the issuance of a Certificate of Occupancy, the Administrator may grant an extension for good cause shown.
2. The developer/applicant has executed a warranty agreement pursuant to subsection 11.14.2 of this Chapter.
3. The Administrator has executed a written Release of Performance Bond (or similar).

E. Performance Bond Standards. Performance bonds shall comply with the following standards.

1. Any performance bond shall be filed on bond forms approved for use by the Town Council.
2. RESERVED

F. Irrevocable Letter of Credit. Letters of credit (“letters”) shall comply with the following standards.

1. Letters shall be filed on letter of credit forms approved for use by the Town Council.
2. The letter of credit shall be issued by a financial institution that shall allow for presentment upon default at a location within 25 miles of the corporate limits of Holly Springs.

G. Cash Deposit. Cash deposits shall comply with the following standards.

1. A cash deposit or other instrument readily convertible to cash at face value shall be held by the Town in a separate account.
2. The cash deposit shall be placed into an account established by the Town of Holly Springs for the purpose of holding cash deposits as surety for such improvements. The cash deposit shall not bear interest payable to the developer or Subdivider; and all cash deposits shall be held by the Town Council to secure completion of all improvements and installations required by this UDO.

11.14.2 WARRANTY AGREEMENT

A. General Requirement. Upon completion of all required improvements and installations, but prior to the acceptance of such improvements and installations for public maintenance, the developer or Subdivider shall provide a 1 year warranty agreement pursuant to the provisions of this subsection.

B. Standards. The Warranty Agreement shall include the following components.

1. The warranty shall benefit the Town. The Administrator shall be listed as the authorized agent for the Town Council for all infrastructure and Public Right-of-Way installations and improvements, as well as Street trees in the Right-of-Way.
2. Warranties shall be provided in an amount equal to 10% of the total cost of public infrastructure for the development.
3. Warranties shall cover the labor and materials used in the construction. Installation and completion shall be in accordance with the standards, specifications and requirements of this UDO, the Engineering Design and Construction Standards, and the satisfactory Construction Drawings and specifications therefore approved by the Administrator.
4. Warranties shall provide that for the period of time specified below after formal acceptance, the developer/applicant shall make all repairs to said improvements and installations, or the foundations thereof, which may become necessary by reason of

improper labor or materials, including any damage resulting from work done by utility companies or other sub-contractors. The developer/applicant shall bare all associated costs/expenses.

- a. For non-residential Projects, 1 year.
- b. For residential Projects, 1 year or the time in which 90% of the residential Dwelling Units have been issued a Building Permit, whichever is later. If at such time the improvements cannot be installed appropriately because of temperature, weather conditions, or the like, the Administrator may delay completion and acceptance.

11.14.3 DEFAULT AND RELEASE OF CONSTRUCTION GUARANTEES AND WARRANTIES

- A. **Default.** The following provisions shall apply in the event the developer/applicant fails to complete the required improvements in a timely manner as spelled out in this UDO and any Construction Guarantee; or repair the required improvements during the warranty period.
 1. **Payment Disbursement.** The associated surety company shall, upon receipt of a written request by the Administrator, as appropriate, disperse to the Town all funds, up to a maximum amount being the lesser of the value of the guarantee or the estimate approved by the Administrator to complete the improvements in accordance with the standards, specifications and requirements of this UDO or the Engineering Design and Construction Standards.
 2. **Expenditure of Payments.** Upon payment of such funds to the Town, the Town Council shall authorize the expenditure of such funds to complete the installation or repair of such improvements which were so guaranteed.
- B. **Release of Construction Guarantee and Warranty.** The Administrator may released the Construction Guarantee and Warranty Agreement to a developer/applicant, as required by this section, pursuant to the following standards.

1. **Release of Construction Guarantee.** The Administrator shall release any Construction Guarantee (e.g., performance bonds, letters of credit, and/or cash deposits) when the developer/applicant achieves the requirements outlined in 11.14.1 herein and after the Town receives a receipt of a warranty.
2. **Release of Warranty Agreement.** The Administrator shall release the associated Project Warranty Agreement when the following has occurred.
 - a. The Town, and any applicable agencies have inspected and approved all site improvements and construction elements, and/or
 - b. The Administrator accepts all warranted improvements that may have been required through the permitting and inspection processes.

11.15 ENVIRONMENTAL PERMITS

- A. **Applicability.** The provisions of this subsection identify the review procedures for Environmental-related permits and activities pursuant to Chapter 8 of the Code of Ordinances (a separate Chapter from this UDO).
- B. **Review Procedures.**
 1. **General Procedures.** Environmental permits shall be processed as a Type 2a Review pursuant to Table 11.4-A of this Chapter. Said permits may be processed concurrently with any associated Development Plan, Subdivision or Construction Drawings application.
 2. **Appeals and Variances.** Appeals and Variances relating to environmental permits and associated standards listed in Chapter 8 of the Code of Ordinances shall be processed as a Type 2b Review pursuant to Table 11.4-A of this Chapter. In those situations, the Environmental Appeal Committee shall take action on the application.
- C. **Submittal Requirements.** The associated submittal requirements for environmental

permits and associated activities are those listed in Chapter 8 of the Code of Ordinances.

11.16 MODIFICATION TO APPROVED PLANS AND APPLICATIONS

- A. Purpose and Intent.** The provisions listed in this section are to establish the allowances, limitations, and procedures for applicants to modify approved plans and applications. The modification process is not intended to circumvent conditions of approval imposed by the original decision-making body or other review procedures of this UDO.
- B. Applicability.** These provisions are applicable to sites, Projects, and areas within the Town and its Extraterritorial Jurisdiction that have an approved plan, permit, or land Use petition and future development, construction, and land Use activities are subject to those associated permits/approvals.
- C. Modification Allowances and Options.** The following review and application options are available to applicants under this section.
 - 1. Minor Modifications.** The applicant may apply for a Minor Modification to an approved plan, permit, or land Use petition as a Type 1 Review and subject to the allowances and limitations of this section.
 - 2. Major Modification.** The applicant may apply for a Major Modification to an approved plan, permit, or land Use petition pursuant to the review type listed in Table 11.4-A of this Chapter and subject to the allowances and limitations of this section. The Review Type for the Major Modification shall be the same type that would have been required for the original approval (e.g., Major modifications to a Special Use Permit requires a Type 3 Review).
 - 3. New Petition.** The applicant may apply for a new UDO Permit for the property, where no development or land Use activity has commenced pursuant to that original approval.

D. Modification Type Determination.

1. Minor Modification.

- a. A minor modification may be allowed for situations/site elements that include the following:
 - i. Expansion or reduction of Building Floor Area up to 25%;
 - ii. Increase in Building Height by up to 15%;
 - iii. Expansion or reduction in the amount of vehicle Parking Areas by up to 10%;
 - iv. Increase in the total number of Lots/unit by up to 10%, or 10 Lots/units, whichever is less.
 - v. Reduction of Open Space by up to 10%;
 - vi. Increase in Project acreage by up to 10% or 5 acres whichever is less;
 - vii. The designation of additional Uses that only involve those listed as permitted ("P") on Table 3.2-A – Table of Uses in Chapter 3 of this UDO;
 - viii. Reduce, relocate, or alter the composition up to 10% of any Tree Preservation Area or removal of a Specimen Tree;
 - ix. A minor change in Building design, Building material selection, or percentage of various Building materials utilized;
 - x. A minor change in Street or utility layout; or
 - xi. A minor change in Lot arrangement, Lot Lines, or Lot Area.
 - xii. Other minor modifications may be authorized by the Administrator if, in their determination, the minor modifications do not adversely impact the purpose or intent of the approved plans and applications.
- b. A Minor Modification may not be allowed for situations that are in conflict

with any condition that was imposed as part of the original approval.

2. **Major Modification.** A major modification may be allowed for other situations and site elements that do not constitute a “Minor Modification.”

- E. **Procedural and Submittal Requirements.** Modification applications (whether minor or major) shall follow the same procedural and submittal requirements for the associated applications/petitions listed in this Chapter (e.g., Special Use Permits, Development Plans, etc.). For Minor Modifications, the Administrator may reduce the submittal requirements, as appropriate, to coincide with the scope of the proposed changes.

11.17 ZONING VESTED RIGHT(S)

- A. **Applicability.** The provisions of this section apply to situations where a Site-Specific Development Plan or UDO Permit (e.g., Development Plan, Special Use Permit) was approved under the zoning and development regulations that were in place at that time and the applicant desires to construct/complete the associated Project under the applicable standards/requirements that applied under the original approval.
 1. These may include situations where the original approval occurred in unincorporated Wake County or under Town standards that were in effect before this UDO.
 2. These situations apply to the provisions of NCGS § 160D-108.1 to which a statutory Zoning Vested Right is established upon the approval of a Site-Specific Development Plan.
- B. **Establishment of a Zoning Vested Right.** An applicant may request the establishment of a Zoning Vested Right pursuant to the review process established in Table 11.4-A: Review Matrix of this Chapter.
- C. **Duration.** An approved Zoning Vested Right may be established for the durations as listed below based on the development Project’s characteristics:
 1. **Standard.** The decision-making body may approve a Zoning Vested Right for at least 2 years but not exceeding 5 years. The decision-making body may base the approval term on relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions.
 2. **Multiphase Developments.** The decision-making body shall approve a Zoning Vested Right for a multiphase development for a period of seven years from the time a Development Plan/Subdivision Plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, “multiphase development” means a development containing 100 acres or more that (i) is submitted for Development Plan approval for construction to occur in more than 1 phase and (ii) is subject to a Development Plan/Subdivision Plan with committed elements, including a requirement to offer land for public use as a condition of its Development Plan/Subdivision Plan approval.
 3. This vesting is not automatically extended beyond by any amendments or modifications to a Site-Specific Development Plan unless expressly provided by the decision-making body at the time the amendment or modification is approved.
- D. **Termination.** The Administrator shall terminate an approved Zoning Vested Right pursuant to the following situations.
 1. **Expiration.** The Zoning Vested Right shall automatically terminate after the vesting period expires with respect to Buildings and Uses where no valid Building Permit applications have been filed within the original time period.
 2. The Administrator may terminate any Zoning Vested Right in the following situations pursuant to a Type 7 Review and involving a public hearing and associated notice requirements:

- a. Where the affected landowner files written consent to terminate the vested right;
- b. Where a natural or other hazard on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the Site-Specific Development Plan;
- c. Where the Town the affected landowner for all costs, expenses, and other losses incurred by said owner including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government, together with interest as is provided in NCGS 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action;
- d. Where it is determined that the landowner or representative intentionally supplied inaccurate information or made material misrepresentations at the time of the vested right approval; or
- e. Where State or Federal law or regulation would otherwise prohibit the development actions outlined in the vested rights.

unclear, ambiguous, and/or are in conflict with other provisions. It is also intended for those cases that require a thorough UDO review and involve multiple Chapters/Sections to reach a decision on the applicable process, allowances, limitations, and/or requirements.

B. Review and Application Procedures.

1. **Review.** Administrator's Interpretation requests shall be issued by the Administrator as part of a Type 1 Review pursuant to Table 11.4.-A: Review Matrix in this Chapter.
2. **Submittal Requirements.** Applicants shall file an official application to the Administrator including all supplemental materials listed therein.
3. **Review Process.** The Administrator shall review the relevant UDO sections, the Comprehensive Plan, and/or other Town policy documents/ordinances in reaching a determination. The Administrator shall also review previous interpretations relating to the same subject matter. The Administrator's Interpretation shall not be used to circumvent adopted policy or UDO requirements. The Administrator shall provide a written finding of the Administrator's Interpretation as it applies to the case and situation.

11.18 ADMINISTRATOR'S INTERPRETATION

- A. Purpose and Intent.** The provisions of this section are intended to create a process for applicants to request a formal interpretation of any provision listed in this UDO as it relates to development, the review process(es), and/or allowable land Use activity. This may include inquiries relating to UDO requirements, Comprehensive Plan policies, and zoning map (district boundaries). An Administrator's Interpretation is intended for cases and situations where the standards and requirements are