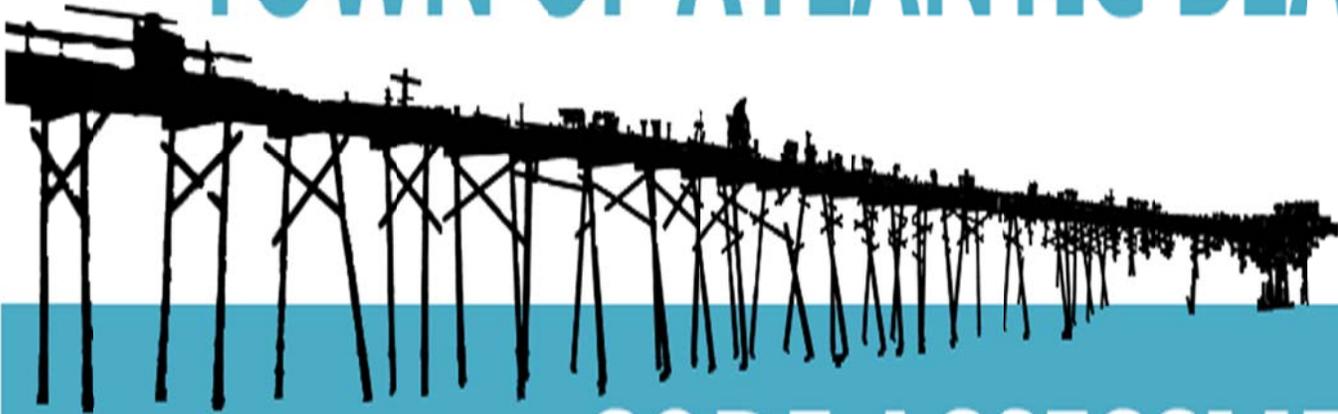


TOWN OF ATLANTIC BEACH



CODE ASSESSMENT

PUBLIC REVIEW DRAFT

JUNE, 2016

ACKNOWLEDGEMENTS



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PART 1: PROJECT INTRODUCTION

PROJECT DESCRIPTION

1.1. RATIONALE

In 2009 Atlantic Beach completed a comprehensive overhaul to Chapter 18 of its Town Code of Ordinances, or its Unified Development Ordinance (“UDO”). The UDO is the primary set of rules that controls the use of land in the Town (through the zoning, subdivision, and flood control regulations). Shortly after adoption of the UDO, the sub-prime mortgage crisis, followed by the great recession, combined to limit market demand and permitting activity in Atlantic Beach subsided as a result. The slow-down in permitting persisted until 2015 and development activity is now returning to pre-recession levels. While increased permitting activity is a positive step forward, its return has illuminated concerns and confusion with respect to the adopted UDO language. Problems with language consistency, confusing terminology, and procedural vagueness have led to frustration on the part of applicants and Town staff in the administration of the ordinance. Coupled with these concerns, the General Assembly has made a wide variety of sweeping changes to local government planning legislation in the intervening years since the Town’s UDO was adopted.

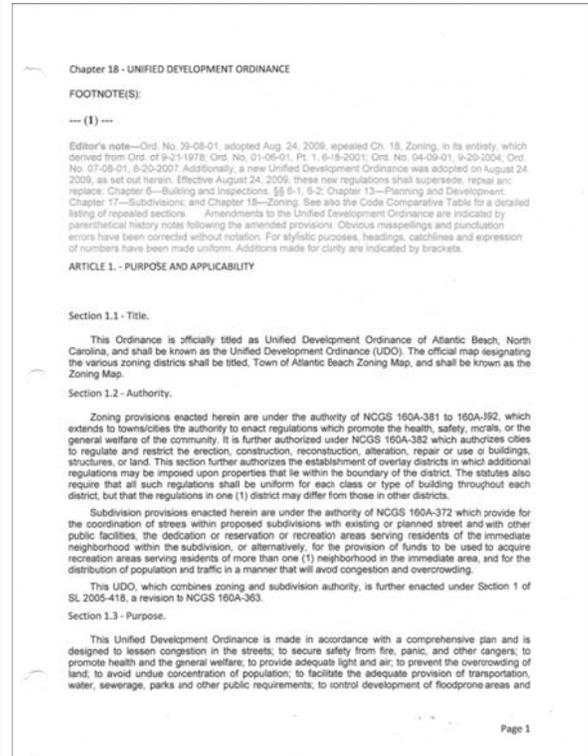
In light of the increases in permitting activity, the changing state laws with respect to planning, and the need to ensure the Town’s development regulations are easy to understand and administer, the Town is updating the current UDO. For the most part, this update includes non-substantive organizational changes that seek to clarify the *existing* standards, not create new ones. Where substantive changes are suggested, these changes are primarily limited to procedural changes, clarifications to use standards, or changes resulting from revision to state laws. For the most part, changes to the current zoning district or development standards that were established as part of the update in 2009 are not proposed, or if proposed, are not overly broad. This Code Assessment report is a framework for the Town’s ongoing discussions about how to improve the code’s organization and clarity.

1.2. PROJECT GOALS

The Town’s primary goals for the update of the UDO are as follows:

1.2.1. INCREASE THE UDO’S USER-FRIENDLINESS

One of the most significant issues with the current UDO language is that it is difficult for laypersons to use. The articles are not in an intuitive sequence, the page layout lacks modern guideposts and navigational aids, and there are numerous instances where the UDO includes repetitive language that includes very subtle inconsistencies that causes users and Town staff alike to second guess themselves as to what the text really means. The document’s basic functionality needs improvement.



Chapter 18 of the Town’s Code of Ordinances is the Unified Development Ordinance.

1.2.2. BRING GREATER PREDICTABILITY TO THE DEVELOPMENT REVIEW PROCESS

Because of its poor organization and overlapping inconsistencies, it is very difficult to discern the proper review process (for example, the text indicates that both the Town Council and the Planning Board decide subdivision preliminary plats). There are also subtle differences in the review procedures that could be improved through standardized review process steps. Approval criteria are missing from several procedures, which can make it difficult to determine if a development proposal is consistent with the Town’s desires.

1.2.3. MAINTAIN CONSISTENCY WITH STATE LAW

Significant changes in state planning laws have taken place in the last five years, such as removal of protest petitions, limitations on design controls for single-family attached dwellings, requirements for permit choice, and overhaul of the Board of Adjustment voting procedures. Case law has also evolved, with additional guidance on signage, comprehensive plan consistency statements, and related aspects.

1.2.4. EASIER ADMINISTRATION

Effective administration of development regulations depends upon language clarity and supplemental features like illustrations. The current UDO has numerous definitions that are outdated, inappropriate, or include standards. There are few-to-no codified rules of measurement (such as how distances are measured or the rules of language construction). While there are a few illustrations, there is significant room for improvement in terms of illustration of how the rules work or the intent of the provisions.

1.2.5. LEGAL DEFENSIBILITY

Ultimately, the development regulations are the Town’s laws governing how land may be used and developed. The standards must be consistent with state and federal requirements as well as court precedent. Maintaining consistency with these other laws and decisions can be a moving target, and requires periodic review and update of local regulations.

1.3. PROCESS & TIMING FOR THE CODE ASSESSMENT

Preparation of a code assessment is often the first step in the process of a UDO update. The Code Assessment identifies the issues to address and provides recommendations on how to address them. The table below shows the four key steps and timing of this Code Assessment.

TASK #	DESCRIPTION	TIMING
1. Code Assessment – Staff Draft	Staff (including attorney) review of Code Assessment; preparation of consensus written comments from staff; discussion of staff comments with consulting team	4-5 weeks after contract execution
2. Code Assessment – Public Review Draft	Consulting team preparation of public review draft version of code assessment, based on staff comments and telephone conference	1 week after Task 1
3. Presentation of Code Assessment	Consulting team travels to Atlantic Beach for a day of meetings to present the Code Assessment, facilitate discussion, answer questions, and record input	2-3 weeks after Task 2
4. Code Assessment – Final Revision	Consulting team prepares final version of Code Assessment based on input collected during Task 3	1 week after Task 3

Following completion of the Code Assessment, the Town can commence with the actual updating of the UDO text. We suggest this update process be sequential and methodical. It is typical to revise groups of related articles at the same time (though some communities go article-by-article). While CodeWright is not currently under contract to assist the Town with revisions to the UDO text, we are available to assist in that effort, as appropriate.

OVERVIEW OF CHAPTER 18

Chapter 18 of the Town Code of Ordinances is titled the Unified Development Ordinance and includes the rules governing the use of land in the Town. It contains 17 different articles and two appendices (one for definitions and one that includes a plant materials list). The following paragraphs summarize the content of each article.

1.4. ARTICLE 1: PURPOSE & APPLICABILITY

This is a basic article that sets out the traditional prefatory provisions relating to applicability, authority, jurisdiction, and severability. The article also includes the language construction provisions and the provisions for interpretation of the zoning map, both of which could be consolidated into other more relevant articles (like the zoning district article for the zoning map).

1.5. ARTICLE 2: GENERAL REGULATIONS

This article is a jumble of dimensional standards, development standards, review procedures, and use standards. This article is a good example of the lack of intuitive structure and how a code user must search for relevant provisions. There are provisions related to lots, required yards, property owner's associations, certificates of occupancy, temporary storage containers, encroachments, stormwater requirements, and sedimentation control. This article needs to be broken apart and the material reorganized into relevant articles (like procedures, districts, and development standards).

1.6. ARTICLE 3: ADMINISTRATION

This article sets out the review and decision-making bodies who review and decide permits in the Town. This material is in fair shape but would benefit from summary tables and standardized section structure. The section on the Board of Adjustment includes a significant amount of procedural information that should be relocated to the procedures article for better consistency.

1.7. ARTICLE 4: ADMINISTRATIVE REVIEW PROCESS

This article is somewhat mis-named, and includes a jumble of different procedural provisions. Typically, "administrative" reviews are reviews conducted by Town staff, however, this article includes only those review procedures decided by the Town Council or the BOA – neither of which are administrative bodies. The article includes a great deal of material on temporary moratoria, which is more akin to policy than development review; further, recent changes to state law have precluded a local government's ability to adopt a moratorium on residential development while an ordinance is being prepared. This article also includes the material on enforcement, which is typically included in its own article, or sometimes with the other general procedures. This article, like Article 2, should be broken apart and reconfigured with other relevant material.

1.8. ARTICLE 5: ZONING DISTRICTS

This article includes the purpose and intent statements for the base and overlay zoning districts. It also includes a summary table of the dimensional standards, organized by zoning district. However, this article does not include all the zoning district provisions and it includes the summary table of uses. The use of a summary use table is an element found in all modern codes, but it is somewhat uncommon to include use standards with zoning district information. It is also typical to pair the use table with the use-specific standards, which are currently scattered in different articles. This article, like many of the others, should be reorganized to keep like information (specifically, all the material pertaining to base and overlay districts, map interpretation, etc.) in one place.



1.9. ARTICLE 6: SPECIAL REQUIREMENTS

Article 6, like Article 2, suffers from a vague title and is comprised of a jumble of unrelated provisions, including the Town's use-specific standards, a set of overlay district provisions (the COD), a complex and detailed set of base zoning district standards for the Circle (CDD) district, and a very specialized set of standards applied to multi-family development that is more akin to design standards than use-specific standards. The CDD provisions appear to have been developed as a stand-alone ordinance that was then inserted into the UDO without attention to how the standards in the district overlap with other dimensional, use-specific, and development standards in the UDO. The result is a very confusing array of different standards in this important location and little detail on how conflicts are addressed.

1.10. ARTICLE 7: DESIGN AND PERFORMANCE STANDARDS

Article 7 includes a variety of design related provisions, including those for fences and walls, screening of refuse collection areas, building design standards and additional standards for building facades. The article also includes the provisions on vehicular and pedestrian connectivity. This article can be carried forward, and we suggest other development standards (like landscaping, parking, and streets) be consolidated with these development standards.

1.11. ARTICLE 8: MARINAS

This article sets out the standards for marinas in the Town. Interestingly, these standards are very similar to use-specific standards and are actually less comprehensive than several other sets of use standards (like those for manufactured home parks or multi-family developments in Article 6). We suggest these standards be consolidated with the other use-specific standards.

1.12. ARTICLE 9: PARKING, STREETS, AND LIGHTING

This article includes the off-street parking, street design, and exterior lighting standards. The parking standards are fairly comprehensive and include important aspects like parking lot configuration. The street standards seem to be more related to the subdivision provisions, and the lighting provisions include standards for street lights (which is a public function, not something typically included in the regulations pertaining to the development of private lands).

1.13. ARTICLE 10: LANDSCAPING, BUFFERING, SCREENING, AND TREE PROTECTION

Article 10 includes the provisions related to landscaping, including tree preservation, general landscaping provisions, bufferyards (street and project boundary), vehicular use area, and foundation landscaping. There is a fair amount of repetition and overlap in terms of tree protection and general landscaping provisions, and the article would benefit from a structural reorganization.

1.14. ARTICLE 11: SIGN REGULATIONS

The signage regulations are fairly typical and include a few illustrations and some summary tables. However, the fundamental approach to the signage regulation – distinction in signage standards based on sign type where you have to read the sign to understand what kind of sign regulations apply – has been determined by the US Supreme Court in the Reed vs Gilbert case to violate free speech and content neutrality laws. While this update is focused on organizational improvements rather than substantive change, the Town should consider revising these standards for consistency with this new legal precedent.

1.15. ARTICLE 12: DEVELOPMENT IN AREAS OF ENVIRONMENTAL CONCERN

These standards include the major and minor "CAMA" permit procedures and standards followed by development proposed in Areas of Environmental Concern. Since these standards are mandated and reviewed by the State, we suggest these standards be carried forward with no substantive change other than a relocation to the article with other environmental provisions.

1.16. ARTICLE 13: FLOOD DAMAGE PREVENTION ORDINANCE

Article 13 includes the standards for development located in special flood hazard areas (like the 100-year floodplain or the floodway). Since these standards are mandated and reviewed by the State, we



suggest these standards be carried forward with no substantive change other than relocation to the article with other environmental provisions.

1.17. ARTICLE 14: DEVELOPMENT REVIEW PROCESS

This article sets out the review procedures for conditional use permits, minor site plans, and major site plans. Generally speaking, this chapter is poorly organized, difficult to follow, and repetitive. There is a sketch plan procedure described, but it is unclear where it is applied. A significant amount of the procedural information for the conditional use permit is repeated (though inconsistently) from the material in Article 4. The site plan procedure uses the term “engineering drawing,” and appears to also require site plans, but this is not entirely clear. This article should be reviewed and revised for much greater clarity.

1.18. ARTICLE 15: DEVELOPMENT PLAN REGULATIONS

This article sets out the actual plan or drawing requirements for sketch plans and site plans. It also describes the procedure for review of conditional use permits, a repetition of the material in both Articles 14 and 4. These kinds of submittal requirements could easily be located outside the UDO in a user’s guide or located within an appendix.

1.19. ARTICLE 16: SUBDIVISION REGULATIONS

Article 16 includes the standards for subdivisions, including the procedures, submittal requirements, provisions for improvement guarantees, and the design standards. While this article does not suffer many of the problems with inconsistent repetition found in other procedural articles, it provides very little differentiation between major and minor subdivisions, preliminary versus final plats, and how the subdivision process fits with site plan review and permit issuance. We suggest these provisions would benefit from reorganization into a new topic-based framework.

1.20. ARTICLE 17: NONCONFORMING SITUATIONS

The last article of Chapter 18 sets out the provisions for nonconformities. The standards address nonconforming lots and uses, but do not address nonconforming structures or sites. They address expansion, change in use, abandonment, but do not address casualty damage. These standards are in fair shape, but would benefit from inclusion of additional standards for structures and sites.

1.21. APPENDIX A: DEFINITIONS

This appendix includes the rules of interpretation (or language construction) as well as the definitions for the terms used in the ordinance. Many of the definitions include standards, and not all use types are defined. In addition, there are several defined terms that are not used, or not used in the way defined, that should be deleted.



A beach volleyball tournament, viewed from the Atlantic Beach Boardwalk.

PART 2: DOCUMENT STRUCTURE

This part of the Code Assessment considers the document structure and organization of the current UDO. It identifies some of the key concerns with the existing regulations and makes some recommendations for improvement.

SUMMARY OF CONCERNS

2.1. CHAPTER SEQUENCE IS NOT INTUITIVE

Document organization is a critical part of a modern and effective development code. Generally speaking, the articles used the most frequently should be located near the front of the document and resource material (like definitions or enforcement) should be in the back. Individual articles should be structured to include all the related information pertaining to a particular topic, like all the procedural information, all the districts, or all the development standards. This helps ensure a code user does not miss important information. Consolidation of similar provisions also helps cut down on the overall number of different articles.

The current UDO has some structural issues that should be resolved to help the code be easier to use. For example, there are 17 articles and two appendices though much of the information in these different articles could be consolidated. The procedural-related material is spread across four different articles (3, 4, 14, 15) found at differing ends of the regulations, and the naming conventions are misleading (Article 4, Administrative Review Procures includes the development review procedures decided by the Town Council, Planning Board, or the BOA – none of these bodies are administrative in nature). Article 8, Marinas, includes just the use-specific standards for marinas that could easily be consolidated with the other use-related standards.

2.2. DIFFICULT TO FIND REGULATIONS

While the article sequence and names are difficult to follow, it can also be a challenge to find individual provisions within an article. For example, Article 2, General Regulations, has a vague name and includes a very wide variety of standards that belong with district provisions (dimensional requirements), use-related provisions (temporary storage container standards), and environmental standards (stormwater & sedimentation). Article 6, Special Requirements, has an equally vague name and mixes use-specific standards with the COD and CDD district standards (that should be located with the other zoning district standards in Article 5, Zoning Districts). Article 5, Zoning Districts, includes the summary use table despite the other use-related material being housed in Article 6. The enforcement provisions are buried in the Administrative Review Processes (Article 4), despite the fact that enforcement is not a review procedure. There is no article named “definitions” since these are embedded in the appendices. These kinds of challenges contribute to frustration on the part of code users and create a strong possibility for missed regulations during application preparation or review.

2.3. MISSING REFERENCE NUMBERS

Development codes can be complex regulatory documents that include a wide array of standards and requirements. One of the best ways to organize and identify different requirements is through the use of numbered provisions. Numbered paragraphs can be easily referenced and distinguished from one another. Unfortunately, numerous sections in the current UDO have multiple paragraphs that are not individually numbered (e.g., §1.2, §1.3, §3.5, §3.9, §3.21, §4.3, §5.2, §5.6.1, §6.1.6, §6.8.2, §10.3, etc.) making cross referencing of these paragraphs impossible. Further, none of the current illustrations or tables include titles or reference numbers, which make cross referencing these important elements impossible. Instances where standards or illustrations are not numbered should be addressed.



2.4. LENGTHY PARAGRAPH STRUCTURE

Several sections of the UDO include long paragraphs of prose that incorporate numerous differing provisions, making understanding the requirements very difficult. In many cases, the relevant provisions are often “buried” among unrelated sentences. Some of the worst examples are in the following sections:

- §2.25, Encroachments;
- §6.8.2, Density/Lot Size Standards;
- §10.17, Revegetation; and
- §17.5, Abandonment or Discontinuance of Nonconforming Situations.

Long paragraphs of unrelated standards are very difficult to digest and can lead to code users missing relevant provisions as they struggle to unwind lengthy paragraphs. Effective code standards are structured to be concise numbered statements consisting of a single regulation or requirement. The existing regulatory language should be overhauled and converted into short, numbered standards that do not include multiple ideas or concepts within individual paragraphs.

2.5. APPENDICES

Chapter 18 includes two appendices, one for definitions and rules of language construction, one for recommended plant materials. It is somewhat uncommon to find aspects as important as definitions in an appendix as some believe an appendix should not be treated as codified standards. Regardless of any legal issues, inclusion of the definitions as their own article makes it easier for code users to locate them.

One aspect many modern codes do include as an appendix or in a separate document are the application submittal, required drawing elements, and similar aspects like plat certificate language. The Town could relocate these kinds of provisions to the appendix or an outside manual to reduce document bulk or simplify the updating process.



The Atlantic Beach Bridge.

RECOMMENDATIONS

This section includes a series of recommendations for the Town’s consideration in light of the document structure issues described above.

2.6. SUGGESTED NEW ARTICLE STRUCTURE

We suggest the updated UDO reorganize the structure of Chapter 18 into 10 articles that follow a more intuitive topic-based structure. Table 2.1 below shows a proposed structure that consolidates related provisions into single articles based on substantive relationships and relies on a simplified naming convention.

TABLE 2.1 COMPARISON OF CURRENT AND PROPOSED UDO STRUCTURE	
CURRENT ARTICLE STRUCTURE	PROPOSED ARTICLE STRUCTURE
1. Purpose and Applicability	18-1. General Provisions
2. General Regulations	18-2. Procedures
3. Administration	18-3. Zoning Districts
4. Administrative Review Process	18-4. Use Standards
5. Zoning Districts	18-5. Development Standards
6. Special Requirements	18-6. Environment
7. Design and Performance Standards	18-7. Subdivisions
8. Marinas	18-8. Nonconformities
9. Parking, Streets, and Lighting	18-9. Enforcement
10. Landscaping, Buffering, Screening, and Tree Protection	18-10. Measurement & Definitions
11. Sign Regulations	
12. Development in Areas of Environmental Concern	
13. Flood Damage Prevention Ordinance	
14. Development Review Process	
15. Development Plan Requirements	
16. Subdivision Regulations	
17. Nonconforming Situations	

2.7. SUGGESTED PAGE LAYOUT

There are a number of formatting and related suggestions that can be applied to development code text that will make it easier to use. Modern page layouts include formatting that shows text relationships (through indentation and bolding), use of graphics, and “guideposts” for navigation in the form of dynamic headers. Regulations are organized into short, numbered provisions, and supplemented with graphics wherever possible. We suggest the updated UDO take advantage of the kinds of improvements shown in Figure 2.2, Modern Page Layout.

FIGURE 2.2, MODERN PAGE LAYOUT

The diagram illustrates a modern page layout for a development code section. On the left, six callout boxes with green brackets point to specific elements of the page:

- Dynamic Header:** Points to the top right header: "District-Specific Development Standards", "Town Center Residential District", and "Subsection 5.3. Site Layout and Building Organization".
- Prominent Titles:** Points to the section title: "5.3 Site Layout and Building Organization".
- Nested Text:** Points to the sub-sections: "A. INTENT" and "B. CONTEXTUAL FRONT YARD SETBACKS".
- Balance Between Text and White Space:** Points to the overall text formatting and spacing.
- Illustrations with Captions:** Points to "Figure 18", which includes a site plan titled "SITE LAYOUT AND BUILDING ORIENTATION: TOWN CENTER RESIDENTIAL DISTRICT" and a 3D rendering of buildings. A legend below the illustrations explains five numbered points:
 1. Contextual front yard setback not applicable where less than three existing homes exist on a block.
 2. Minimum front yard setback applies.
 3. Existing homes oriented towards street.
 4. Orientation of infill development is consistent with existing development.
 5. Multi-family buildings with multiple street frontages provide setbacks along each street frontage.
- Adoption Date Page Numbers:** Points to the footer: "Morrisville Town Center Code—Final Draft: December 2009 PZB Recommendation Version" and the page number "49".

PART 3: TERMINOLOGY

Precise terminology is a hallmark of a well-drafted and effective code. Development regulations that are not precise or that use inconsistent terminology are hard to understand and apply. This issue is one of the largest challenges in Atlantic Beach’s current UDO. Examples of this issue are summarized below.

SUMMARY OF CONCERNS

3.1. MISSING TERMS

One good example of the confusion in the current code relates to the terms “single-family attached dwelling” and “townhouse.” The use table in Section 5.5 lists both terms, and allows single-family attached dwellings in every zoning district except CB, while townhouses are allowed only in the RS district. The definitions in Appendix A define single-family attached dwellings, but do not define townhouses. This would indicate that townhouses are something different than a single-family attached dwelling.

The use table includes a column that cross-references special use-specific standards, and identifies Section 6.21 as the standards applicable to townhouses, but these are the multi-family development standards. Section 6.21.2 clarifies that townhouses are considered as multi-family development and subject to the same requirements of review. This would indicate that townhouses, while commonly known as a type of single-family dwelling, are treated as multi-family development.

Section 6.21 states that the multi-family housing development standards apply to all development of more than three dwellings on a single tract or two or more buildings on the same parcel. However, the standards do not reference or use the term single-family attached dwellings, and townhouses are individual lots, leaving the reader to wonder if the standards do or do not apply to developments of three or more single-family attached dwellings.

There is also a use-specific standard cross reference in the use table for “dwelling, single-family attached”, which directs the reader to Section 6.8, the standards for the CDD district. This leaves the reader to wonder what standards apply to a single-family attached dwelling outside the CDD district (interestingly, the CDD does not use the term single-family attached dwelling).

A related example involves “small multi-family dwellings.” Section 6.2.11 sets out a series of standards for small multi-family dwellings, but these uses are not defined or distinguished from any other form of multi-family development.

3.2. CONTRADICTIONS IN THE TEXT

Section 6.1.8 sets out the off-street parking standards for development in the COD. Subsection 6.1.8.C indicates there are no screening requirements for off-street parking facilities in the COD, but that the parking area landscaping requirements in Section 10.11 shall apply. Section 10.11 sets out the vehicular use area landscaping standards, and is comprised of six subsections, including Section 10.11.4, Screening Vehicular Use Area.

In this instance, the code user is left to wonder if development in the COD is or is not subject to all the standards in Section 10.11, or if land in the COD is exempted only from the standards in Section 10.11.4, and subject to the balance of the standards in Section 10.11. To further complicate matters, Section 6.1.11, Landscaping Standards, indicates that development in the COD is exempted from landscaping standards, but that the vehicle use landscaping standards in Section 10.11 still apply.



Section 3.1 is a more common example. Section 3.1 sets out the powers and duties of the UDO Administrator. It is followed by Section 3.2, which is titled Powers and Duties of the Planning Department. However, Section 3.2 actually lists additional powers and duties of the UDO Administrator.

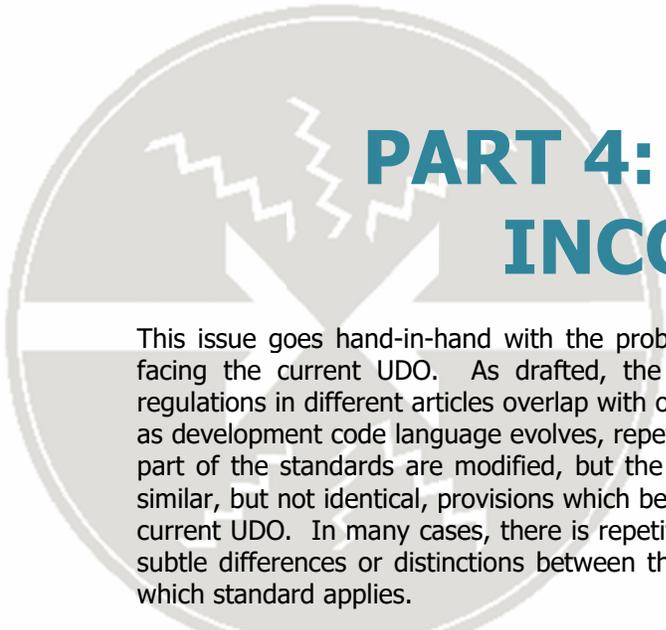
3.3. CONFUSING STATEMENTS

Section 2.9 states: "*North Carolina State Building Code Appendix H, Signs and Outdoor Displays, is included, in its entirety as part of this article. NOTE: Any sign referenced in the Code book does not constitute acceptance in this UDO*". It is unclear if use of the term "included" means incorporated by reference. It is unclear if use of the term "article" means Article 2, General Provisions, Article 11, Sign Regulations, or Chapter 18. The term "Code book" is unknown and not defined. Use of the term "acceptance" is also unclear – does this mean approval?

RECOMMENDATIONS

These kinds of issues are perhaps the largest problem with the current UDO as they appear in numerous places and make interpretation of the regulations difficult for the staff and almost impossible for an applicant. The code language needs to be reviewed for clarity and made more precise throughout the document.





PART 4: REPETITION & INCONSISTENCY

This issue goes hand-in-hand with the problems pertaining to terminology as one of the primary challenges facing the current UDO. As drafted, the current UDO includes numerous instances where development regulations in different articles overlap with one another or are repetitive. This is a problem because over time, as development code language evolves, repetitious provisions can become inconsistent with one another as one part of the standards are modified, but the other parts are not. The result is a situation where a code has similar, but not identical, provisions which become very difficult to apply. This is precisely the problem with the current UDO. In many cases, there is repetition of similar standards from one article to another, but there are subtle differences or distinctions between the language in different articles, leaving the code user to wonder which standard applies.

SUMMARY OF CONCERNS

4.1. STAND-ALONE ORDINANCES

Many of the UDO standards appear to have been drafted as stand-alone documents that should have been revised for consistency with balance of UDO. However, it is unclear if this kind of consistency review ever took place. For example, the COD standards in Section 6.1, the CDD provisions in Section 6.8, and the marina standards in Article 8 all appear to have been drafted as singular ordinances. Each of these provisions include their own development standards that are at odds with the other applicable development standards the UDO, which creates frustration in determining which of the standards to apply.

4.2. REPETITION

Section 5.4.2.A sets out the purpose statements for the COD district. However, Section 6.1.1 also sets out the purpose and intent statements for the COD. While these two sections are the same, if one was amended and the other one wasn't, there would be inconsistent text in the ordinance. Repetition in a regulatory document is not desirable and should always be removed.

Section 10.11.1 sets out the landscaping requirements in vehicle use areas (parking lots). It indicates that there must be a canopy tree trunk within 60 feet of each parking space. It goes on to say that two small (understory) trees may be used in place of one canopy tree if overhead or underground utility lines are present. It includes no provisions about differential spacing for understory trees. Section 10.11.3(A) indicates that all parking spaces must be within 60 feet of a tree trunk, or within 30 feet of small trees if allowed under overhead utilities or in special circumstances. This kind of repetition with subtly different standards (such as spacing with respect to understory trees, or an allowance for use of understory trees under "special" circumstances) makes the ordinance extremely difficult to interpret and unpredictable for code users.

4.3. DISTINCTIONS IN HEIGHT DETERMINATION

Section 2.23 sets out the standards for measurement of building height, and indicates that height shall be measured at the *existing grade* elevation prior to any land disturbing activities, and shall be calculated from the base of the structure to the highest point of the roof.

Section 5.6 sets out the area, required yard (setback), and height standards for the zoning districts. Note 3 of the section's table indicates that height is to be measured from the *average finished grade* elevation at the base of the structure to the highest point of the roof.

The definition of building height in Appendix A indicates that the building height is: the vertical distance from the *mean elevation* of the finished grade along the front of the building to the highest point of a flat roof, deck line of a mansard roof, or mean height between the eaves and the ridge for other roof types.



These distinctions, while seemingly minor, can yield drastically different figures depending upon when the height is measured and from where.

4.4. PUBLIC NOTICE DISCREPANCIES

Section 3.23 sets out the public notice of hearing standards for hearings conducted by the BOA (including conditional use permits). Section 14.3.3 sets out public notice standards for conditional use permit cases. The two sections differ in terms of whether or not published notice is required, the timing and extent of mailed notice to adjacent landowners, the timing of posted notice, and the need to notify the applicant. The standards in Section 14.3.3 are consistent with state law, while the standards in Section 3.23 are not.

4.5. USE TABLE INCONSISTENCY

The use table in Section 5.5 includes two rows for hotels and motels, one that appears to include additional accessory uses, and one that does not. However, the procedure for establishment of these uses differs between the two rows, and the process for establishing a hotel or motel with one or more accessory uses appears less restrictive than establishment of one without accessory uses. To further complicate matters, there is a third row in the table for inns which also differs in terms of allowable districts and procedures for establishment from the row listing hotels, motels, inns, and condominium hotels/condotels.

The use table also includes one row for uses called “parking areas” and another row for “parking lots and structures,” and the allowable districts and procedure for establishment differ between the rows. Parking areas are not defined, but parking lots are defined as an area or plat of land used for parking vehicles. Another example is the row for “docks (not to include roofs)” and “wooden docks without electricity or other utilities,” each with different allowable locations and procedures for establishment.

RECOMMENDATIONS

As with the recommendations regarding terminology in Part 3, we suggest the repetitious and inconsistent terminology in the UDO needs to be reviewed and eliminated. Going forward, the Town should avoid the preparation of “stand-alone” ordinances intended for subsequent codification in the UDO as this approach creates conditions where newly adopted text includes inconsistencies with other existing provisions. To the extent possible, new UDO text should be configured to be incorporated into the existing provisions, and reserved sections (for new UDO text) should be included in the new UDO in strategic locations like the zoning district material, procedures, and development standards.

PART 5: PROCEDURAL CLARITY

Like precise terminology or an intuitive structure, procedural clarity is vital for an effective set of development regulations. Code language should be clear on how different sections work together and how conflict is handled. Unfortunately, the current UDO lacks clarity in numerous ways, as described below:

SUMMARY OF CONCERNS

5.1. VAGUENESS

Many provisions in the current UDO are vague and should be supplemented with additional detail and clarity. For example, Section 1.7.4.B sets out the rules for computing the amount of time an applicant, appellant, or violator has to take required action, but automatically adds three days to the duration if the applicant was notified by mail. It is unclear if weekends or holidays are counted, when the three days start, or why an additional three days are provided at all.

Section 2.14.B says an as-built survey must be provided for any project involving development, redevelopment, expansion, or renovation which results in an expansion of the existing structure footprint. It is unclear if this includes single-family detached homes, accessory sheds, vertical additions, signs, or other features.

Section 6.21.7 sets out the recreation standards, which require either outdoor open space or recreational amenities in an amount of 200 square feet of area per residential unit. The standards are not clear when one or the other is required or how either is defined. Further, the Planning Board may require even more open space when it feels it necessary. However, there are no standards for when this can happen, no provisions stating how much can be required, how it should be configured, or any decision making criteria for the Planning Board to apply.

Several sections in Articles 14 and 15 mention a zoning permit, but the procedure is not set out or established anywhere in the ordinance. Section 14.5.4 indicates that minor site plans are approved via the issuance of a zoning permit.

5.2. PROCEDURAL CONFUSION

Section 3.15.B indicates the Planning Board makes a recommendation to Town Council on all plats, and Section 16.3 directs that the Register of Deeds shall not record a plat until it has been approved by Town Council. However, Section 16.6.B is clear that the Planning Board decides preliminary plats and Section 16.6.F is clear that Planning Board decides final plats.

Section 3.20.B indicates that the Board of Adjustment decides zoning compliance certificates with vested rights. The current UDO does not list the term zoning compliance certificate anywhere else, and Section 4.2.D identifies the Town Council as the body who decides vested rights through a site specific development plan.

Section 1.9 indicates the UDO Administrator shall employ eight different rules when interpreting the zoning map. Section 4.4.4 indicates the Board of Adjustment is authorized to interpret the zoning map.

Section 15.3.B.3 indicates that a sketch plan review is "only a courtesy intended to inform the applicant of the approval criteria prior to submittal of the site plan," but Section 15.3.D indicates that a sketch plan is a required precursor for both major and minor site plan applications.

5.3. MISSING PROCEDURES

Based on initial discussions with staff and our review of the current UDO, there are several missing procedures that could be included in an update to the UDO. For example:

- There is no minor subdivision procedure that allows administrative review of subdivisions creating five or fewer lots;



- There is no guidance for staff determination regarding whether or not a division of land does or does not qualify as a subdivision under the General Statutes;
- While there is guidance regarding interpretation of the zoning map, there is no formal procedure for requesting a written interpretation of the UDO text;
- There are no provisions related to building permits or zoning [compliance] permits (though Section 2.14 sets out certificate of occupancy requirements);
- There are no land disturbing (grading) permit provisions codified in the ordinance (though there is a land-disturbance permit in a separate document); and
- Section 11.6 sets out standards for sign requiring a permit, yet the UDO does not include a sign permit procedure.

5.4. VIOLATIONS AND ENFORCEMENT

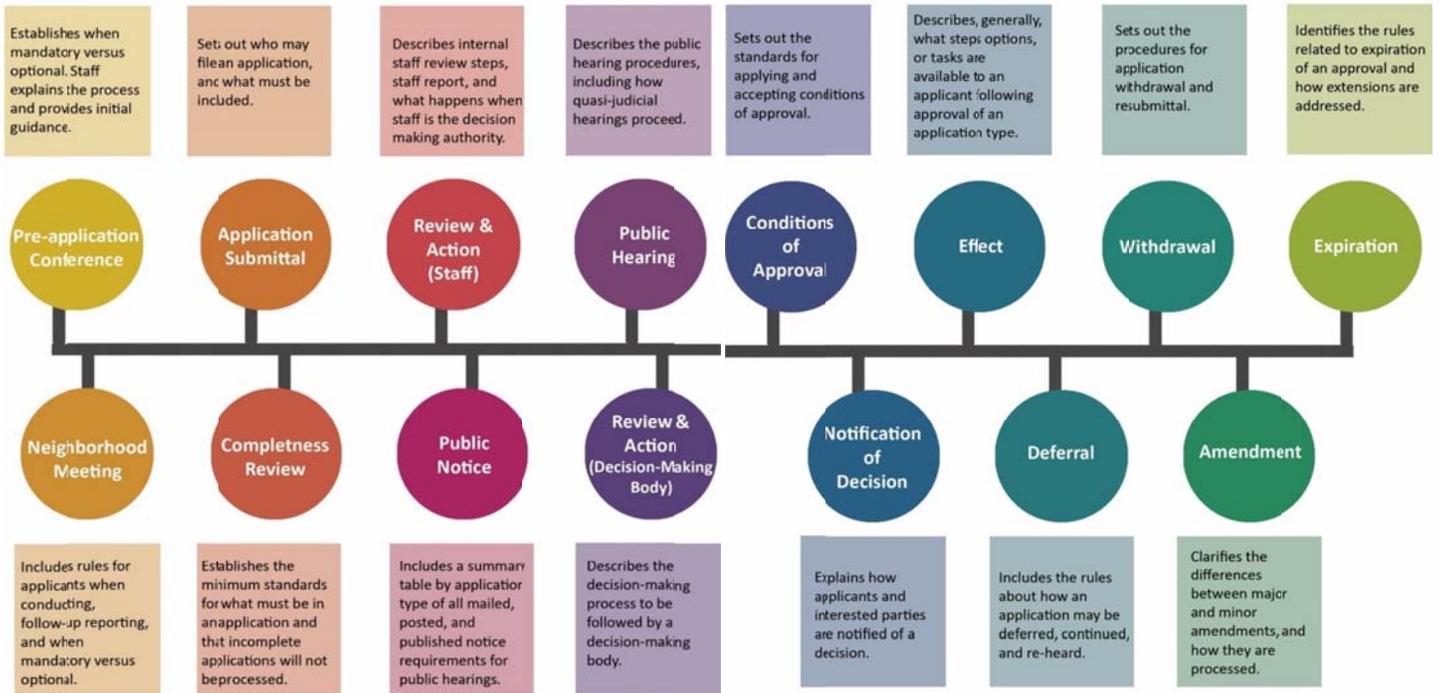
Staff has identified a need for clearer language about how UDO violations are dealt with. The current code sets out the enforcement-related provisions in Section 4.5. These provisions are rather sparse, and could benefit from additional detail. For example, where the Town’s current code states simply that the enforcement process begins when the Administrator “finds that any provision of this chapter is being violated,” many modern codes list the types of violations which result in enforcement, such as development without authorization, development inconsistent with authorization, use in violation, and subdivision in violation. It is also common to distinguish between the types of violations related to CAMA or stormwater requirements. The current standards do not distinguish well between civil versus criminal penalties, and do not set out the various amounts for civil penalties. There is no mention of injunction or stop-work as a potential remedy. The process for investigation, documentation, and notice of violation would also benefit from additional detail and from being organized in a more clear and concise fashion.

RECOMMENDATIONS

5.5. ADDITION OF COMMON REVIEW PROCEDURES

There are numerous instances of repetition of basic procedural steps such as public notice requirements, application filing, rules for conducting public hearings, quasi-judicial proceedings, and other review process sequencing that could be consolidated into a single section of common review procedures and mentioned only once instead of being included in multiple sections. We suggest the new UDO include a single set comprehensive set of common review procedures organized in accordance with Figure 5.4, Common Review Procedures.

FIGURE 5.4 COMMON REVIEW PROCEDURES



5.6. REVISIONS TO PROCEDURES

Table 5.6.A, Current Development Review Procedures, and Table 5.6.B, Proposed Development Review Procedures set out detailed summaries of current procedures and how we suggest they be modified in the updated UDO. Review procedures are organized in alphabetical order.

TABLE 5.6.A: CURRENT DEVELOPMENT REVIEW PROCEDURES						
D = Decide R = Recommendation A = Appeal <> = Public Hearing						
PROCEDURE (SECTION REFERENCE)	ADVISORY & DECISION-MAKING BODIES					
	UDO Administrator	Building Inspector	Technical Review Committee	Planning Board	Town Council	Board of Adjustment
Amendment/Rezoning (4.1)	.	.	.	R	<D>	.
Appeal (4.4.1)	.	.	.	.	.	<D>
CAMA Minor Permit (12.1.2)	D [1]	.	.	.	.	<A>
Certificate of Occupancy (2.14)	.	D	.	.	.	.
Conditional Use Permit (14.3)	.	.	R	R	.	<D>
Final Plat (16.6.C)	.	.	.	D	.	.
Floodplain Development Permit (13.1.3)	.	D [2]	.	.	.	.
Interpretation (of Zoning Map) (4.4.4)	D [3]	.	.	.	.	D
Land Disturbance Permit	.	D	.	.	.	<A>
Major Site Plan (14.4.3)	.	.	R	R	<D>	.
Minor Site Plan (14.4.2)	D	.	R	.	.	<A>
Preliminary Plat (16.6.B) [4]	.	.	R	D	.	.
Site-Specific Plan Approval (Vested Right Determination) (4.2)	.	.	.	<R> [5]	<D> [5]	.
Variance (4.4.2)	.	.	.	.	.	<D> [6]

NOTES:
 [1] CAMA Major Permits are reviewed and decided by the Department of Environmental Quality.
 [2] The Building Inspector is designated as the Floodplain Administrator in Section 13.2.1.
 [3] UDO Administrator interprets floodway and floodplain boundary lines.
 [4] Requires a Sketch Design Plan reviewed by the Planning Board prior to application.
 [5] Conducted as a joint public hearing with both the Planning Board and the Town Council.
 [6] Includes variances to floodway/floodplain provisions.

TABLE 5.6.B: PROPOSED DEVELOPMENT REVIEW PROCEDURES						
D = Decide R = Recommendation A = Appeal <> = Public Hearing						
Gray rows indicate new or substantially revised procedures						
PROCEDURE	ADVISORY & DECISION-MAKING BODIES					
	UDO Administrator	Building Inspector	Technical Review Committee	Planning Board	Town Council	Board of Adjustment
Administrative Adjustment [NEW]	D	.	.	.	.	<A>
Appeal	.	.	.	.	.	<D>
Building Permit	.	D	.	.	.	<A>
CAMA Minor Permit	D [1]	.	.	.	.	<A>
Certificate of Occupancy	.	D	.	.	.	<A>
Concept Proposal [NEW]	.	.	.	<R> [2]	<D> [2]	.
Conditional Use Permit	.	.	R	.	.	<D>
Development Agreement [NEW]	.	.	.	R	<D>	.
Final Plat	D	.	.	.	.	.
Floodplain Development Permit	.	D [3]	.	.	.	<A>
Interpretation	D	.	.	.	.	<A>
Land Disturbance Permit	.	D	.	.	.	<A>
Major Site Plan	.	.	R	D	.	.
Minor Plat [NEW]	D	.	R	.	.	<A>
Minor Site Plan	D	.	R	.	.	<A>
Preliminary Plat	.	.	R	D	.	.
Sign Permit	D	.	.	.	.	<A>
Text Amendment	.	.	.	R	<D>	.
Temporary Use Permit [NEW]	D	.	.	.	.	<A>
Variance	.	.	.	.	.	<D> [4]
Vested Right Determination	.	.	.	.	<D>	.
Zoning Map Amendment	.	.	.	R	<D>	.
Zoning Permit	D	.	.	.	.	<A>

NOTES:
 [1] CAMA Major Permits are reviewed and decided by the Department of Environmental Quality.
 [2] A single joint public hearing is conducted.
 [3] The Building Inspector is designated as the Floodplain Administrator in Section 13.2.1.
 [4] Includes variances to floodway/floodplain provisions.

Table 5.6.B shows the proposed development review procedures with eight new or substantially revised procedures shown in gray rows. There are also some important changes recommended for existing procedures, including:

- Splitting the amendment and rezoning procedure into two separate procedures (due to the differing approval criteria);
- Removal of Planning Board review of conditional use permits since this is a quasi-judicial procedure (also suggest the addition of new use-specific standards to reduce the reliance on the conditional use permit process in general);

- Delegation of the UDO Administrator as the official who may decide final plats (since this is a ministerial process);
- Delegation of the UDO Administrator as the official who interprets the UDO text and the zoning map;
- Authorizing the Planning Board to decide major site plans (based on new requirements for conceptual proposal review);
- Removal of Planning Board review of vested rights determinations since this is a quasi-judicial procedure; and
- The building permit, sign permit, and zoning permit are shown in gray rows since these procedures are mentioned in the current UDO but not currently codified. We suggest procedures for each of these permit types be codified.

The recommended new types of development review procedures include the following:

- An administrative adjustment that allows the UDO Administrator to grant minor deviations (up to 10%) to any numeric provision (except lot area or density) based on clear criteria – administrative adjustments can take place as part of another development application or as a stand-alone application for proposed or existing development;
- A conceptual proposal process where a concept plan for new development that is anticipated to require a preliminary plat or a major site plan is reviewed during a joint hearing by the Planning Board and Town Council as an initial procedural step (we suggest the current sketch plan reviews be replaced by this procedure);
- A development agreement that allows the Town to enter into negotiated agreements with applicants proposing large, complex, or multi-year projects that clarifies the rights and responsibilities of the applicant and the Town. The development agreement provides assurances to the Town regarding the nature and timing of site features to be included and assurances to the applicant that the project can move forward under the development provisions in effect at the time the agreement was negotiated;
- A minor plat procedure that allows the subdivision of up to five lots to be reviewed as a final plat; and
- A temporary use permit for temporary uses, events, or structures.

These recommendations, while not required to help the updated UDO function more effectively, will help address concerns expressed by Town staff and elected officials regarding the effectiveness of the development review process. Careful consideration of all the proposed procedural recommendations should take place during the drafting process.

5.7. OUTSIDE PROCEDURES MANUAL

Many local governments seeking to improve their development regulations through streamlining and clarification also prepare a “user’s guide” or procedures manual that is maintained apart from the codified ordinance. Typically, a procedures manual contains supplemental information related to procedures, such as: application forms, fee amounts, submittal requirements, detailed procedural descriptions, and other resource information for applicants. These kinds of manuals consolidate application-related materials for applicants and simplify the maintenance and update of these kinds of provisions for government officials (as they are maintained outside of the codified ordinance, and thus may be updated without a public hearing).

It is important to remember, when considering an outside procedures manual, that there are elements of the development review process which must, by law, be adopted in an ordinance following a public hearing. These items include a list of the types of review procedures, who decides the application, the



steps in the application process, and the review criteria. Failure to include these important elements could subject the regulations to a claims that applicants are not treated equally under the law or that their due process rights have been violated. As a result, we suggest the updated UDO include a balanced blend of procedural material that meets the minimum legal codification requirements that is supplemented with an outside procedural manual that include application-related materials adopted via resolution.

5.8. CLARIFICATION OF VIOLATIONS AND ENFORCEMENT SECTION

We recommend that the Violations and Enforcement section of the code be supplemented with additional detail as to what constitutes a violation of the UDO, recognizes distinctions between some special standards (like CAMA provisions), distinguishes between civil and criminal penalties, and includes the full range of remedies and penalties available to the Town (like stop-work orders). . We recommend that this section be housed in proposed Article 18-9, Enforcement.



Aerial view of the Atlantic Beach Causeway.

PART 6: REVIEW CRITERIA

Review criteria are the basis for all forms of decision-making, and most UDOs include both a general or generic set of review (or approval) criteria as well as a detailed set of review criteria for each development review procedure (including those related to stormwater, sedimentation, and development in special flood hazard area). One of the most important reasons for the inclusion of approval criteria is to ensure that applicants for the same kinds of development application are treated in the same manner. Failure to treat applicants for the same kind of application in the same manner is a violation of equal protection and can expose the Town to legal challenge. Unfortunately, the current UDO lacks review criteria for many of the development review procedures and other activities in the ordinance. Some examples are listed below:

SUMMARY OF CONCERNS

6.1. MISSING REVIEW CRITERIA - DEVIATIONS

There are many instances in the UDO where the UDO Administrator, the Planning Board, or some other review body may consider and grant modifications, deviations, and even outright waivers of required development standards without the benefit of any review criteria, thresholds on the amount of a deviation, or conditions under which a deviation may be requested. Several subsections of Section 2.10, Lot Requirements/Dimensions, include examples of these missing criteria.

Section 2.10.E allows the UDO Administrator to determine required yards on irregularly-shaped lots based on the "spirit and intent" of the Ordinance with no additional criteria or guidance, and the UDO includes no intent statement except in Section 4.1.1 related to text and map amendments.

6.2. MISSING REVIEW CRITERIA – ACCELERATED REQUIREMENTS

There are several instances where the UDO Administrator, the Planning Board, or some other review body may impose additional standards or a higher bar than is otherwise required without the benefit of description of instances where this is appropriate, the applicable review criteria, requirements to make findings, or provisions that limit their discretion; this is especially concerning as it makes the ordinance unpredictable and undercuts the rational basis for regulation.

For example, the Planning Board may increase setbacks and recreation area requirements in multi-family development (Sections 6.21.5 & 6.21.7) when it desires to do so without benefit of decision making-criteria or guidance in terms of when additional setbacks or recreation should be required or how either should be configured.

6.3. MISSING REVIEW CRITERIA – GENERALLY

There are no criteria to guide decision-making bodies on several different kinds of procedures, such as appeals, map amendments, text amendments, major or minor site plans, preliminary plats, or final plats.

RECOMMENDATIONS

The lack of review criteria is perhaps the second-most concerning element of the current UDO (after the lack of consistent terminology). Not having these kinds of criteria creates legal exposure for the Town, and should be revised to help maintain legal sufficiency. We suggest the updated UDO include measurable review criteria for each development review procedure, each decision-making process, and criteria for use in the evaluation of whether or not a development complies with the various development standards, particularly design controls.



PART 7: ZONING DISTRICTS

The zoning district standards control what uses can go in what locations and how development is configured on a lot. While the current UDO is in fair shape in terms of its district standards, there is room for improvement. The following sections identify the concerns and proposed recommendations.

SUMMARY OF CONCERNS

7.1. CIRCLE DEVELOPMENT DISTRICT COMPLEXITY

Section 6.8 of the current UDO includes the provisions for the Circle Development (CDD) district. This district addresses lands within the core of the Town and includes standards that seem to be aimed at place-making and pedestrian orientation. While these are laudable goals, the district appears to be drafted as a stand-alone district and includes numerous complex, text-heavy paragraphs that are difficult to follow. In addition, the articulation, floor area ratio, setback, and landscaping standards contain particularly confusing language. Many of the standards either overlap or are inconsistent with other generally-applicable standards in the UDO. We suggest this district be reviewed and the language be revised for greater simplicity and consistency with the balance of the UDO.

7.2. CONSOLIDATION OF STANDARDS

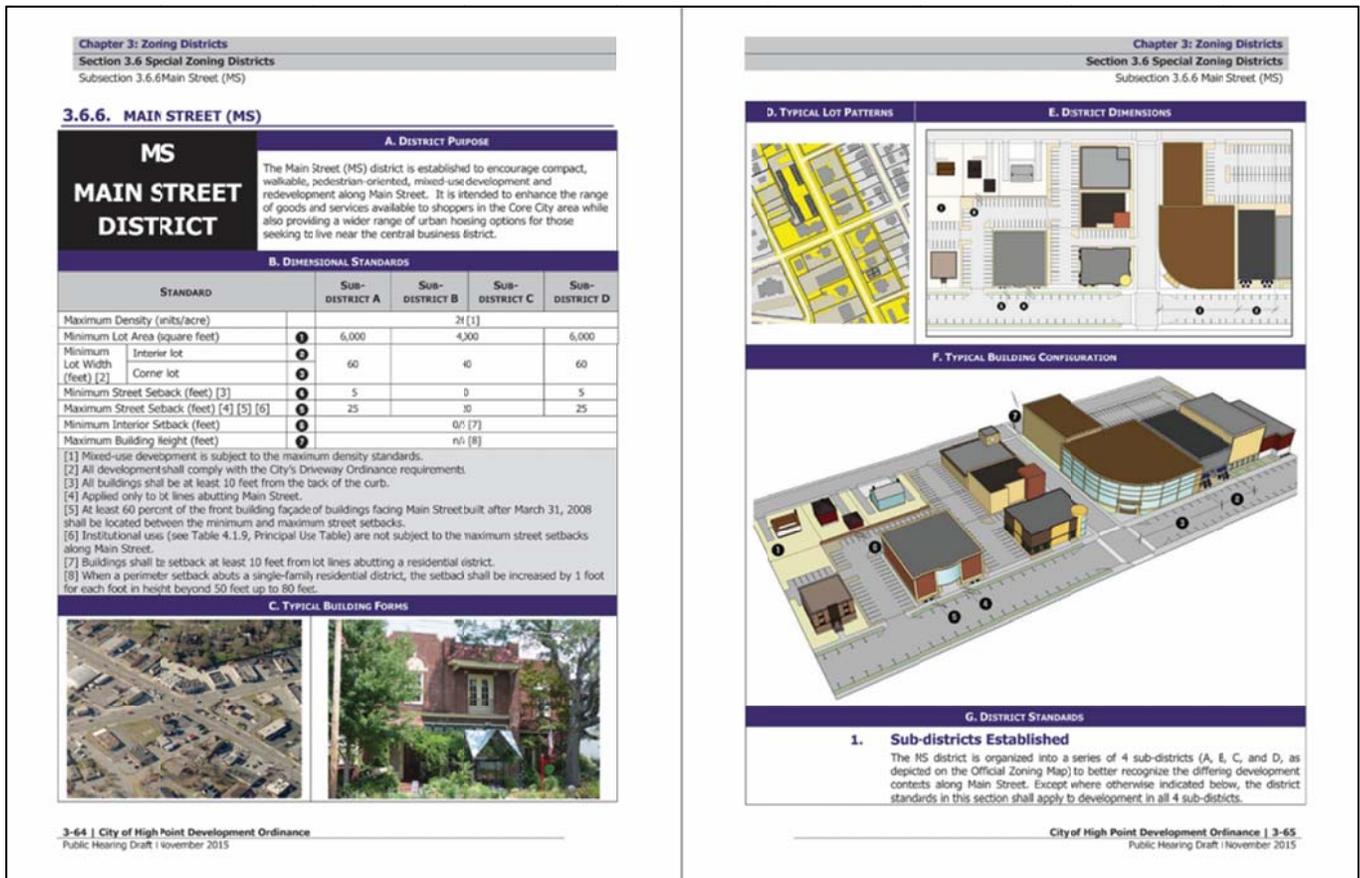
The majority of the Town's zoning district standards are mostly contained in Article 5 of the UDO, with additional standards for the Causeway Overlay District and the Circle Development District included in Article 6. The district dimensional standards are separated from the purpose statements by the summary use table. Most modern codes seek to consolidate like material, such as the zoning district provisions, into a single article. We suggest the Town consider this approach with the updated UDO.



Recommendations

Many modern development regulations include district standards that are highly visual and that convey a district purpose statement, examples of preferred development forms, and summary tables that quickly convey dimensional standards. We suggest the Town consider this approach in the updated UDO. Figure 7.3, District Layout, shows an example of a modern graphically-driven set of district standards. This format can be further customized and revised for the Town’s specific conditions.

FIGURE 7.3, DISTRICT LAYOUT



PART 8: USE STANDARDS

Identifying which uses may go in which locations is one of the primary functions of a UDO, and these standards are the ones most often used by landowners, citizens, and applicants. As such, these standards should be clear and unambiguous. Use standards must also be flexible and capable of accommodating rapid changes in how uses are named or how they function. The following paragraphs summarize our concerns with the current UDO language, and our recommendations for addressing these concerns.

SUMMARY OF CONCERNS

8.1. INCONSISTENCY IN PRINCIPAL USE STANDARDS

Principal uses are the main or primary use of land on a lot. A single-family detached home is an example of a principal use. There are several instances where the current use standards for principal uses are confusing or contradictory. For example, the summary use table in Section 5.5 allows adult oriented businesses only in the GB (and COD) districts, while the supplemental regulations in Section 6.2 indicates they are also permitted in the CB district. The convenience store definition in Appendix A indicates a one-story retail use of less than 3,000 square feet of gross floor area but Section 6.9.B allows convenience stores of up to 8,000 square feet of gross floor area.

The use table in Section 5.5 lists residential condominiums as uses permitted subject to special standards in the R-3, RS, CDD, GB, RMU, and COD districts (and references the multi-family use standards in Section 6.21). The term "residential condominium" is not defined in Appendix A. The use table also lists several other dwelling types such as multi-family dwellings, single-family attached dwellings, and townhomes. However the districts where these uses are permitted differ from those where residential condominiums are permitted. Aside from being confusing, this situation seems to indicate the UDO is seeking to regulate some residential uses on the basis of ownership, which is likely a violation of the Fair Housing Act.

The use table in Section 5.5 sets out standards for how churches/places of worship may be established, which differ from the standards for establishment of civic or nonprofit clubs, and the standards for establishments of public schools. This is a violation of the Religious Land Uses and Institutionalized Persons Act (RILUPA).

The use table also sets out standards for group homes which differ in terms of allowable locations from single-family detached homes, which is a violation of state law (separation standards between group homes may be applied, but development regulations may not prohibit group homes in districts where single-family homes are located).

8.2. COMPLEXITY IN USE STANDARDS

The current UDO makes numerous distinctions in use types that add unnecessary complexity. For example, the summary use table includes separate rows for accounting offices as well as accounting services, baked goods/snack shops and bakery goods sales shop, beachwear sales and clothing/shoe/accessory stores, gift shop and gift/novelty/souvenir/card shop and novelty shop, two rows for hotel and motel uses, two rows for inns, automatic laundry versus laundromat, administrative office facilities versus office administrative/support services, and several others. These kinds of distinctions in use type could easily be consolidated, making the use provisions much easier to use and administer. Further, the current distinctions for many types of office uses, personal service uses, and of retail can be consolidated into a few use types for greater simplicity.

In addition to these issues, the use table includes several features or forms of development that are neither principal or accessory uses, like public sewer system, improved driveways, pedestrian walkways, boardwalks/walkways. These kinds of elements are site features, not uses, and should be removed from the use table.



8.3. DISTINCTIONS IN ACCESSORY AND TEMPORARY USES

The use table includes accessory and temporary uses (like accessory buildings, accessory dwellings, boat lifts, common area recreation, docks, drive-throughs (tied to a business or restaurant), gazebos, greenhouses (incidental), observation decks, guest houses, home occupations, ice vending machines, outdoor display and storage, and outdoor sales) in addition to principal uses. However, the standards are not clear as to whether or not these kinds of uses can be established on a lot prior to a principal use or in what ways the accessory use must remain incidental to the associated principal use (size, height, setback, etc.). The updated UDO should distinguish the rules for accessory versus principal uses.

8.4. PROCEDURE FOR UNLISTED USES

Recent court case rulings in North Carolina indicate that development regulations need to establish a list of prohibited uses or include a process where unlisted uses can be considered in terms of the allowable districts or procedure. Some local governments have taken the position that if a use is unlisted, it is prohibited. The courts have taken a dim view of this approach, and prefer to see development ordinances that address the issue of unlisted uses. Section 1.10 of the current UDO allows the Planning Board to interpret uses, but does not include any standards or review criteria. We suggest the updated UDO include a more formalized use classification system and use of the proposed interpretation procedure for the UDO Administrator to determine how unlisted uses will be treated.

RECOMMENDATIONS

The following paragraphs set out our recommendations for revisions that address use types in a predictable and legally defensible way.

8.5. EMPLOY A USE CLASSIFICATION SYSTEM

Many modern codes include a use classification system to bring additional structure, precision, and clarity to the range of uses. Best practices incorporate a three-tiered use classification system comprised of use classifications, use categories, and use types. Use classifications, the broadest category, organize land uses and activities into general use categories (residential uses, institutional uses, commercial uses, and industrial uses). Use categories, the second level or tier in the system, is composed of groups of individual types of uses (such as household living versus group living). Use categories are further divided into individual use types based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This three-tiered system of use classifications, use categories, and use types provides a systematic basis for assigning present and future land uses to the zoning districts.

The use classification system provides a detailed definition and description of each listed use, including the attributes and elements that distinguish it from other uses. It is also possible to include exclusions, or reasons why one use might be treated differently from one another. For example, a laundromat is a personal service use while a commercial laundry or dry cleaning plant is a light industrial use, based on the volume of laundry, the hours of operation, the range of chemicals, delivery vehicles, and other factors. Using this approach, it is also easy to distinguish between the range of uses that are allowed versus ones that are prohibited, based on the characteristics of the use. Modern codes often supplement these provisions with a generalized list of uses (and use characteristics) that are prohibited in all zoning districts. The definitions chapter will reference this section.

8.6. SIMPLIFY THE USE TYPES

The summary use table in Section 5.5 contains a comprehensive range of uses, but would be more user-friendly with some revisions. We suggest many of these uses be consolidated into less fine-grained groups since the current distinctions are largely irrelevant for the sake of land use regulation. For example, the table lists office facilities as a use, and also lists many different types of offices, including medical, real estate, and construction offices. Combining similar and redundant or nested uses will



simplify and shorten the use table, making it more user-friendly and unambiguous as to how to classify a particular use.

As part of the consolidation of uses, we also suggest to simplify the naming convention used within the table. Many modern codes use broader categories, such as offices or automotive-related businesses, then further distinguish between types using major/minor subcategories. These distinctions are clarified in the use classifications as described on the previous page, and may be made based on square footage, intensity, indoor/outdoor activity, site configuration, traffic impacts, or presence of particular site features such as drive-throughs. Table 8.6, Current and Proposed Principal Use Comparison, provides a summary of how current uses might be consolidated and reconfigured into this convention. The tan column shows how uses in the current UDO would be renamed under this approach.

TABLE 8.6: CURRENT AND PROPOSED PRINCIPAL USE COMPARISON	
CURRENT USES [1]	PROPOSED USE TYPES
RESIDENTIAL	
Dwellings, single-family attached; Single-family detached; Single-family conventional or modular; Townhouse; Duplex; Multi-family; Manufactured home; Triplex and four-family; Residential cluster development	Single-family attached Single-family detached Duplex Multi-family Manufactured home Mobile home Upper-story residential
Group housing	Group Living, major Group Living, minor
INSTITUTIONAL	
Child day care centers	Day Care, major Day Care, minor
Public schools and private schools	Educational Facilities, major Educational Facilities, minor
Government buildings, facilities, and equipment; Municipal buildings; Post office facilities	Government Facilities, major Government Facilities, minor
Medical/health care offices; Medical, dental, or related laboratories; Doctor's office	Health Care Facilities, major Health Care Facilities, minor
Auditoriums, indoor public assembly; Clubs, civic or nonprofit; Libraries; Museums and galleries; Nursing home; Youth centers; Churches/places of worship	Institutions, major Institutions, minor
Public or private parks, passive; Public or private parks, active; Public recreation facilities; Botanical gardens/nature preserves; Public beach access facilities and related public parking	Parks & Open Spaces
Fire station	Public Safety
Boat lifts; Boat ramps	Transportation
Public utility distribution lines, transformer stations, transmission lines and towers, but not service or storage buildings; Public utility buildings and facilities only upon submission of architectural rendering of such building and facilities; Telephone switching stations; Wireless telecommunications towers and facilities; Sewage disposal/treatment plant facilities	Utilities, major Utilities, minor
COMMERCIAL	
Adult oriented businesses	Adult Entertainment
Animal hospital; Pet care services; Pet and pet supply stores; Veterinary services (no outdoor kennels)	Animal Care, major Animal Care, minor

TABLE 8.6: CURRENT AND PROPOSED PRINCIPAL USE COMPARISON	
CURRENT USES [1]	PROPOSED USE TYPES
Caterers; Restaurants; Restaurants, full service; Restaurants, limited service; Restaurants, indoor/outdoor seating; Taverns, bars, night clubs; Bakery goods sales shop; Baked goods/snack shops (excluding drive-thru); Delicatessen	Eating Establishments, major
	Eating Establishments, minor
Accounting office; Accounting, tax preparation, bookkeeping, and payroll services; Administrative office facilities; Advertising & related agencies; Banks, finance, and insurance offices; Computer systems design and related services; Delivery, courier service, local (?); Design services, not otherwise listed; Employment services; Engineering, architectural, surveying, and related services; Finance/loan office; Insurance office; Interior decorating office; Landscaping and grounds maintenance offices; Legal services (law office, etc.); Management, scientific, and technical consulting services; Real estate agency; Real estate and leasing office; Travel agencies	Offices, major
	Offices, minor
Parking lots and structures	Parking, Commercial
Barber/beauty shops; Body piercing establishment; Hair, nail, and skin services; Tattoo parlors; Massage and bodywork therapy practices licensed pursuant to NCGS 90-623	Personal Services, major
	Personal Services, minor
Arcades; Amusement centers (outdoor); Amusement centers (indoor); Bowling lanes; Dinner theaters; Theaters, motion picture, indoor; Miniature golf, Maze, Private beach clubs; Tennis courts (commercial/private)	Recreation/Entertainment, major
	Recreation/Entertainment, minor
Appliance repair shop; Appliance stores; Arts and crafts supply stores; Clothing, shoe, and accessories stores; Consignment/used merchandise/antique stores; Department, variety, or general merchandise stores; Pharmacy; Convenience stores without fuel sales; Electronic and camera stores; Farm and garden supply; Fruit, vegetable, fresh food markets; Bicycle sales, rental and repair; Outdoor markets; Farmers markets	Retail Sales and Services, minor
Stores with drive-through; Convenience stores with fuel sales; Dry cleaning and commercial laundry services	Retail Sales and Services, major
Auto, truck, trailer, and/or boat sales, service, and/or rental; Automobile repair; Car wash; Fuel sales (gas stations)	Automotive, major
	Automotive, moderate
	Automotive, minor
Hotels; Motels; Inns; Condotels; Condominium hotels; Bed and breakfast; RV parks; Tent campground	Visitor Accommodations, major
	Visitor Accommodations, minor
Docks; Marinas; Piers	Water-Dependent Use
INDUSTRIAL	
Research and development services (consulting); Commercial storage (indoor or outdoor)	Light industrial
Seafood processing and packaging	Heavy industrial
NOTES: [1] Current uses will be organized into a three-tiered system. The proposed Use Categories (in the orange column) will each contain several uses.	

8.7. REDUCE RELIANCE ON THE CONDITIONAL USE PERMIT

One symptom of development codes that lack sufficient codified standards is an over-reliance on discretionary permits like conditional use permits. We suggest the current use-specific standards in Article 6 be reviewed and supplemented as necessary to establish more codified use-specific standards,

and allow a corresponding reduction in the number of uses subject to conditional use permit requirements.

8.8. ADD NEW USE TYPES AND STANDARDS

In addition to our review, Town staff has been reviewing the current UDO language and has identified a need for several new use standards, including:

- Park model RVs - recreational vehicles which are intended to be towed to their location and moved only infrequently that are typically used as vacation homes on a purchased lot (these uses would be currently be treated as a manufactured home, which is not appropriate);
- An event venue use type – standards for uses that hold events, like the Celebration Cottage;
- Accessory dwelling units – new more comprehensive standards are needed (although these uses are listed in use table);
- Swimming pools (as an accessory) – new comprehensive standards, including references to applicable Health Department requirements are needed;
- Mobile homes – ensure the updated UDO does not include maximum age limitations (as were included in the Town’s original standards) as these have been struck down by the courts, and clarify setbacks for development within a mobile home park;
- Multi-family development – these standards need to be reviewed for consistency with national best practice and should include revisions to density provisions, clarifications to the amount and type of recreational facility requirements, and required setbacks (including when doubled); and
- Assembly uses – clarification of where they may be permitted.

PART 9: DEVELOPMENT STANDARDS

The development standards are the provisions that impact how development is configured. Staff has suggested that the current development standards in Article 7, Article 9, and Article 10 need “major cleaning up” and should be revised to better connect with the types of development or areas where they apply. The following sections summarize our observations and recommendations by section.

CONCERNS AND RECOMMENDATIONS

9.1. PARKING

Section 9.1 through 9.7 set out the off-street parking and loading standards. They are applied to parking lots of four or more spaces, but exclude single-family detached and duplex development. The standards include some basic configuration provisions, very detailed handicapped parking space standards, standards for remote and shared parking spaces, dimensional standards, driveway standards, parking ratios (minimum space requirements), and loading provisions.

Generally speaking, the standards include the basics of a good set of parking standards, but the organization could be improved, particularly with respect to the configuration provisions, which should be re-organized into a single section with the parking space size standards.

We suggest the handicapped parking space material be reduced in breadth in favor of references to federal and State Building Code requirements. We suggest a similar strategy with respect to the loading provisions. Modern trends are moving towards allowing an applicant to decide what their loading needs are. Regulatory standards should be limited to preserving parking capacity, circulation safety, and screening of loading facilities. We also suggest the exemption for single-family detached and duplex dwellings be modified to exempt these uses from configuration requirements, but not ratios (another issue for consideration is whether or not there should be additional controls limiting parking on front yards serving these uses).

The parking ratio requirements are organized into a table, which is good, but the table does not list all the allowed use types, which requires interpretations. Many of the standards seem on par with national trends, though some seem high (such as seven spaces per doctor at a medical office). Many of the ratio standards are based upon operational characteristics such as occupancy, seating, or number of employees. Where possible, we suggest these standards be converted back to square footage or some other measure that does not fluctuate as readily. We also suggest the deviation provisions at the start of Section 9.6 be more formalized and supplemented with maximum deviation amounts and review criteria.

In addition to these changes, we suggest the bicycle parking provisions be relocated to these provisions, along with the cross-access standards. The vehicle storage provisions (including recreational vehicle parking) in Sections 9.5.1 and 9.5.2 belong in the accessory use standards. Finally, the standards should be revised to better address surfacing, including pervious pavement and the ability to incorporate LID techniques.

While unrelated to parking, we also suggest the street design standards in Sections 9.8 through 9.12 be relocated to the subdivision standards.

9.2. LANDSCAPING

Article 10 includes the landscaping and tree protection standards. The standards can be organized generally into basic purpose and applicability provisions, tree protection provisions, configuration and maintenance requirements, required buffers (street and project boundary), vehicular use area landscaping, and revegetation requirements.



One of the largest concerns with the current standards is the organization. The configuration, maintenance, and revegetation requirements are scattered through the standards, and should be consolidated into three basic subsections. Town staff has noted that the current standards should be simplified. One of the best ways to simplify the standards is to ensure they are well organized. It is typical to include configuration provisions before the individual landscaping provisions and the maintenance, violation, revegetation, and tree protection standards after the individual landscaping provisions.

The tree preservation standards are vague and need improvement. Section 10.3 says existing vegetation shall be preserved wherever feasible, but does not indicate what types of vegetation, nor what "feasible" means in this context (though Section 10.4.B does mention that protected trees are set out in Appendix B – but we have no clear guidance as to when a protected tree may or may not be removed). While tree protection is limited to an "as feasible" basis, Section 10.6.4 prohibits clear cutting within future street buffers, and encourages limits on internal site clearing during construction. This language is conflicting and needs to be clarified.

In cases where protected trees are to be retained, the standards in Section 10.5 control; however, the UDO says these standards are recommended, not required. This should be revised – if trees are required to be protected, then tree protection measures during construction should also be required. There are "one-for-one" incentives for keeping existing vegetation, which is good and should be retained, but should also be clarified in terms of inches of tree diameter.

One big concern with the configuration standards is that Section 10.8.4 refers the reader to Appendix B for minimum size at time of planting; however, Appendix B does not include any standards related to minimum size at time of planting (we note that Section 10.11.3.H & I do establish a minimum size for canopy shade trees and shrubs serving parking lots). Another notable element missing from the standards are provisions for lots that border sand dunes. Typical landscaping requirements do not readily apply to these lots given soil conditions, and as such alternative configurations should be allowed. In addition, the Town should consider species diversity requirements to help ensure required landscaping is not wiped out by pests or bad weather. The landscaping standards, like so many other standards in the current UDO, allow the UDO Administrator to grant deviations to the standards, but does not indicate which standards, the degree to which deviation is allowed, the circumstances involved, and the criteria under which a decision to grant a deviation may be made.

There are two forms of buffer (street and project boundary). The street buffer requirements are uniformly applied to lots bordering collector and thoroughfare streets. Interestingly, the standards require existing trees to be retained in street buffer areas, but then encourage construction of a berm (which would subsequently kill the trees). The project boundary buffers are applied to the edges of a project and differ (in terms of opacity) based on the abutting zoning district and whether or not the abutting lot is vacant. The standards also include two buffer options which differ in terms of the required plantings. This is a typical and sound strategy for buffering that we suggest be carried forward. It would be helpful if the standards included some illustrations.

The vehicle use area landscaping requirements in Section 10.11 basically require a combination of shade trees and evergreen shrubs around the perimeter. This is a common and well-founded approach. We suggest one way to supplement these standards is to islands within the parking field to incorporate shrubs as well. One issue for further consideration is the role of Section 10.11.4 if vehicular use areas are already required to have a perimeter screen.

Section 10.13 includes the alternative methods of compliance, which are, by far, the most comprehensive of these kinds of provisions in the current UDO. They allow the UDO Administrator to approve alternative configurations, though the conditions under which such deviations can be requested should be enumerated.

9.3. SIGNAGE

Article 11 sets out the sign regulations. The current standards include a blend of standards by specific sign type, by district, and by specific use (like shopping centers). One of the largest challenges facing Atlantic Beach (and almost every other local government in the country) is the recent US Supreme Court ruling in the Reed versus Town of Gilbert case. This case basically holds that sign regulations that require a person to read the sign to determine what kind of sign it is, and thus what sign standards apply, amounts to a regulation of signage content – rules regulating signage content must withstand the test of strict scrutiny to be upheld. In other words, if you have to read the sign to determine the sign standards that apply, then the standards are an unconstitutional regulation of speech. As a result, some of the Town’s current sign standards should be reviewed by the Town’s legal counsel to determine if they violate the Reed precedent. New signage standards should be structured so that signage standards are applied based on zoning district alone. Town staff has also indicated that the provisions impacting banners should be reviewed and revised.

9.4. FENCES AND WALLS

Section 7.2 of the current UDO sets out the fence and wall standards. These standards are in fairly good shape except for the relationship to Section 10.10.10, which sets out the standards for fences and walls with in required buffers. We suggest the buffer and wall standards in the landscaping section be relocated to the fence and wall standards section, and the minimum height requirements in buffers be reconciled with the fence height limits in front yards. In addition, the fence and wall section would benefit from some summary tables, inclusion of illustrations, and increased detail and criteria regarding approval of alternative wall materials in Section 7.2.4.B.

9.5. SCREENING OF REFUSE COLLECTION AND MECHANICAL AREAS

Section 7.3 includes the screening requirements for refuse collection, utility, and service areas. This section needs considerable improvement as it is vague in its applicability statements and is not applied to non-residential development. Even more concerning is the fact that the screening requirements in Section 7.3.3 refer the reader to Article 10, Landscaping, Buffering, Screening, and Tree Protection, but Article 10 does not include any provisions for screening these features (only buffers and vehicular use areas). As a result, there are no standards for screening these features. Further, the provisions do not address site configuration elements like loading docks, outdoor storage, or recycling collection areas. The provisions also include a performance standard in Section 7.3.6 that is vaguely applied, includes no criteria or requirements as to how it is to be accomplished, and does not relate to screening, but rather to use and operation of “food-related” use types.

9.6. EXTERIOR LIGHTING

Sections 9.13 through 9.23 set out the standards for exterior lighting of development as well as the street lighting provisions. It is somewhat uncommon to incorporate street lighting provisions in a UDO, as these are usually maintained in an outside policy document. If the Town wishes to retain them in the UDO, we suggest they be relocated to the subdivision provisions.

The standards address the basics of exterior lighting, including mounting height and illumination, but the standards with respect to light trespass are vague and could be made more clear. Section 9.17.5 is vague with respect to the required use of timers or motion sensors. We also suggest inclusion of a new standard that the source of illumination (the bulb) not be visible from off-site areas. The standard in Section 9.19.A regarding excessive illumination is sufficient for maintaining compatibility, and as such we suggest the majority of the standards in Section 9.18 be removed (with the possible exception of the minimum illumination standard).

One element we expected to see but did not was limitations on beachfront illumination during turtle nesting season. These kinds of standards are typical in beach communities, and we suggest the Town consider them.

9.7. CONNECTIVITY

Section 7.4 sets out the connectivity standards for streets, parking lots, pedestrian, and bicycle access. While comprehensive, there are a few areas where improvements could be made. Generally speaking, connectivity requirements work well in developing areas, or communities that are not built out. If Atlantic Beach does not have any large remaining vacant parcels or expect significant redevelopment that includes changes to streets, these standards are not that helpful. The connectivity requirements mandate connected streets except in cases of topography or natural features obstruct them. These are curious standards to apply to a coastal barrier island.

Inclusion of parking lot cross access requirements is beneficial, particularly in built-out communities. Unfortunately, the standards are very vague and do not specify when cross access is required, how it should be configured, and what happens when both landowners do not agree. There is a waiver provision, but it includes no review criteria.

Section 7.4.3.E references other street standards that apply, but does not indicate where they can be found. A similar reference pertaining to additional sidewalk standards is in Section 7.4.5.1.A.

Section 7.4.6.B includes requirements for several uses to provide bicycle amenities, but does not indicate which ones and provided at what rates.

Connectivity standards are good to include in a UDO and we suggest these be revised to provide additional detail wherever possible. We also suggest the bicycle parking and cross access standards be relocated with the other parking standards.

9.8. BUILDING DESIGN STANDARDS (INCLUDING FAÇADE DESIGN)

Section 7.5 sets out a series of building design standards and Section 7.6 sets out a series of building façade standards. There are both structural and substantive concerns with these provisions. From a structural standpoint, we suggest these two sections be consolidated into a single set of design provisions. Recent changes in state law bar local governments from applying design controls like those found in Section 7.5.2, 7.5.4.1, and 7.6.4 to single-family detached, single-family attached, and duplex dwellings without the prior consent of the landowner (this is less of a concern with the standards in 7.6.4, though the applicability provisions are unclear with respect to single-family attached development). To address this issue, we suggest the design provisions intended for applicability to single-family and duplex development be identified as “guidelines,” and that language allowing an optional statement of voluntary consent be included in the standards.

The next issue involves the decision-making body deciding the standards. Section 7.5.3.4 indicates that the building design standards are included on the site development plan. Section 7.5.3.5 sets out the review criteria (which is good), but indicates the TRC determines compliance with the standards. However, the TRC does not decide major or minor site plans. The standards in Section 7.6 are silent on who decides compliance, but Section 7.6.5 indicates the Building Inspector may decide applications for alternative compliance. Aside from the fact that there are no review criteria or the fact that the Building Inspector does not decide site plans, there are no review criteria. We suggest the decision-making body deciding the associated site plan be the designated authority for deciding compliance with the design standards.

We suggest the standards be re-named to non-residential design standards and the provisions pertaining to multi-family development be relocated to the multi-family use standards in proposed Article 18-4 Use Standards.

We encourage the retention of an alternative form of compliance, but suggest that it specify which design elements may be modified, by how much, under what circumstances, and subject to what criteria.

Finally, there is considerable overlap between these standards and many of the provisions in the CDD provisions. We suggest the new UDO consolidate these similar standards where appropriate, though

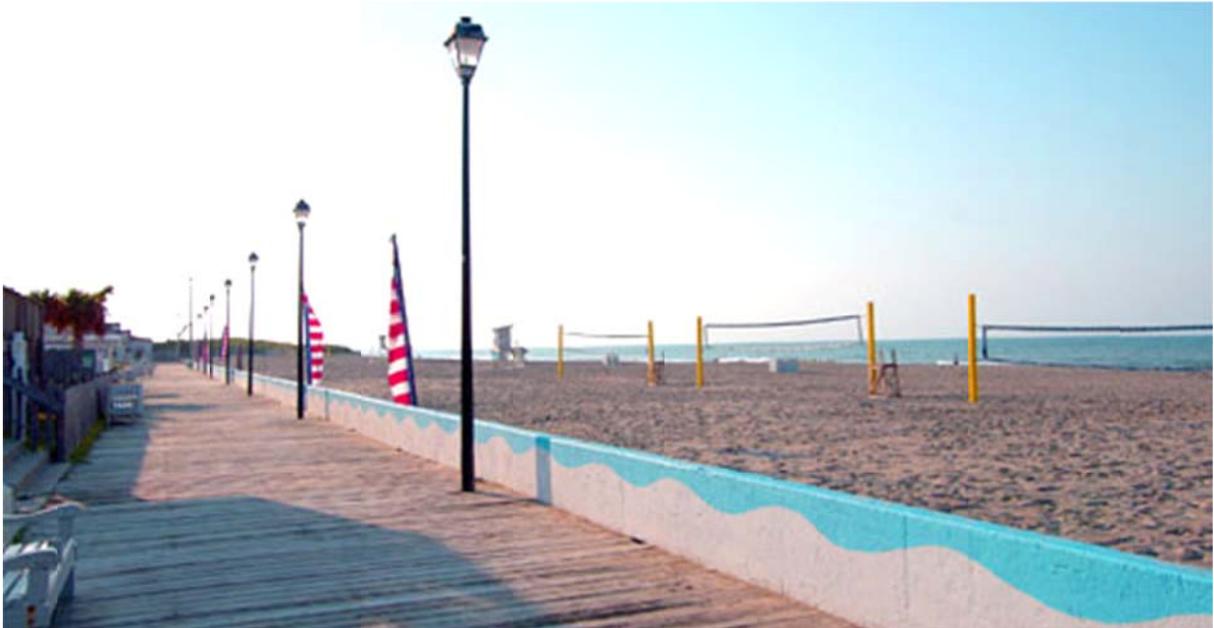
discussion is necessary regarding the desire to apply CDD-like standards to the balance of non-residential development in the Town.

9.9. STORMWATER

While not a “classic” development standard along the lines of a parking or landscaping provision, stormwater is a very important component in development configuration, particularly in a coastal environment. Town staff suggests that the updated UDO should include better standards regarding fill and elevation of structures via fill. These kinds of issues are likely to become more important in communities who depend on on-site wastewater systems as the ground water table rises. Lot fill can also result in negative stormwater impacts as stormwater flows and pools on adjacent lots that have not been filled. Many communities adopt standards limiting the amount of run-off that may leave a site and require on-site infiltration techniques to prevent nuisance flooding on adjacent lots. Section 2.26 of the current UDO includes the stormwater standards and the impervious surface limitations in this section should be relocated to the zoning district standards. The requirements for stormwater retention should be qualified in terms of the magnitude of the rainfall event (10 year storm versus a two-year storm). We suggest the Town consider revising the two-inch requirement to a new standard that seeks to limit runoff to a predevelopment state. The provisions in Section 2.26.B.5 & 6 regarding the amount of impervious cover should be revised for greater clarity.

9.10. FREEBOARD

The term “freeboard” refers to the height of the lowest structural member associated with habitable floor space in a special flood hazard area. In Atlantic Beach, there is a two-foot freeboard rule, or in other words, the lowest structural member of habitable space must be at least two feet above the base flood elevation. These kinds of elevation requirements help to prevent damage to structures during flooding events and help to keep flood insurance rates manageable for landowners. Unfortunately, freeboard rules, when coupled with restrictive building height rules, can limit development potential in dramatic ways, particularly in cases where the base flood elevation has increased over time. In these circumstances, existing development may be lower to the ground and include more building stories than new structures. Town staff has indicated the freeboard requirements should be rethought, but additional discussion and Council direction is needed regarding the concerns to be addressed.



View down the Atlantic Beach Boardwalk.

PART 10: DEFINITIONS

Definitions are an important part of a set of development regulations as they provide insight and understanding as to what is meant (or not meant) by particular standards. Well-crafted definitions are comprehensive, inclusive of all use types, recognize differing meanings in different contexts (if applicable), do not include standards (as these may be missed by a reader), and are drafted in short, easy-to-follow sentences. The current UDO consolidates all the definitions into a single location which is consistent with modern best practice, though there is room for improvement in the updated UDO. Our concerns and recommendations are listed below.

SUMMARY OF CONCERNS

10.1. STANDARDS WITHIN DEFINITIONS

There are several instances where the current UDO includes standards within a definition. This is a concern as these standards could be missed if an applicant or staff member does not consult the definition. For example, the following terms include standards within the definition:

- Bed & breakfast inn;
- Board of Adjustment;
- Breakaway wall;
- Building height;
- Condotel;
- Convenience store;
- Home occupation;
- Mini-warehouse;
- Pharmacy;
- RV space; and
- Staging space.

10.2. LACK OF CONSISTENCY WITH BUILDING CODE

Town staff notes that terms included in the State Building Code that are also in the UDO should have the same definitions, but there are several instances where this is not the case. For example, the following terms are found in both the State Building Code and the UDO, but the definitions differ:

- Addition;
- Alteration;
- Assisted living facility;
- Base flood;
- Base flood elevation;
- Building;
- Canopy;
- Dwelling;
- Dwelling unit;
- Flood or flooding;
- Lot line;
- Nursing home;
- Owner;
- Townhouse; and
- Yard.

We suggest some discussion take place prior to replacing the current definitions as these terms may have specific meanings in Atlantic Beach that could be lost through use of the State Building Code definition.

10.3. MISSING DEFINITIONS

One hallmark of an effective development code is that all of the listed or codified use types are defined in the text. The current UDO includes the definitions in an appendix, and does not define many of the use types described in other articles. Town staff mentions the need for better definitions for other terms, such as "abutting", "adjacent", "frontage", and "pergola." Town staff also suggests a review of



how some dimensional concepts are defined, such as corner lot setbacks, interior lot setbacks, and odd-shaped lot setbacks.

10.4. UNNECESSARY DEFINITIONS

A separate, but related, issue is unnecessary definitions. Town staff has noted that there are some terms suggests removal of definitions for some use types the Town will likely never see, such as bona fide farms, golf courses, golf driving ranges, and car washes. We note that these uses should be removed from the table of permitted uses as well.

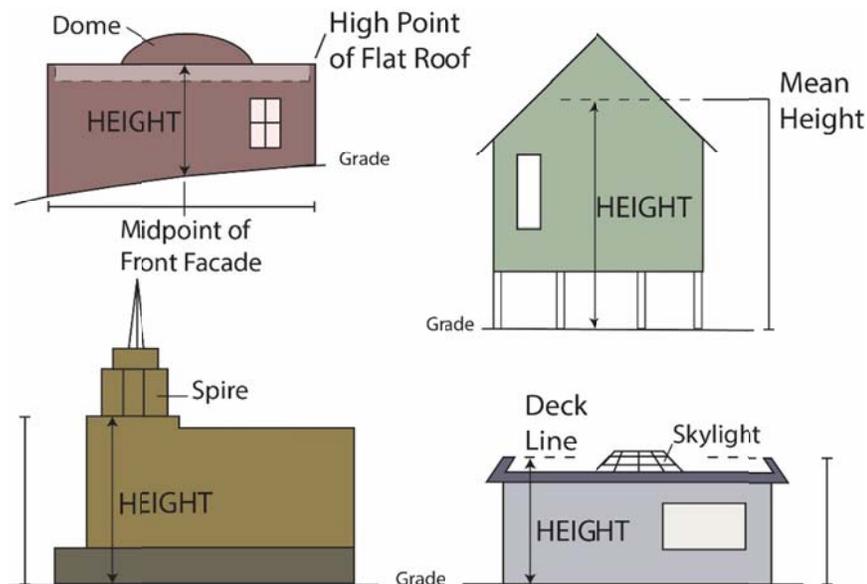
10.5. INAPPROPRIATE DEFINITIONS

Finally, Appendix A defines mobile homes as the same use as a manufactured home, which is not supported by the General Statutes or legal precedent. This definition should be revised in accordance with prevailing laws.

RECOMMENDATIONS

We suggest a thorough review of the definitions be completed and unnecessary or inappropriate definitions be removed. We also suggest all use types used in the ordinance are defined (though this could happen as part of the use classification provisions in proposed Article 18-4. Standards should be relocated to the appropriate use-specific standard in proposed Article 18-4 as well. We suggest the rules of language construction be relocated from Appendix A and included with the definitions, along with a glossary of abbreviations and a new rules of measurement section that describes and illustrates how numerical provisions (like height, setback, sign area, etc.) are determined. Figure 9.6, Height Determination is an example of how rules of measurement can be illustrated.

FIGURE 9.6, HEIGHT DETERMINATION



PART 11: CHANGING STATE LAW

This portion of the Code Assessment identifies relevant planning-related legislation from the General Assembly from 2011 through 2015. Many of these issues require revision to the current UDO to ensure compliance with state law and recent court precedent. We recommend the updated UDO incorporate changes to address these new laws.

11.1. BEDROOM AND DWELLING UNIT DEFINITIONS LIMITED

Section 18 of Session Law 2015-1246 prohibits cities and counties from defining bedrooms and dwelling units more broadly in a zoning ordinance than in a rule or statute.

11.2. REGULATION OF PROPERTY IN THE PUBLIC TRUST AREA

Session Law 2013-384 gives cities the ability to regulate, restrict, or prohibit the placement of equipment or property on the dry sand beach.

11.3. UNINHABITABLE HOUSES ON THE BEACH

Session Law 2015-246 allows municipalities to take action with regards to uninhabitable houses on the beach that have been without water and sewer services for more than 120 days. Cities and counties may now define, prohibit, regulate, and abate such houses on ocean beaches.

11.4. EROSION CONTROL STRUCTURES

Session Law 2015-241 makes allowances for increased use of temporary erosion control devices (such as sandbags). The act allows use of the devices not only by imminently threatened properties (as in the past) but also by adjacent properties. It extends the use of devices to the property boundary and allows for the removal date of the devices to be extended to the latest of permit expirations in the case that multiple permits apply to a property. The act also allows for up to six terminal groins on the coast, with the provision that one be located only at Bogue Inlet and another only at New River Inlet.

11.5. PROTEST PETITION REPEALED

Session Law 2015-160 repeals the ability of citizens to file protest petitions on zoning map amendment applications.

11.6. RESIDENTIAL DESIGN STANDARD LIMITS

Session Law 2015-86 prohibits local governments from applying some design standards to 1- and 2-family dwellings (including attached residential or townhouses) without the owner's consent. Limitations include room location/purpose, door and window placement (include garage doors), exterior color/materials, and nonstructural architectural ornamentation. These limitations are not extended to manufactured housing, which may continue to be regulated regarding appearance.

11.7. REVISIONS TO PERFORMANCE GUARANTEES

Session Law 2015-187 limits the ability of local governments to require maintenance guarantees under the subdivision provisions (though such authority still exists for some public facilities under the stormwater and enterprise statutes). The law now allows the applicant to choose the form of performance guarantee they will offer, and the amount is capped at 125 percent of the cost. Local governments must allow an extension of an agreement if good progress is demonstrated by the term is expiring.

11.8. BOA VOTING RULES

Session Law 2013-126 made several changes to the rules of procedure for Boards of Adjustment, including new mailed and posted notice provisions for quasi-judicial hearings; requirements for decisions to be made in writing and delivered to parties with standing; and revised voting requirements from a 4/5 majority to a simple majority for appeals, conditional, and special use permits.



11.9. COMPREHENSIVE PLAN CONSISTENCY REQUIREMENTS

While not a recent statutory change, the state planning statutes (160A-383, 387 & 153A-341, 344) require local government to adopt statements of comprehensive plan consistency associated with map and text amendments. Decisions are not required to be consistent with the comprehensive plan, but must explain the public interest associated with the decision.

11.10. NEW WIRELESS TELECOMMUNICATIONS FACILITIES STANDARDS

Session Law 2013-185 requires local governments to issue decisions regarding applications for all wireless communication facility collocation requests within 45 days. It also requires local governments to approve equipment replacement and collocation requests that constitute minor modifications, including requests that add up to 10% to an existing tower's height, up to 20 feet in width to the base of a tower, or less than 2,500 square feet to the equipment compound area.

11.11. PERMIT CHOICE REQUIREMENTS

Session Law 2015-246 allows an applicant with a pending development review application to choose which set of requirements their application is reviewed under if the regulatory requirements change between the time of application submittal and decision.

11.12. RIPARIAN BUFFERS

Session Law 2015-246 limits the maximum allowable width of riparian buffers to those adopted by state law (unless an appeal is made to the EMC). The law also requires that riparian buffers within lots be shown on the final plat, and that when inside a lot, the area associated with the riparian buffer be counted towards dimensional requirements. In cases where riparian buffers are established as private common open space, then each lot abutting the private common open space receives a pro rata share of the land area within the duffer for the purposes of density calculation. In addition, land area within a riparian buffer must be credited towards open space, buffer, and tree retention area requirements.

11.13. WETLANDS MITIGATION LIMITS

Session Law 2015-286 limits the application of wetland mitigation requirements to all instances of isolated wetlands except Basin Wetlands and Bogs (precluding man-made ditches and ponds).

11.14. IMPERVIOUS SURFACES

Session Law 2013-413 excludes wooden slatted decks, the water area of swimming pools, and gravel from the definition of "built-upon areas", and exempts farm ponds from riparian buffer rules. Session Law 2015-149 excludes gravel areas and trails meeting state laws as built upon areas.

11.15. STORMWATER CALCULATIONS

Session Law 2015-286 specifies that the calculation of the pre- and post-development runoff anticipated during a one-year 24-hour storm may be calculated using any acceptable engineering hydrological and hydraulic method. The law also allows development within a required buffer provided the stormwater is collected, treated, and discharged in a manner so that it passes through the buffer.

11.16. TEMPORARY HEALTH CARE STRUCTURES ALLOWED

Session Law 2014-94 requires that temporary health care structures (temporary accessory dwelling units that house a physically or mentally impaired person who is being cared for by a resident of the primary residence; also known as "granny pods") must be allowed as uses accessory to single-family detached homes, so long as they meet state requirements.

11.17. WITHHOLDING PERMITS ILLEGAL

Session Law 2015-187 states that a local government may not withhold a building permit or certificate of occupancy on one lot to compel the owner of that lot to address compliance on a different lot owned by the same person.

11.18. ALLOWANCE FOR BEE KEEPING

Session Law 2015-246 limits local governments from prohibiting bee keeping of five or fewer hives.

11.19. LIMITATIONS ON STANDARDS FOR PRODUCE STANDS

Session Law 2012-187 exempts farm produce stands of less than 1,000 square feet, open less than 180 days per year, and certified by the state as a roadside farm market from state building code requirements.

11.20. NOTICE OF ZONING VIOLATION

Session Law 2013-151 allows local governments to notify chronic violators by regular mail in addition to registered or certified mail, and removes the requirement that certified mail must be accepted.

11.21. OVERGROWN VEGETATION REMEDY

Session Law 2015-246 allows local governments who provide notice of violation by certified or registered mail to a chronic violator of overgrown vegetation laws to remedy the vegetation issues without further notice and apply a lien to the property to recover the costs of the remedy.

11.22. SIDEWALK DINING

Session Law 2013-266 allows local governments to enter into agreements with the NCDOT to allow sidewalk dining within state road rights-of-way, provided: the roadway design speed is 45 miles per hour or lower, a sidewalk is present, and provided the furniture is at least six linear feet from a travel lane.

11.23. DEVELOPMENT AGREEMENTS

Session Law 2015-246 removes the minimum area and maximum duration limitations on development agreements.

11.24. CONSTRUCTION FENCE SIGNS

Session Law 2015-246 exempts construction site fence signage from local zoning rules until the certificate of occupancy is issued or 24 months passes.

11.25. EXPANSION OF BUILDING CODE EXEMPTION

Session Law 2015-145 expands the threshold of work on a single-family home or farm building that is exempted from the requirement to obtain a building permit from \$5,000 to \$15,000. In addition, construction plans for commercial buildings with a total value of \$90,000 or less and with a footprint of less than 2,500 square feet are no longer required to be sealed by a professional architect.

11.26. ADDITIONAL NOTE

Session Law 2015-286 directs the Department of Insurance and the Building Code Council to study how flood elevations and building heights are established and measured in coastal regions. It is anticipated that a more uniform approach in height measurement may be established



PART 12: ANNOTATED OUTLINE

This portion of the Code Assessment sets out a proposed structure for the updated UDO based on the concerns and recommendations described in previous parts of the document. These are simply recommendations for the updated UDO structure provided by the consulting team. The Town is in no way obliged to follow any of these structural recommendations, and the UDO can just as easily follow an alternative structure that differs from the one proposed here. This is provided as a starting point for subsequent discussion.

ARTICLE 18-1: GENERAL PROVISIONS

General Commentary: This article contains important general provisions that are relevant to the Unified Development Ordinance as a whole. While most of these provisions are traditional, all are specifically tailored to Atlantic Beach. This section plays an important part in making the ordinance user-friendly by including certain overarching principles and establishing a clear basis for the authority by which the ordinance is adopted, its administration, and its substantive regulations.

18.1.1 TITLE

This section sets forth the official name by which the Development Ordinance may be cited (e.g., "The Unified Development Ordinance of the Town of Atlantic Beach") as well as any acceptable shortened references (e.g., "the UDO," or "this UDO" or "UDO").

18.1.2 EFFECTIVE DATE

The date of enactment will be located here for easy reference. (Note that the adoption date and the effective date may differ.)

18.1.3 AUTHORITY

This section contains references to the statutory basis for zoning and subdivision in Atlantic Beach (G.S. §160A Chapter 19 Parts I and II) as well as any relevant special legislation. It will state that the ordinance consolidates the Town's zoning and subdivision regulatory authority under the North Carolina General Statutes.

18.1.4 GENERAL PURPOSE AND INTENT

A general purpose and intent section can inform decision-makers in future years about the intent of the Town Council when they adopted the ordinance. This section replaces the purpose statement from Section 1.3 and will include statements from the enabling legislation in Chapter 160A of the General Statutes as well as relevant goal statements from the Town's CAMA Land Use Plan and other long range planning documents. Individual purpose statements related to districts, design standards, or procedures will be relocated to reside with those provisions.

18.1.5 APPLICABILITY AND JURISDICTION

This section carries forward Section 1.4 and makes clear who is subject to the regulations of the ordinance. In particular, it clarifies that the Town, Town-controlled entities, special districts within the Town, and all private development are all subject to the ordinance. In addition, the section clarifies that state and county buildings will need to comply with the ordinance (in accordance with G.S. §160A-392), and that development not subject to G.S. §160A-392 (e.g. activities of the federal government) is strongly encouraged to comply with the standards. This section should also clarify whether the ordinance applies to submerged lands within the Town's jurisdiction.

18.1.6 CONFORMANCE WITH THE LAND USE PLAN

This is a new section and sets out the requirements for development to be in compliance with the CAMA Land Use Plan and any other applicable planning documents in accordance with G.S. §160A-383. The section will explain how compliance with the plan requirements will be evaluated.



18.1.7 RELATIONSHIP WITH OTHER LAWS, COVENANTS, OR DEED RESTRICTIONS

This section replaces Section 1.5 and provides that, in case of conflict between the ordinance and other legislative enactments of the State or Town, the stricter provision shall apply. It also replaces Section 1.11 and clarifies that the Town will not be responsible for monitoring or enforcing private easements, covenants and restrictions, though it may inquire into private easements and restrictions in reviewing development plans for the purpose of ensuring consistency with Town requirements.

18.1.8 CONFLICT

This new section address conflicts between the regulations in the UDO in a comprehensive way. It is not always the case that the most restrictive standards should apply, particularly in cases where incentives are being applied. This section will address how conflict will be interpreted.

18.1.9 TRANSITIONAL PROVISIONS

The proposed transitional provisions section is a new section that by establishes that:

- Violations of the current regulations continue to be violations under the new ordinance (unless they are no longer considered violations) and are subject to the penalties and enforcement provisions set forth in new Article 18-9, Enforcement.
- Completed applications that are already in the development approval pipeline at the time of the adoption of the new UDO may be processed under the provisions of the prior UDO. In the event that an applicant seeks to proceed under the standards in the new UDO (instead of the regulations in place at the time the application was originally submitted), the application would need to be withdrawn and resubmitted.
- Conditional use permits, variances, preliminary plats, statutorily-vested development, and building permits are governed by the terms and conditions of their approvals, and the rules in existence at the time of their approval. If, however, they fail to comply with the terms and conditions of their approval or fail to meet established time frames, their approval expires, and development of the site subject to the permits must comply with the requirements of the new UDO.
- Applications submitted after the effective date of the new UDO are subject to the procedures and standards of the new UDO.

18.1.10 SEVERABILITY

This standard provision replaces Section 1.6 and declares that if any part of the UDO is ruled invalid, the remainder of the UDO is not affected and continues to apply.

ARTICLE 18-2: PROCEDURES

General Commentary: This is a consolidated article containing all information on the various review and decision-making bodies in the Town. The article includes the common review procedures section that sets out the application submittal and review process. It also includes detailed information on the various individual permit review procedures (map amendments, site plans, building permits, etc.). This information will be consolidated, streamlined, and organized in a standardized fashion.

18.2.1 DEVELOPMENT REVIEW RESPONSIBILITIES

The first section in the new Procedures Article is a section that identifies the decision-making entities and persons responsible for the review and administration of development under the UDO. It is our experience that provisions such as these help to establish clear lines of authority in the Town's decision-making procedures. This section identifies the specific responsibilities relative to the UDO of each review board or staff person. Based on the Town's desire, this



section can also include the rules of composition, membership, and operation for each of the decision-making entities in Town.

18.2.2 COMMON REVIEW PROCEDURES

In the existing development regulations, the procedures for development applications are set forth in individual permitting processes in many sections of the UDO. For example, Section 2.14 covers certificates of occupancy, Section 4.4 contains the procedures for appeals, variances, and interpretations, and the subdivision procedures are found in Article 16.

The modern trend in zoning administration is to consolidate these procedures – which is what this section on “common review procedures” does. It guides the potential applicant through the rules governing who is authorized to submit applications, application content requirements and fees, through the actual application submittal and review stage (the pre-application conference, application submission and completeness determination, staff review, scheduling the public hearing (if one is required), public notification, public hearing procedures, notification of decision, withdrawal and continuance, expiration, and amendment). Summary tables are included as aids to understanding the review process. See Figure 5.4 on Page 14 for more information on the common review procedures section.

18.2.3 DEVELOPMENT APPLICATIONS

This third section in the Procedures Article includes the specific review standards that are applied to each individual application for development approval, other unique procedural review requirements for each individual application if there are additional or different procedures apart from the common review procedures, and the rules governing minor modifications and amendments. It also broadens the line-up of current procedures by adding information on interpretations, and new permit procedures, including an administrative adjustment, conceptual proposal process (for anything requiring a preliminary plat or major site plan), a development agreement procedure, a land disturbance permit, a minor plat procedure, and a temporary use permit. Each permit procedure will include a review process flowchart. See Table 5.6.B on Page 15 for more information on the individual development review procedures.

ARTICLE 18-3: ZONING DISTRICTS

General Commentary: This article includes all the district-related provisions in the ordinance.

18.3.1 GENERAL PROVISIONS

This section identifies the differing types of zoning districts establishes the different zoning districts under the UDO, explains how they are organized, describes how the zoning district information is organized, and describes how conflicting provisions are handled. It also explains the relationship between base and overlay districts (should the updated UDO continue to include an overlay district).

18.3.2 OFFICIAL ZONING MAP

This section sets out and incorporates by reference the Official Zoning Map. It clarifies where and how the map is kept and how it can be inspected. It also establishes the UDO Administrator as the person responsible for interpreting the map, and the criteria for how interpretations are rendered. This section also clarifies how changes can be made to the official map.

18.3.3 RESIDENTIAL ZONING DISTRICTS

This portion of the UDO sets out the district standards for the six residential zoning districts. Information for each of the six districts is organized in tabular form, including a purpose statement, dimensional standards, and graphics of preferred development forms, lotting preferences, and diagrams about how buildings in each district relate to one another and the

public realm (should the Town decide to organize its zoning district information in accordance with Figure 7.5 on Page 21).

18.3.4 MIXED-USE ZONING DISTRICTS

This section sets out zoning district information (similar to that listed in the residential zoning section) for the two mixed-use zoning districts. Information for each of the two districts is organized in tabular form, including a purpose statement, dimensional standards, and graphics of preferred development forms, lotting preferences, and diagrams about how buildings in each district relate to one another and the public realm (should the Town decide to organize its zoning district information in accordance with Figure 7.5 on Page 21).

18.3.5 COMMERCIAL ZONING DISTRICTS

This section sets out zoning district information (similar to that listed in the residential zoning section) for the three commercial zoning districts. Information for each of the three districts is organized in tabular form, including a purpose statement, dimensional standards, and graphics of preferred development forms, lotting preferences, and diagrams about how buildings in each district relate to one another and the public realm (should the Town decide to organize its zoning district information in accordance with Figure 7.5 on Page 21).

ARTICLE 18-4: USE STANDARDS

General Commentary: While the zoning district regulations will be located in Article 18-3, Zoning Districts, the use regulations will be contained in Article 18-4, Use Standards. This article will reorganize the Town’s use regulations into five main sections.

18.4.1 USE TABLE

The heart of Article 18-4 is the summary use table. It consolidates and reorganizes the current use table in Section 5.5. It also includes a range of new uses not found in the current development regulations and updated terminology for some existing uses. It also includes additional information related to any use-specific standards that may apply, and where those standards may be found. An example table is shown in Figure 12.1, Sample Use Table.

FIGURE 12.1, SAMPLE USE TABLE

TABLE 12.1: TABLE OF ALLOWED USES												
P = PERMITTED S = SPECIAL EXCEPTION A = ALLOWED IN PD DISTRICT BLANK CELL = PROHIBITED												
USE CATEGORY	USE TYPE	ZONING DISTRICT									ADDITIONAL STANDARDS	
		RESIDENTIAL			NONRESIDENTIAL					PLANNED DEVELOPMENT		
		RSF	RTF	RMF	DC	RC	M C	C C	CN	PD-R		PD-C
RESIDENTIAL USE CLASSIFICATION												
Household Living	Multi-family Dwelling			P		P		P		A	A	14.03-01(A)(1)
	Single-family Dwelling	P	P	P	P	P	P	P		A	A	16.05-02
	Two-family Dwelling		P	P	S	P	P	P		A	A	14.03-01(A)(2)
	Townhouse			P	P	P		P		A	A	16.05-03
Group Living	Residential unit over nonresidential use			P	P	P	P	P		A	A	
	Family Day Care Home	P	P	P		P	P	P		A	A	14.03-01(B)(1)
	Group Day Care Home	P	P	P		P	P	P		A	A	14.03-01(B)(2)
	Rooming House			P		P		P		A		14.03-01(B)(3)
INSTITUTIONAL USE CLASSIFICATION												
Schools	School, Private	P	P	P	P		P	P		A	A	
	School, Public	P	P	P	P		P	P		A	A	

18.4.2 USE CATEGORIES, CLASSIFICATIONS, AND TYPES

In an effort to provide better organization, precision, clarity, and flexibility to the uses in the zoning districts and the administration of the use table, the table and use regulation system is organized around the three-tiered concept of use classifications, use categories, and use types instead of the current organizational framework, which lists all uses alphabetically and blends accessory uses and site elements that are not uses.

Use classifications, the broadest category, organize land uses and activities into general use categories (residential uses, institutional uses, commercial uses, and industrial uses). Use categories, the second level or tier in the system, is composed of groups of individual types of uses. Use categories are further divided into specific use types based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

This three-tiered system of use classifications, use categories, and use types provides a systematic basis for assigning present and future land uses into zoning districts. The section will also describe the procedure and criteria for classifying new or unlisted uses based upon the existing classification system.

18.4.3 USE-SPECIFIC STANDARDS

This section will consolidate the specific use standards located in current Article 5, Part II – Supplemental Regulations, Article 6, and elsewhere in the UDO into one section. It will contain all of the special standards and requirements that apply to individual principal use types listed in the use table. The standards generally apply to uses regardless of whether they are permitted as a matter of right or are subject to the special use permit process. Additional standards should be added for new uses to help limit the need for reliance on the conditional use permit process.

18.4.4 ACCESSORY USES AND STRUCTURES

Accessory uses or structures are those uses that are subordinate to the principal use of a building or land, located on the same lot as the principal use, and customarily incidental to such use or structure. For example, an above- or below-ground swimming pool is typically considered an accessory structure to a single-family home. All of the regulations and standards governing accessory uses and structures are relocated to this section, including those pertaining to home occupations and accessory dwelling units.

18.4.5 TEMPORARY USES AND STRUCTURES

Temporary uses are uses proposed to be located on a lot for a limited duration of time and are not identified as permitted uses. Temporary uses include temporary storage containers or construction trailers. The proposed temporary use permit procedure will be used to evaluate these uses, based on the standards and time limitations for temporary uses established in this section.

ARTICLE 18-5: DEVELOPMENT STANDARDS

General Commentary: This chapter contains all of the development standards in the updated UDO related to the physical layout of new development with the exception of the standards pertaining to the environment in Article 18-6 and subdivisions in Article 18-7.

18.5.1 OFF-STREET PARKING AND LOADING

This section replaces the provisions found in the existing regulations in Sections 9.1-9.6, Section 8.4 and elsewhere in the UDO. The standards in this new section include revised, updated quantitative off-street parking requirements for uses matching the revised use table for consistency and ease of use. The permissible location of off-street parking areas will be set



forth and differentiated by district and type of development. See Section 9.1 on Page 27 for more details.

18.5.2 CONNECTIVITY

This section replaces the street design and connectivity standards in Section 7.4. Cross access requirements are relocated to the parking standards, and the connectivity provisions should be enhanced for clarity. See Section 9.7 on Page 30 for more details.

18.5.3 LANDSCAPING

The current landscaping requirements in Article 10 will be upgraded, reorganized, and simplified. To improve clarity, graphics will be used, as appropriate, to explain the requirements for landscaping. We suggest improvements to the vehicular use landscaping requirements. See Section 9.2 on Page 27 for more details.

18.5.4 SCREENING

The screening standards for refuse collection and ground based equipment in Section 7.3 will be relocated here and supplemented with new standards (including provisions for screening service areas and outdoor service areas) and clarity. See Section 9.5 on Page 29 for more details.

18.5.5 NONRESIDENTIAL DESIGN STANDARDS

This portion of the UDO reorganizes the building design and façade standards in the current UDO. The new provisions focus on non-residential design standards, and include new approval criteria for modifications. See Section 9.8 on Page 30 for more details.

18.5.6 SIGNAGE

This section will set forth standards for signage. The standards will be presented in tabular format rather than paragraph form to increase the user-friendliness of the new UDO. Where necessary, graphics and illustrations will be added to increase clarity. See Section 9.3 on Page 29 for more details.

18.5.7 EXTERIOR LIGHTING

This section carries forward the Town’s existing lighting standards from Article 9 with some simplification. See Section 9.6 on Page 30 for more details.

18.5.8 FENCES AND WALLS

This section carries forward the standards in the existing Section 7.2 related to the minimum standards for fencing and walls. We recommend adding summary tables and illustrations. See Section 9.4 on Page 29 for more details.

ARTICLE 18-6: ENVIRONMENT

General Commentary: This chapter contains all of the provisions pertaining to the environment or areas of special environmental consideration. For the most part, these standards are proposed for carrying forward without significant substantive modification.

18.6.1 STORMWATER

This section expands on the stormwater provisions in Section 2.26 of the current UDO by adding additional provisions identified in Section 9.9 on Page 31 of this assessment.

18.6.2 SOIL EROSION AND SEDIMENTATION CONTROL

Section 2.27 includes the current soil erosion and sedimentation standards, which are relocated here with the additional standards related to fill and stormwater mitigation described in Section 9.9 on Page 32.

18.6.3 DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS

These standards are the provisions for development located within the 100-year-floodplain and the floodway found in Article 13 of the current UDO. These standards are carried forward in this new location with no substantive changes.

18.6.4 DEVELOPMENT IN AREAS OF ENVIRONMENTAL CONCERN

These standards are the provisions for development located within an Area of Environmental Concern found in Article 12 of the current UDO. These standards are carried forward in this new location with no substantive changes.

ARTICLE 18-7: SUBDIVISIONS

General Commentary: This article includes the standards related to the subdivision of land and the provision of public utilities as a part of new development. The article will also include the standards and procedures related to performance guarantees and owner's associations. Additional discussion is needed on the desire to carry forward the cluster subdivision option since it has never been used.

18.7.1 SUBDIVISION DESIGN STANDARDS

This section includes the subdivision design provisions for lots, markers, easements, and similar configuration aspects from Section 16.7 of the current UDO.

18.7.2 STREETS AND SIDEWALKS

This section includes all the street standards from Article 9 (including 9.11, Street Names/Signs; 9.12, Traffic Control; and 9.21, Street Lighting) of the subdivision standards along with the new provisions related to private streets, minimum numbers of entry points, driveway spacing standards, sight triangles, and other street-related provisions. In addition to the standards for streets, this section will also contain the sidewalk standards from Section 7.4.5 of the current UDO along with new provisions for fee in-lieu provisions.

18.7.3 PERFORMANCE GUARANTEES

This section will replace the Town's existing provisions for improvement guarantees (in Section 16.10) with a new detailed section consistent with recent state law. The section will establish guarantee amounts and clarify how guarantees can be used for a maintenance period for some forms of public infrastructure. The section will also establish a more detailed inspection routine for streets since performance guarantees may no longer be used to cover maintenance aspects of these features.

18.7.4 OWNER ASSOCIATIONS

This section will carry forward Section 2.15 and establish the conditions under which an owners' association must be established and the provisions governing its establishment (including new requirements for "seed" money from the developer to ensure the association is capable of meeting its maintenance responsibilities. As an alternative, the developer can maintain the commonly held features for a longer term.

ARTICLE 18-8: NONCONFORMITIES

General Commentary: This article consolidates all the rules pertaining to nonconformities from the various different sections in the current UDO, including Article 17, Nonconforming Situations. The new article makes reorganizes the existing regulations into differing types of nonconformities. Additional discussion is needed



about including a new sliding scale of compliance requirements for nonconforming site features like landscaping, parking, signage, etc. triggered by redevelopment.

18.8.1 GENERAL APPLICABILITY

This subsection will establish that the article addresses legally established uses, structures, lots, and signs that do not comply with the requirements. It clarifies that maintenance is encouraged.

18.8.2 NONCONFORMING USES

This section will include provisions dealing with existing uses that no longer conform with the zoning district provisions where they are located. The Town’s current regulations with respect to nonconforming uses will be carried forward.

18.8.3 NONCONFORMING STRUCTURES

This section will establish the key standards governing nonconforming structures. The section will address enlargement, abandonment, relocation, and reconstruction after damage.

18.8.4 NONCONFORMING LOTS OF RECORD

These provision address established lots of record that were platted prior to the effective date of the UDO, but that do not meet the dimensional requirements of the district where they are located. It discusses the procedures for use of such lots of record when located in a residential district as well as redevelopment or reconstruction on such lots following a casualty (major damage). In addition, the standards specify that governmental acquisition of a portion of a lot in a residential district shall not render the lot nonconforming (even if it no longer meets the dimensional standards). Finally, the section will deal with changes to nonconforming lots such as boundary line adjustments or assembly of multiple lots.

18.8.5 NONCONFORMING SIGNS

This section will address nonconforming signage that no longer meets the requirements of the UDO as well as signs advertising uses that are no longer in place.

18.8.6 NONCONFORMING SITES

This is a proposed new section that adds provisions dealing with nonconformities in site elements, such as landscaping, lighting, access and on-site circulation, parking areas, and screening of elements like outdoor storage. Currently, the development regulations do not specify when such nonconforming site features must be brought into conformity. This new section requires that specified site elements be brought into conformance on a sliding scale when the structure is substantially remodeled, or when the floor area of a building is enlarged by threshold percentages, with an important “safety valve” provision that allows for a waiver of requirements in cases where the site has physical constraints that prevent upgrading certain elements.

ARTICLE 18-9: ENFORCEMENT

General Commentary: This section will consolidate the enforcement provisions scattered throughout the current UDO with some minor reorganization and reformatting to be consistent with the rest of the UDO. By making it easier to understand the enforcement process, we hope to reduce the time, expense, and uncertainty of enforcing the UDO.

18.9.1 PURPOSE

This section will set forth the purpose of the enforcement article.

18.9.2 COMPLIANCE REQUIRED

This section will state that compliance with all provisions of the UDO is required.

18.9.3 VIOLATIONS

This section will explain that failure to comply with any provision of the UDO, or the terms or conditions of any permit or authorization granted pursuant to the UDO, shall constitute a violation of the UDO. The section will include both general violations as well as identifying specific violations.

18.9.4 RESPONSIBLE PERSONS

This section will state that any person who violates the UDO shall be subject to the remedies and penalties set forth in this chapter. "Person" will be defined broadly to include both human beings and business entities (firms and corporations).

18.9.5 ENFORCEMENT GENERALLY

This section will identify those persons responsible for enforcement of the provisions of the UDO, as well as the general enforcement procedure. The UDO Administrator, the Building Inspector, or the Floodplain Administrator, as appropriate, shall be responsible for enforcement of the UDO. This section will describe the enforcement process and include provisions for notice of violation, and procedures to deal with complaints filed by others regarding a perceived or potential violation.

18.9.6 REMEDIES AND PENALTIES

This section will include provisions detailing a range of penalties and remedies available to the Town under North Carolina law.

ARTICLE 18-10: DEFINITIONS & MEASUREMENT

General Commentary: This article will incorporate the definitions, rules of measurement, rules of language construction for the text in the UDO, and a glossary of abbreviations.

18.10.1 GENERAL RULES FOR INTERPRETATION

This section will address general issues related to interpretation of ordinance language, including permissive versus restrictive terms, titles and delegation, and other general issues that arise in interpreting and administering the ordinance and its procedures.

18.10.2 RULES OF MEASUREMENT

This section will consolidate the rules for measuring bulk and dimensional requirements like height, width, setbacks and others, as well as how encroachments into required yards will be determined and regulated. These are currently located in many places throughout the development regulations, and will be relocated and heavily illustrated for user-friendly reference.

18.10.3 TABLE OF ABBREVIATIONS

This section lists the abbreviations used in the UDO.

18.10.4 DEFINITIONS

This section will include definitions of terms used throughout the UDO. Use types will be defined in Article 18-4, Use Standards. All standards will be reviewed for consistency with the State Building Code and national best practices.

PART 13: SECTION-BY-SECTION REVIEW OF UDO

The following table lists the sections in the current UDO, describes their contents, and makes a series of recommendations for revision based on national best practices. The decision on whether or not to follow a recommendation rests with the Town.

Sec. #	Section Title	Description	Recommendation
Article 1: Purpose & Applicability			
1.1	Title	Gives the official title of the UDO and the zoning map.	<ul style="list-style-type: none"> Add reference to "this Ordinance". Remove references to the zoning map and relocate with other map-related provisions.
1.2	Authority	Section sets out the statutory references related to the authorization for zoning and subdivision of land.	Suggest adding additional references for flood damage prevention statutes, the Town's charter, and any relevant special legislation.
1.3	Purpose	Sets out the purpose and intent provisions based on the statutes and includes a handful of other statements pertaining to protection of community character.	<ul style="list-style-type: none"> Ensure all statements are numbered for cross referencing. Review CAMA and other relevant policy guidance for any statements.
1.4	Applicability	Section is blank.	<ul style="list-style-type: none"> Suggest revision to include statements indicating no development until compliance with this ordinance. Relocate exemptions to this section. Add a subsection identifying the effective date of the standards.
1.4.1	Jurisdiction	States that the ordinance applies in the Town limits.	<ul style="list-style-type: none"> Change section references to make this its own section instead of a subsection. Remove references to the zoning map. Clarify if and how the regulations apply to submerged lands within the Town's jurisdiction. Include provisions related to state, county, and federally-owned land.
1.4.2	Exemptions	<ul style="list-style-type: none"> Exempts land and structures with a site specific plan approved prior to adoption. Exempts bona fide farms. Exempts state-owned lands with buildings. 	Suggest deletion of this section in its entirety (land/structures subject to an approved site plan must still comply with some of the UDO standards).
1.5	Relationship to Other Ordinances	Clarifies relation of the UDO to other ordinances or active building permits.	<ul style="list-style-type: none"> Carry forward, but add provisions to address how conflicts are managed. Include provisions to clarify the Town does not enforce private agreements or covenants.
1.6	Severability	Severs any invalidated provision or standard from the remainder of the code.	Carry forward, but ensure each paragraph is numbered.
1.7.1	Interpretation and Administration – Generally	States that in interpretations, the provisions will be liberally construed in favor of the town.	Suggest deleting this section – unnecessary.
1.7.2	Responsibility	Indicates that Administrator is responsible for interpretation of the ordinance, but not technical codes adopted by reference.	<ul style="list-style-type: none"> Carry forward, but suggest relocating to a new Interpretation procedure. Clarify terminology. Suggest Planning Director, not UDO Administrator.

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
1.7.3	Delegation of Authority	Authorizes any official named in the UDO to delegate authority to a designee.	<ul style="list-style-type: none"> Carry forward, but suggest relocation to a new Rules of Language Construction section. Relocate definitions to the definitions section.
1.7.4	Computation of Time	Sets out the rules for computation of required time	<ul style="list-style-type: none"> Carry forward in the Rules of Language Construction section. Remove provisions related to the addition of three days as this adds confusion.
1.8	Identification of Official Zoning Map	Clarifies how the Official Zoning Map is identified, where it is retained, and requirements for notations upon amendment.	<ul style="list-style-type: none"> Suggest relocating these standards to a new section on the Official Zoning Map located with other district-related provisions. Remove the provisions related to notations on the map by the Town Clerk following adoption. Additional discussion is needed regarding whether or not prior versions of the map are retained.
1.9	Zoning Map Interpretation	Sets out the rules of interpretation of the Official Zoning Map.	<ul style="list-style-type: none"> Relocate to a section on the Official Zoning Map. Remove provisions related to BOA interpretation of the map and retain this authority with the Planning Director.
1.10	Interpreting Permitted Uses	States that for unlisted uses, the Planning Board has authority to interpret "in which district the use, if any, should be permitted."	<ul style="list-style-type: none"> Delete this section and replace with a codified procedure for the identification and classification of unlisted uses. Locate this new section with the use-related standards.
1.11	Deed Restrictions	Clarifies that deed restrictions or covenants shall not affect interpretation or enforcement of the ordinance.	Delete this section.
Article 2: General Regulations			
2.1	Applicability of General Regulations	Specifies regulations in this section are generally applied.	Delete this section.
2.2	Reduction of Lot and Yard Areas Prohibited	Prohibits reductions to lots or yards below minimum standards.	Carry forward but relocate to the zoning-district related provisions.
2.3	Access to Property	Sets out the rules for access to lots.	<ul style="list-style-type: none"> Carry forward but relocate the CDD exemption to the appropriate district standards. Ensure the use standards for townhouses include the access exemption language.
2.4	One Principal Building	Limits the maximum number of allowable principal buildings per lot for residential and nonresidential development.	Consider dropping these provisions and including a group development review procedure that allows the Town to apply infrastructure requirements to single-lot multi-building developments.
2.5	Required Yards Not to be Used by Buildings	Prohibits encroachment into required yards or open spaces.	Carry forward but relocate to district or open space sections, as appropriate.
2.6	No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions	Requires compliance with the ordinance for use or sale of buildings.	Relocate to section on ordinance applicability.

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
2.7	Height Limitation Exceptions	Exempts several forms of development from the height regulations.	Carry forward, but relocate to a section on Rules of Measurement.
2.8	Building Setback Exceptions	Sets out how setbacks are measured and specifies how encroachments into setbacks are accommodated.	Carry forward, but relocate to a section on Rules of Measurement.
2.9	North Carolina State Building Code	Includes by reference NC State Building Code Appendix H, Signs and Outdoor Displays.	Delete this section.
2.10	Lot Requirements/Dimensions	Sets out the standards for lots.	<ul style="list-style-type: none"> Relocate lot provisions to Rules of Measurement section. Include standards that clarify how required yards are determined for irregular lots. Remove the standards pertaining to how buildings front. Separate the flag lot standards into their own subsection.
2.11	Easements	Sets out the standards for utility easements.	Carry forward with the other subdivision standards.
2.12	Lot of Record	Sets out the standards for nonconforming lots of records.	<ul style="list-style-type: none"> Relocate to the standards for nonconformities. Include requirements for mandatory recombination when multiple nonconforming lots are held under common ownership. Clarify if and how nonconforming lots may be used when in a nonresidential zoning district.
2.13	Fees	Recognizes that application fees may be charged and must be paid upon submittal.	Carry forward, but relocate with other standards pertaining to application filing.
2.14	Certificates of Occupancy	Sets out the standards for issuance of a certificate of compliance and the standards for preparation of as-builts.	<ul style="list-style-type: none"> Relocate to Procedures section. Ensure consistent use of terminology.
2.15	Property Owners' Association	<ul style="list-style-type: none"> Sets out the standards for review and approval of POA documents. Requires the filing of CCRs for developments that include common open space. 	Carry forward.
2.16	Gated/Controlled Access Subdivisions	Sets out the standards for gated subdivisions.	Carry forward.
2.17	Water and Sewer Requirements	Include caveats on lot sizes based on presence of utilities.	Delete this section – it is vague.
2.18	Visibility at Intersections	This section sets out the requirements for maintenance of clear sight triangles at intersections.	<ul style="list-style-type: none"> Carry forward in the Rules of Measurement section. Consider revising rules based on road design speed or intersection type. Standardize illustrations.
2.19	Temporary Buildings	Sets out standards for temporary construction buildings.	Carry forward but relocate to section on temporary uses.
2.20	Entrances/Exits to Public Streets	Sets out the standards for driveways.	Carry forward.
2.21	Use of Manufactured Homes and Travel Trailers for Storage Prohibited	Limits the use of these structures for storage.	Carry forward, but include these standards in the use specific standards for manufactured homes and the standards for storage as an accessory use.
2.22	Temporary Storage Containers	Sets out the standards for use of temporary storage containers.	<ul style="list-style-type: none"> Relocate to standards for temporary uses. Clarify if storage containers may be used

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
			<ul style="list-style-type: none"> for nonresidential uses. Remove waste receptacles from consideration. Clarify that these standards do not apply to active construction standards (dumpsters are incidental to construction and do not require temporary use permits). Consider allowing containers on residential lots for a period of 4 days without a permit, and up to 90 days with a permit.
2.23	Measurement of Established Building Height	Establishes rules of measurement for buildings and exemptions for some building features.	<ul style="list-style-type: none"> Relocate to a Rules of Measurement section. Ensure consistency with or replacement of Section 2.7. Relocate height provisions for accommodation uses to the use-specific standards.
2.24	Property Addressing	Sets out the requirements for posting property addresses.	Carry forward.
2.25	Encroachments	<ul style="list-style-type: none"> Sets out the procedure for encroachment into a public ROW. Section includes some provisions for encroachments. 	<ul style="list-style-type: none"> Relocate to the procedures section. Relocate the encroachment provisions to the other encroachment standards in the Rules of Measurement section.
2.26	Stormwater Requirements and Maximum Impervious Coverage	Sets out the standards for stormwater management plans and impervious surface limitations.	<ul style="list-style-type: none"> Relocate the stormwater permit provisions to the Procedures section. Relocate the local rules regarding stormwater management to a Development Standards section. Supplement the existing stormwater standards with provisions for performance guarantees.
2.27	Soil Erosion and Sedimentation Control	Sets out the standards for soil erosion and sediment control.	<ul style="list-style-type: none"> Carry forward, but relocate to a Development Standards section. Relocate provisions related to appeals to a general Appeal procedure in the Procedures section.
Article 3: Administration			
UDO Administrator			
3.1	Powers and Duties	Lists powers and duties of the UDO Administrator.	<ul style="list-style-type: none"> Use title Planning Director. Remove references to 'designated agent' and place these provisions in the section on the Rules of Language Construction.
Planning Department			
3.2	Powers and Duties	Lists powers and duties of the Planning department and additional duties of the UDO Administrator.	Consolidate with provisions in Sec. 3.1.
Technical Review Committee			
3.3	Purpose	Sets out purpose for the TRC.	<ul style="list-style-type: none"> Delete this section. Need to include language formally establishing the TRC.
3.4	Power and Duties	Describes the types of applications reviewed by the TRC.	This section needs to be clarified as it is unclear which development review procedures they review or decide.
3.5	Composition: Staff and Chair	Sets out the composition of the TRC.	Subsections need to be numbered.

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Sec. #	Section Title	Description	Recommendation
3.6	Meetings and Procedures	Sets out the meeting procedures.	Clarify if meeting are open to the public.
Planning Board			
3.7	Creation	Establishes the Planning Board.	Carry forward.
3.8	Membership and Vacancies	Establishes membership, terms, and requirement of consistent attendance of meetings.	Carry forward, but relocate info on Chair and Vice Chair to this section.
3.9	Organization, Rules, Meetings and Records	Includes a wide variety of standards pertaining to membership, meeting conduct, quorum, and timing of submittals.	Split this section into different topic-based sections.
3.10	General Powers and Duties	Lists the duties of the Planning Board.	This section needs to clarify exactly which development applications the Planning Board reviews and decides. Carry forward.
3.11	Basic Studies	Describes other duties of the Planning Board.	
3.12	Comprehensive Plan	Sets out the Planning Board's duties with respect to the comprehensive plan.	
3.13	Miscellaneous Powers and Duties	Lists other duties of the Planning Board.	
3.14	Zoning Amendments	Empowers the PB to make proposals for amending the zoning ordinance and map	
3.15	Subdivision Regulations	Describes Planning Board's duties with respect to subdivision review.	
3.16	Public Facilities	Sets out the Planning Board duties related to public facilities.	
Town Council			
3.17	Powers and Duties	Sets out the powers and duties of the Town Council.	<ul style="list-style-type: none"> • Include references to the membership and rules of procedure in the Town Charter. • Clarify which applications the Town Council decides.
Board of Adjustment			
3.18	Establishment of Board of Adjustment	Establishes the BOA, its membership, terms, and rules of meetings with regards to reversing decisions.	<ul style="list-style-type: none"> • Need to formally establish the BOA. • Need to reference relevant sections in the statutes. • Need to relocate provisions related to voting to its own section. • Need to review for consistency with state law.
3.19	Rules of Conduct for Meetings	Lists the rules for BOA members, including regular meeting attendance, recusal from matters which have personal or financial interest, etc.	<ul style="list-style-type: none"> • The prefatory statement is very confusing. • Need to split this section into ex parte contacts and conflict of interest.
3.20	Powers and Duties of the Board of Adjustment	Sets out the application types reviewed by the BOA.	Carry forward, but send Interpretations of the text and Zoning Map to the Planning Director.
3.21	Proceedings of the Zoning Board of Adjustment	Establishes the BOA, its membership, leadership, terms, meetings, and rules of meetings including quorum and voting.	<ul style="list-style-type: none"> • Carry forward but split into sections on rules of procedure, quorum, and voting. • Ensure consistency with recent statutory changes.
3.22	Hearing Required on Appeals and Applications	Sets out hearing procedures.	Relocate to appropriate procedures in Procedures section.
3.23`	Notice of Hearing	Requires notice of a public hearing and gives the time and other requirements of giving notice.	Relocate to public notice requirements section in Common Procedures subsection.
3.24	Evidence	Establishes rules of evidence.	Relocate to section on quasi-judicial hearing

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Sec. #	Section Title	Description	Recommendation
			procedures.
3.25	Modification of Application at Hearing	Provisions related to application modification during a hearing.	Relocate to section on application amendments in Common Procedures section.
3.26	Record	Includes the rules for maintenance of a hearing record.	Relocate to the appropriate procedures in the Procedures section.
3.27	Written Decision	Sets out rules for written decisions.	Broaden to apply to all applications and relocate to Common Procedures section.
3.28	Stay of Proceedings	Clarifies that an appeal stays proceedings.	Relocate to Appeal procedure.
3.29	Appeals from the Board of Adjustment	Sets out the procedure for appeals of BOA decisions.	Relocate to the appropriate procedures in Procedures section.
Article 4: Administrative Review Process			
4.1	Amendment/Rezoning Procedures	—	—
4.1.1	Statement of Intent	Sets out the purpose and intent for the procedure.	Carry forward.
4.1.2	Amendment Initiation	Clarifies who may initiate a map or text amendment.	<ul style="list-style-type: none"> Carry forward. Need to discuss limitations on the submittal of conditions. Relocate this provision to procedure for submittal if carried forward.
4.1.3	Procedure for Submission and Consideration of Applications for Amendment	Sets out the application elements.	Suggest this material be integrated with a new section on Common Procedures to avoid repetition.
4.1.4	Planning Board Review and Recommendations	Describes the Planning Board's role in review of amendment applications.	<ul style="list-style-type: none"> Carry forward, with revisions. Need to include or reference review criteria. Possible recommendations need to be revised to address text amendments. Unnecessary to list potential districts. Need to revise the consistency statement provisions to address the public interest.
4.1.5	Town Council Action	Describes the Town Council's role in review of amendment applications.	<ul style="list-style-type: none"> Remove notice provisions. Clarify requirements for consistency statements.
4.1.6	Withdrawal of Application	States that an applicant may withdraw a request at any time by written notice to the UDO Administrator.	Relocate to Common Procedures section.
4.1.7	Effect of Denial on Subsequent Petitions	Limits ability to resubmit an amendment application.	Carry forward.
4.1.8	Qualified Protests	Sets out the rules for protest petitions.	Delete, no longer authorized.
4.2	Vested Rights Provisions	<ul style="list-style-type: none"> Sets out the procedure for establishing a vested right. 	<ul style="list-style-type: none"> Carry forward, but re-name a Vested Rights Certificate. Relocate to Procedures section. Remove notice provisions. Suggest codification as a quasi-judicial procedure and removal of Planning Board review. Need to define site specific development plan Clarify criteria for granting vesting periods in excess of 2 years.
4.3	Temporary Moratoria Procedures	Sets out the rules for moratoria.	Delete, no longer authorized.
4.4	Appeals, Variances,	—	—

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Sec. #	Section Title	Description	Recommendation
	Conditional Use Permits, and Interpretations		
4.4.1	Appeals	Contains some details on the appeal procedure.	<ul style="list-style-type: none"> Revise to fully describe procedure. Relocate to Procedures section. Remove notice provisions. Include review criteria.
4.4.2	Variances	Sets out the variance procedure.	<ul style="list-style-type: none"> Relocate to Procedures section. Ensure voting requirements consistent with state law. Clarify effect of approval.
4.4.3	Conditional Use Permits	Cross reference.	Delete cross reference.
4.4.4	Interpretations	Sets out the interpretation procedure.	<ul style="list-style-type: none"> Allow Planning Director to decide interpretations. Relocate to Procedures section. Remove repetition with Section 1.9.
4.4.5	Requests to be Heard Expeditiously	Statement of expeditious hearings by the BOA; refers to Article 6.	Delete – unnecessary.
4.4.6	Burden of Proof in Appeals and Variances	Describe who has the burden of proof.	Relocate with the appropriate procedures.
4.4.7	Board Action on Appeals and Variances	Sets out rules for voting.	<ul style="list-style-type: none"> Change rules for voting on appeals to a simple majority. Relocate these sections to the appropriate procedures.
4.5	Enforcement and Penalties	—	—
4.5.1	Complaints Regarding Violations	Describes actions taken upon receipt of a complaint.	Carry forward. Relocate to an Enforcement chapter.
4.5.2	Persons Liable	Describes people responsible for a violation.	Carry forward, and enhance as appropriate.
4.5.3	Procedures Upon Discovery of Violations	Describes the procedure for addressing a violation.	Carry forward.
4.5.4	Penalties and Remedies for Violations	Sets out the remedies and penalties.	<ul style="list-style-type: none"> Revise to include full range of available civil and criminal penalties, and allowable actions by Town. Clarify remedies may be cumulative.
4.5.5	Permit Revocation	Sets out process for permit revocation.	Incorporate with other remedies.
4.5.6	Judicial Review	Sets out the procedure for appeal to the courts.	Relocate to appropriate procedures.
Article 5: Zoning Districts			
5.1	Purpose Statement	Sets out the purpose statements for all zoning districts.	<ul style="list-style-type: none"> Carry forward. Consider organizing into purpose statements for residential and nonresidential districts.
5.2	Interpretation	Describes how to interpret the use table.	Carry forward, but relocate to use table.
5.3	Primary Zoning Districts	<ul style="list-style-type: none"> Establishes the 11 base districts in the Town. Includes information on the kinds of allowable uses in each district. 	<ul style="list-style-type: none"> Revise to include descriptive purpose statements for each district. Supplement each district with standardized detail on the dimensional standards. Organize in a tabular fashion. Clarify if CDD is a base or overlay district.
5.4	Overlay Districts	—	—

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Sec. #	Section Title	Description	Recommendation
5.4.1	Intent	Sets out the intent provisions for overlay districts.	Carry forward.
5.4.2	Causeway Overlay District	Sets out the purpose statement and other district requirements.	Carry forward.
5.5	Table of Permitted/Conditional Uses	<ul style="list-style-type: none"> Use table that differentiates between permitted, conditional, permitted with special regulation, conditional with special regulation, and permitted outside oceanfront CAMA setback. Uses listed in alphabetic order. 	<ul style="list-style-type: none"> Remove accessory and temporary uses from the table. Organize uses by use classification instead of alpha order. Simplify range of use types. Is 'PO' designation really needed?
5.6	Table of Area, Yard, and Height Requirements	Sets out the dimensional standards for all zoning districts.	<ul style="list-style-type: none"> Carry forward by consolidate with district purpose statements. Include CDD provisions here if possible for greater user-friendliness.
5.6.1	Notes to the Table of Area, Yard, and Height Requirements	<ul style="list-style-type: none"> Sets out table notes. Includes example images of front yard setbacks. 	<ul style="list-style-type: none"> Relocate height notes to height provisions in Rules of Measurement section. Consider clarifying front yard setbacks to remove need for illustrations.
Article 6: Special Requirements			
6.1	Causeway Overlay District	—	—
6.1.1	Purpose	Sets out the purpose for the overlay district.	Carry forward.
6.1.2	Vertical Mixed Use Minimum Development Site Requirements	Sets out the requirements for eligibility.	Carry forward, but remove the term "guidelines".
6.1.3	Applicability	Describes the standards for the overlay district.	<ul style="list-style-type: none"> Relocate to purpose. Clarify that these standards apply only to land designated COD.
6.1.4	Indoor/Outdoor Operation	Standard requires indoor use only.	<ul style="list-style-type: none"> Relocate to district standards section. Clarify if outdoor dining or display of goods is allowed.
6.1.5	Floor-to-Floor Heights and Floor Area of Ground-Floor Space	Standards for first floor heights and residential unit sizes.	Relocate to district standards section.
6.1.6	Lot Area Per Unit and Building Height (Density)	Sets out the height bonuses for mixed use development.	
6.1.7	Setbacks	Sets out the dimensional requirements.	
6.1.8	Off-Street Parking	Sets out the parking standards.	<ul style="list-style-type: none"> Relocate to district standards section. Use generic parking reduction techniques instead of district-specific.
6.1.9	Transparency	Sets out the glazing standards for building facades facing a street.	Carry forward, but consider building sides facing a pedestrian way as well.
6.1.10	Doors and Entrances	Sets out entryway standards.	Relocate to district standards section.
6.1.11	Landscaping Requirements	Sets out landscaping standards.	Clarify confusing language.
6.1.12	Street Plantings	Sets out street tree requirements.	Carry forward, but consolidate with other landscaping standards. Recognize utility conflicts.
6.1.13	Sidewalks	Sets out the sidewalk standards.	Need to add criteria under which deviations may be considered.
6.1.14	Fences and Gates	Sets out the fence standards.	These standards would benefit from an illustration.

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Sec. #	Section Title	Description	Recommendation
6.2	Adult Oriented Businesses	Sets out the use standards for adult businesses.	Carry forward but consider adding some separation requirements.
6.3	Boat Lifts	Describes the standards for accessory boat lifts.	Relocate to accessory use standards.
6.4	Boat Ramps	Describes the standards for boat ramps.	Relocate to accessory use standards.
6.5	Car Washes	Sets out the standards for car washes.	Carry forward.
6.6	Child Day Care Centers	Sets out the standards for day care centers	Carry forward.
6.7	Churches/Places of Worship	Sets out the standards for churches.	Carry forward.
6.8	Circle Development District (CDD)	—	—
6.8.1	Intent/Vision	Sets out district purpose statements.	<ul style="list-style-type: none"> Relocate these standards to the Districts chapter. Paragraphs should be reorganized into numbered statements. There are several footnotes in the text are not explained. Generally speaking, the standards in the district seem quite complicated, and are not drafted in an easy-to-understand way. These standards are repetitive of generally applicable standards, many of which should be applied townwide.
6.8.2	Density/Lot Size Standards	<ul style="list-style-type: none"> Sets out lot size standards. Includes definitions of floor area. 	<ul style="list-style-type: none"> Clarify if the Town has stormwater standards. Discuss need for FAR standards. Discuss need for density bonuses – why limit? Why not just cap?
6.8.3	Yard Standards: Impervious Surface Standards, Setbacks	Sets out the yard and setback standards.	Carry forward, but consider simplifying the setback language – perhaps a table?
6.8.4	Building Design and Operation Standards: Articulation, Height, and Orientation	Sets out building architectural standards.	<ul style="list-style-type: none"> Clarify articulation standards- very confusing. Where do they apply? Building orientation standards include mandatory use configuration – confusing. Height standards should reference the illustration. The illustration should bear a number and title.
6.8.5	Landscaping and Screening Standards	Sets out the landscaping standards.	<ul style="list-style-type: none"> The required landscaping standards are hard to find/understand. Suggest deleting in favor of town wide standards.
6.8.6	Access and Connectivity	Sets out the sidewalk, pedestrian, and driveway access standards.	Suggest deleting in favor of town wide standards (with the exception of the width standards).
6.8.7	General Provisions for CDD Parking	Sets out the parking standards.	Suggest deleting in favor of town wide standards.
6.8.8	Open Space Standards	Sets out the open space standards.	Revise to make applicable town wide and relocate to the Development Standards section.
6.8.9	Outdoor Storage	Prohibits open storage.	Carry forward.
6.8.10	Circle Development District Master Plan	Requires master plans to be submitted on a revolving basis.	<ul style="list-style-type: none"> Discuss why plans must be submitted every 12 months. Plan requirements should be relocated to a

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Sec. #	Section Title	Description	Recommendation
			procedures manual or appendix.
6.9	Convenience Stores	Sets out the use standards for convenience stores.	Carry forward.
6.10	Curb Markets	Sets out the use standards for "curb markets".	Suggest consolidating with other retail uses.
6.11	Docks and Piers	Sets out the standards for these uses.	Relocate to the accessory uses section.
6.12	Drive-Throughs Tied to a Business or Restaurant		Broaden the standards and apply to all drive-through structures.
6.13	Financial Services/Banks		Relocate these standards to drive throughs.
6.14	Fuel Sales (Gas Stations, Convenience Stores)		Carry forward.
6.15	Home Occupations		Carry forward with other accessory use standards.
6.16	Hotels, Motels, Inns, Condominium Hotels/Condotels	—	—
6.16.1	Site Area Requirements	Sets out area standards for these uses.	Carry forward.
6.16.2	Setback	Sets out standards for these uses.	Suggest deleting and using district standards.
6.16.3	Density/Maximum Lot Coverage	Sets out density & lot coverage standards.	Carry forward.
6.16.4	Height	Sets out the height standards.	Suggest deleting and using district standards.
6.16.5	Recreational Area	Sets out the recreational amenity requirements.	Carry forward.
6.16.6	Parking Areas	Sets out the parking standards.	Suggest deleting and using general parking standards.
6.16.7	Landscaping Requirements	Sets out the landscaping standards.	Suggest deleting and using the general landscaping standards.
6.16.8	Conversion of Existing Hotels/Motels to Condominium Hotel/Motel	Establishes the rules of conversion.	Carry forward.
6.16.9	Violations and Penalties	Sets out enforcement provision.	Suggest deleting and using ordinance standards.
6.16.10	Creation of and On-Going Requirements for On-Site Management	Management requirements.	Suggest relocating to use-specific standards.
6.16.11	Annual Audits	Annual audit requirements.	Suggest deleting.
6.17	Ice Vending Machines	Sets out the standards for these uses.	Relocate to the accessory uses section.
6.18	Manufactured Home Park Regulations	—	—
6.18.1	Administration	Sets out the requirement and procedure for a conditional use permit.	<ul style="list-style-type: none"> Carry forward. Additional discussion is needed as to if and how these standards will be applied to mobile homes and mobile home parks.
6.18.2	Design Standards (Precedent to Permit)	Sets out the design standards for parks.	<ul style="list-style-type: none"> Clarify how yard setbacks are determined without lot lines. Spacing requirements conflict. Remove parking standards – use general standards instead.

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Sec. #	Section Title	Description	Recommendation
			<ul style="list-style-type: none"> Consider disallowing additions.
6.18.3	Operating Standards (Subsequent to Permit)	Sets out standards for park operator.	Carry forward.
6.19	Marinas	Cross reference.	Delete cross reference.
6.20	Medical and Dental Care	Sets out the standards for these uses.	Carry forward.
6.21	Multi-Family Housing Development Standards	—	—
6.21.1	Applicability and Intent	Sets out the intent of the standards, which control over the district provisions.	<ul style="list-style-type: none"> Reconcile these standards with the rest of the ordinance. Establish basic purpose and intent standards for these uses. Simplify this section – there is no need for so much complexity.
6.21.2	Approval Required	Attempts to describe the procedure for review – but fails to be clear.	<ul style="list-style-type: none"> Clarify the review procedure based on the development review procedures in the ordinance. Consider a group development procedure for developments with more than one building perm lot.
6.21.3	Site Area Requirements	Section references a table, but does not name it and since no tables bear numbers or titles, it is hard to determine the reference.	Delete this section.
6.21.4	Density/Maximum Lot Coverage	Sets out variable dimensional requirements for multi-family development based on the district where it is located.	Relocate these standards to the districts, or better still, apply one uniform standard to simplify.
6.21.5	Setbacks and Building Spacing	<ul style="list-style-type: none"> Sets out setback standards, which differ by district. Sets out six different building separation standards. 	SIMPLIFY. Why must these be so complex?
6.21.6	Adequate Facilities	Requires adequate public facilities.	Delete – unnecessary.
6.21.7	Recreational Area	Sets out the open space standards.	Remove the ability of the Planning Board to deviate from minimum requirements; or at least add criteria.
6.21.8	Accessory Structures/Storage Buildings	Sets out standards for accessories.	Delete this section – unnecessary.
6.21.9	Parking Standards		
6.21.10	Landscaping Requirements	Cross reference.	Delete cross reference.
6.21.11	Special Provisions for Existing Small Multi-Family Dwellings	Sets out standards for existing nonconforming multi-family developments.	Discuss. Can these be addressed through generic nonconforming standards, or are special standards warranted? If so, why?
6.22	Museums and Galleries	Sets out the standards for these uses.	Delete.
6.23	Nursing Homes	Sets out the standards for these uses.	Carry forward.
6.24	Outdoor Display/Storage	—	—
6.24.1	Outdoor Display	Sets out the standards for these uses.	Relocate to the temporary use standards.
6.24.2	Outdoor Storage	Sets out the standards for these uses.	Relocate to the accessory use standards.
6.25	Outdoor/Sidewalk Sales	Sets out the standards for these uses.	Relocate to the temporary use standards.
6.26	Pedestrian Walkways	Sets out standards for this infrastructure.	<ul style="list-style-type: none"> Why is this treated as a use type?

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Sec. #	Section Title	Description	Recommendation
	and Bicycle Riding Ways		<ul style="list-style-type: none"> Consolidate with other sidewalk standards or delete.
6.27	Pharmacies	Sets out the standards for these uses.	Delete and address through standards for drive throughs.
6.28	Recreational Vehicle Parks	Sets out the standards for these uses.	Carry forward.
6.29	Residential Cluster Development	—	—
6.29.1	Purpose and Intent; Definition	Sets out the standards for these uses.	Discuss. Does this use type exist and is it likely to be established in the future?
6.29.2	Area; Permitted Districts; Exemption; Street Access; Open Space(s); Density; Dimensional Standards		
6.29.3	Maximum Density Requirements		
6.29.4	Minimum Dimensional Standards		
6.29.5	Zero Side Yard Setbacks	Sets out the configuration requirements.	Relocate to the dimensional requirements in the districts where allowed.
6.29.6	Compliance with Subdivision Standards	Requires compliance with subdivision standards.	Delete.
6.30	Sale, Rental, or Repair of Jet Skis and Other Water Vessels	Sets out the standards for these uses.	Carry forward.
6.31	Seafood Processing and Packaging		
6.32	Storage Facility, Self-Service	Sets out the standards for these uses.	Carry forward, but remove any site plan requirements.
6.33	Taverns, Bars, Night Clubs and Teen Clubs		
6.34	Telephone Switching Stations		
6.35	Utilities	—	—
6.35.1	Major	Sets out the standards for these uses.	Carry forward.
6.35.2	Minor		
6.36	Wireless Telecommunication Towers and Facilities	Sets out the standards for these uses.	<ul style="list-style-type: none"> Carry forward. Incorporate standards for stealth facilities. Incorporate standards for collocated antennas.
6.37	Youth Centers	Sets out the standards for these uses.	Carry forward.
6.38	Tent Campgrounds – Administration	Sets out the standards for these uses.	Carry forward.
6.38.1	Design Standards		
6.38.2	Operating Standards (Subsequent to Permit)		
6.39	Amusement Centers	—	—
6.39.1	Development standards	Sets out the standards for these uses.	Carry forward, but remove any site plan requirements.
6.39.2	Conditions		

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Sec. #	Section Title	Description	Recommendation
6.39.3	Site Plan		
Article 7: Design and Performance Standards			
7.1	Purpose and Applicability	Sets out purpose statements.	Delete.
7.2	Fences and Walls	—	—
7.2.1	General	Sets out a series of general fence standards.	<ul style="list-style-type: none"> Clarify how this section relates to Sec. 10.10.10. The standards pertaining to the “finished side” are vague Height standards could be organized as a table.
7.2.2	Placement	Sets out fence placement standards.	This needs a graphic.
7.2.3	Fences	Sets out fence material standards.	<ul style="list-style-type: none"> Revise the name to materials. Clarify; no barbed wire?
7.2.4	Walls	Sets out wall standards.	Carry forward.
7.2.5	Retaining Walls		
7.2.6	Maintenance		
7.3	Utility, Dumpster, Recycling, and Trash Handling	—	—
7.3.1	Applicability	Sets out applicability standards.	Revise to clarify.
7.3.2	Location	Sets out standards for these uses.	Carry forward.
7.3.3	Screening		
7.3.4	Access		
7.3.5	Utilization		
7.3.6	Performance			Sets out standards for water quality treatment.	Revise to remove vagueness.
7.4	Connectivity	—	—
7.4.1	Purpose and Scope	Sets out the purpose statements for street connectivity.	Carry forward.
7.4.2	Consistency with Other Documents	Requires construction to Town standards.	Delete.
7.4.3	Street Arrangement	Sets out street arrangement standards.	<ul style="list-style-type: none"> Discuss- several questions here – How realistic is development of over 100 units? Clarify when cul-de-sac/dead-end streets are allowed. Where are maximum length standards?
7.4.4	Cross Access	Sets out standards for parking lot cross access.	Carry forward with more standards for location, configuration, access agreements, how to handle vacant land, etc.
7.4.5	Standards for Pedestrian Facilities	Sets out standards for sidewalks and paths.	<ul style="list-style-type: none"> Clarify how relates with sidewalk standards in CDD district. Clarify when pedestrian connections from cul-de-sacs applies. Clarify when a path is done instead of a sidewalk.
7.4.5.1	Sidewalks		
7.4.5.2	Pedestrian Walkways/Paths		
7.4.6	Standards for Bicycle Facilities	Sets out some standards for bike lanes.	<ul style="list-style-type: none"> Clarify if bike lanes only required on minor collectors. Clarify the requirements for bicycle parking.
7.5	Building Design Standards	—	—
7.5.1	Purpose and Applicability	Sets out applicability standards.	Clarify applicability – too vague! Does this apply to ALL development? If so, why?
7.5.2	General Requirements for All	Sets out general design requirements for all buildings.	<ul style="list-style-type: none"> Need to define “compatible”

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
	Buildings		<ul style="list-style-type: none"> Clarify which street to be a parallel to. There is overlap in these standards with overlay, district, and use standards. Reconcile.
7.5.3	Commercial/Office/Institutional/Mixed Use Buildings	—	—
7.5.3.1	Building Materials	Sets out material and color standards.	Revise title to mention color or remove color standards.
7.5.3.2	Requirements for Building Massing and Articulation	Sets out building façade standards.	Need to clarify how this relates to and overlaps with standards in Section 7.6, the COD overlay, and the CDD district.
7.5.3.3	Integration into the Street Network	Discusses street connections.	Consolidate with Section 7.4.3 or delete.
7.5.3.4	Review Required	Sets out submittal requirements.	Delete – unnecessary.
7.5.3.5	Criteria for Approval	Sets out site plan review criteria.	Relocate to site plan procedure.
7.5.3.6	Configuration	Sets out standards for roofs, walls, and awnings.	Need to clarify how this relates to and overlaps with other district standards.
7.5.3.7	Alternative Compliance	Sets out process for alternative compliance.	Need to specify how this works Need to clarify review criteria.
7.5.4	Residential Buildings	—	—
7.5.4.1	Single-Family and Two-Family (Duplex) Detached Residential Building	Includes architectural standards for these uses.	Make voluntary or delete as required under statutes.
7.5.4.2	Multi-Family Residential Buildings	Sets out additional material standards for these uses.	Consolidate with other multi-family standards.
7.5.4.3	Manufactured Homes	Sets out standards for these uses.	Relocate with other use standards for this use.
7.6	Building Façade Design	—	—
7.6.1	Intent	Describes intent.	Broaden. Unclear how human-scale design enhances Town image.
7.6.2	Applicability	Sets out the applicable uses.	<ul style="list-style-type: none"> Why is this section here? The standards have addressed these issues in other development standard sections (like Section 7.5, district standards like those for COD or CDD, use-specific standards, like those for multi-family uses. Consolidate this material.
7.6.3	Exempt	Exempts communication towers from this set of requirements.	<ul style="list-style-type: none"> Delete. Not needed.
7.6.4	Standards	Sets out the façade design standards.	<ul style="list-style-type: none"> Clarify why this section is needed in light of Section 7.5. Consolidate.
7.6.5	Alternative Compliance	Sets out alternative compliance provisions.	<ul style="list-style-type: none"> Why is this done by Building Inspector when TRC reviews? Where are review criteria? Why not address this in a single procedure?
Article 8: Marinas			
8.1	Authority; Jurisdiction	Clarifies wet slips exempted.	<ul style="list-style-type: none"> Delete. These are use-specific standards and should be relocated to the uses article.
8.2	Classification	Establishes three classifications for marinas.	<ul style="list-style-type: none"> Relocate to definitions.
8.3	Area Requirements	Cross reference to district standards.	<ul style="list-style-type: none"> Delete.

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Sec. #	Section Title	Description	Recommendation
8.4	Parking	Sets out parking standards.	<ul style="list-style-type: none"> Delete, and address in parking standards. Address storage-related provisions in use-specific standards.
8.5	Restrictions on Items Near Intersections	<ul style="list-style-type: none"> Cross reference. 	<ul style="list-style-type: none"> Delete.
8.6	Signs, Lighting, Pollution, and Dock Construction	<ul style="list-style-type: none"> Sets out standards for these uses. 	<ul style="list-style-type: none"> Delete cross references. Carry forward as use standards.
8.7	Plan Approval	<ul style="list-style-type: none"> Sets out the process and plan submittal requirements. 	<ul style="list-style-type: none"> Delete the process information – this is identified in use table and explained in Site Plan procedure. Relocate submittal requirements.
Article 9: Parking, Streets, and Lighting			
9.1	Parking General Provisions	Sets out the purpose and intent statements	<ul style="list-style-type: none"> Carry forward with additional statements regarding parking. Consider relocating the lighting provisions.
9.1.1	Parking Lots with More than Four Spaces	Sets out the general standards for most parking lots.	<ul style="list-style-type: none"> Relocate irrelevant sections like lighting or landscaping. Clarify what constitutes large lots. Relocate and clarify the bike parking provisions.
9.1.2	Remote Parking Space	Standards for off-site parking.	<ul style="list-style-type: none"> Relocate to parking alternatives. Consider reduction of 1/2 mile distance to 1/4 mile. Clarify that no office or industrial districts exist.
9.1.3	Separation from Walkways, Sidewalks, and Streets	Cross reference.	Delete.
9.1.4	Handicapped Parking Requirements	Sets out the handicapped parking standards.	<ul style="list-style-type: none"> Carry forward. Consolidate standards in table.
9.1.5	Shared Parking	Sets out standards for shared parking.	<ul style="list-style-type: none"> Relocate to parking alternatives. Require an agreement. Specify what happens after use changes.
9.1.6	Parking Connectivity	Sets out parking lot connection standards.	Delete – repetitive.
9.2	Parking Lot Dimensions	Parking space and aisle configuration.	Consolidate.
9.3	Parking Lot Design and Locational Requirements	Sets out the design standards.	Carry forward.
9.4	Driveways	Sets out the design standards.	Relocate to Driveways standards section.
9.5	Vehicle Storage	—	—
9.5.1	Residential Districts	Sets out provisions for RV parking.	Relocate to use standards.
9.5.2	Commercial and Industrial Districts	Sets out standards for storage of lots.	Carry forward.
9.6	Parking Ratios	Sets out the summary table for parking.	<ul style="list-style-type: none"> Review for consistency with uses in the use table. Review for consistency with national standards.
9.7	Off-Street Loading Requirements	Sets out the loading standards.	Carry forward and simplify where possible.
9.8	Streets	Sets out standards for streets.	<ul style="list-style-type: none"> This material belongs in the subdivision design provisions. Clarify how this relates to Section 7.9.3.
9.9	Acceptance of Streets		
9.10	Easements	Sets out easement provisions.	This material belongs in the subdivision design

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
9.11	Street Names/Signs	Sets out street sign provisions.	provisions.
9.12	Traffic-Control Devices	Sets out the traffic light provisions.	
9.13	Purpose and Intent	Sets out purpose and intent for exterior lighting.	Carry forward.
9.14	Applicability	Sets out applicability standards.	Clarify why these standards are applied to residential subdivisions.
9.15	Exempt	<ul style="list-style-type: none"> Sets out exemptions. 	<ul style="list-style-type: none"> Carry forward.
9.16	Lighting Plan	<ul style="list-style-type: none"> Requirements for lighting plans. 	<ul style="list-style-type: none"> Carry forward.
9.17	Site Lighting Design Requirements	Sets out lighting standards.	Carry forward.
9.17.1	Fixture (Luminaire)		
9.17.2	Fixture Height		
9.17.3	Light Source (Lamp)		
9.17.4	Mounting		
9.17.5	Limit Lighting to Periods of Activity	Requires lighting to be extinguished during some periods.	Vague; clarify or delete.
9.18	Illumination Levels	Sets out maximum illumination standards.	<ul style="list-style-type: none"> Review for consistency with best practice – these standards seem high. Remove average levels – unnecessary.
9.19	Excessive Illumination	Sets out limitations on light trespass and blinking lights.	Carry forward.
9.20	Nonconforming Lighting	Standards for nonconforming lighting.	Relocate to Nonconformities section.
9.21	Policy Purpose	Sets out purposes for street lighting.	Relocate to subdivision standards.
9.22	Coverage	Sets out location of street lights.	Carry forward.
9.23	Policy	Sets out standards for street lighting.	Carry forward, but rename to standards.
Article 10: Landscaping, Buffering, Screening, and Tree Protection			
10.1	Purpose	Sets out the purpose and intent standards.	Carry forward.
10.2	Applicability	—	—
10.2.1	Exemptions	Sets out the development exempted from this section.	Carry forward, but clarify routine pruning.
10.2.2	Application	Sets out the development subject to the standards.	Carry forward, but clarify how use changes are addressed.
10.3	Tree Preservation Requirements	Indicates existing vegetation should be preserved.	<ul style="list-style-type: none"> CLARIFY. What is the standard? Where are the criteria?
10.4	Protected Tree Survey Required	Sets out the standards for a required tree survey.	<ul style="list-style-type: none"> Carry forward, but clarify minimum sizes to include. Clarify how standards are to be addressed.
10.5	Preservation of Protected Trees During Construction	Establishes provisions for tree protection fencing.	CLARIFY. If trees are being preserved, then protection measures are required.
10.6	Credit for Existing Vegetation	—	—
10.6.1	General	Describes reasons to save trees.	<ul style="list-style-type: none"> Delete – repetitive.
10.6.2	Protected Trees	Mentions something called protected trees.	<ul style="list-style-type: none"> Delete – unclear how this relates to the balance of the standards.
10.6.3	Credit for Existing Vegetation	Sets out credit rates for tree retention.	<ul style="list-style-type: none"> Clarify. Do all saved trees get credited? Only those serving a buffering function? What if no trees exist where a buffer is required?
10.6.4	Clear-Cutting	Limits clear cutting of trees.	<ul style="list-style-type: none"> Clarify how this relates to other tree protection sections where tree save is

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
			encouraged.
10.7	Landscaping Plans Required	Sets out requirements for landscaping plan.	Carry forward.
10.8	Design of Landscaping and Buffers	—	—
10.8.1	Design, Installation and Establishment Standards	Establishes the standards for plant material.	Carry forward.
10.8.2	Issuance of Certificate of Occupancy	Describes the process for CO issuance.	<ul style="list-style-type: none"> Carry forward. Consider relocating to the Certificate of Occupancy procedure.
10.8.3	Cold Hardy and Drought Tolerant Plants	Requires cold hardiness.	Delete – this should be addressed in required plant materials.
10.8.4	Plant Material and Minimum Plant Size	References the plant material standards in the appendix.	Suggest including minimum caliper size, height, and gallon size provisions.
10.8.5	Minimum Planting Areas	Establishes a minimum land area per tree.	Consider deleting.
10.8.6	Mulch	Requires mulch.	Carry forward and also allow planted ground cover.
10.9	Requirements for Maintaining Planted Areas	—	—
10.9.1	Responsibility	Establishes maintenance responsibility.	Carry forward.
10.9.2	Maintenance	Sets out the maintenance standards.	Carry forward.
10.9.3	Failure to Maintain	Sets out ramifications for failure to maintain.	Relocate to enforcement.
10.9.4	Hardship Relief	Allows the Administrator to modify the standards.	Clarify the criteria for modifications.
10.10	Project Boundary Bufferyard and Landscaping Requirements	—	—
10.10.1	Definition and Purpose of Bufferyards	Sets out reasons for buffers.	Carry forward.
10.10.2	Location of Bufferyards	Sets out locations for buffers.	Carry forward.
10.10.3	Types of Required Buffers	Describes street buffers and project boundary buffers.	<ul style="list-style-type: none"> Carry forward. Specify if there are a variety of project boundary buffers.
10.10.4	Permitted Use of Buffer Area	Sets out allowable uses in buffers.	<ul style="list-style-type: none"> Carry forward. Include standards for utility crossings. Consider not allowing signs in buffers.
10.10.5	Prohibited Use of Buffer Area	Uses not allowed in a buffer.	Carry forward.
10.10.6	Planting in Easements	Limits the range of plantings in easements.	<ul style="list-style-type: none"> Consider requiring landowner to replace vegetation. Discuss limits on trees in easements.
10.10.7	Determination of Buffer Requirements	<ul style="list-style-type: none"> Cross references. 	<ul style="list-style-type: none"> Delete.
10.10.8	Street Buffers	Sets out the differing types of street buffers.	Carry forward, but consider adding illustrations.
10.10.9	Project Boundary Buffers	Sets out the project boundary buffer types and standards.	Consider removing the opacity calculation and simplifying the buffer application matrix.

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Sec. #	Section Title	Description	Recommendation
10.10.10	Walls, Berms, and Fences in Buffers	Sets out standards for fences/walls in buffers.	Carry forward, but relocate to allowable uses in buffers section or fences and walls section.
10.11	Vehicular Use Area Landscaping	—	—
10.11.1	Landscaping Requirements in Parking Areas and Vehicular Use Areas	Sets out the basic requirements for parking lot landscaping.	<ul style="list-style-type: none"> Carry forward. Consider requiring shrubs and/or trees in parking lot islands.
10.11.2	Existing Vegetation	Allows existing trees to be credited towards requirements.	Clarify tree location standards.
10.11.3	Design Standards	Sets out the standards for parking lot landscaping.	<ul style="list-style-type: none"> Reconfigure into numbered sections to aid in comprehension. Tree size inconsistent with other standards. Revise to remove repetition, overlap with other standards.
10.11.4	Screening Vehicular Use Area	Describes requirements for parking lot screening for nonresidential uses when lot is between building and street.	Clarify how and in what ways this differs from the requirements in §10.11.3.
10.11.5	Foundation Plantings	Sets out standards for building foundation planting near parking lots.	REVISE. The standard needs to address the location and placement of shrubs, not the size of the planting area.
10.11.6	Exceptions for Underground Parking and Above Ground Parking Structures	Sets out standards for parking structures.	<ul style="list-style-type: none"> Discuss. Is this needed? Also, revise for clarity.
10.12	Removal of Existing Trees	Describes provisions for tree removal.	Delete. Repetitious.
10.13	Alternative Methods of Compliance	Sets out ability to propose alternative configurations.	<ul style="list-style-type: none"> Relocate to section on alternatives. Need to add criteria.
10.14	Revisions to Approved Landscape Plans	Sets out provision for minor modifications to landscaping plans.	<ul style="list-style-type: none"> Relocate to section on alternatives. Add alternatives in materials to account for shading.
10.15	Inspection of Sites	Allows Administrator to inspect sites.	Relocate to Enforcement section.
10.16	Emergencies	Allows modifications or waiving of requirements during emergencies.	Carry forward.
10.17	Revegetation	Sets out requirements and penalties for revegetation following removal of required materials in violation.	Relocate to Enforcement section.
10.18	Location of Replacement Trees and Vegetation		
10.19	Inspections and Certificate of Occupancy	Limits issuance of a Certificate of Occupancy until required landscaping is installed.	Relocate to Certificate of Occupancy procedure.
Article 11: Sign Regulations			
Need to discuss			
Article 12: Development in Areas of Environmental Concern			
12.1	Through 12.2.2	Sets out standards for AECs.	Carry forward.
Article 13: Flood Damage Prevention Ordinance			
13.1	Through 13.4.4	Sets out standards for flood damage prevention.	Carry forward.
Article 14: Development Review Process			
14.1	Purpose and Applicability	Sets out the purpose for the article.	<ul style="list-style-type: none"> Unclear what procedure this section relates to. It mentions minor & major site plans

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
			<p>and conditional use site plans, however, each of this is addressed in more detail later in the article.</p> <ul style="list-style-type: none"> • Applicability language in these subsequent sections conflicts with this language. • CLARIFY or delete.
14.2	Pre-Application Meeting and Sketch Plan	Sets out requirements for pre-application conference to review a sketch plan.	<ul style="list-style-type: none"> • Unclear which applications are subject to these requirements. • Binds together two separate procedures – pre-application conference and sketch plan review. • Need to clarify exactly which applications must undergo a pre-application conference and which applications may conduct as an option. • Need to clarify which applications must submit a sketch plan.
14.3	Conditional Use Permit Procedures	—	—
14.3.1	Purpose and Applicability	Sets out the purpose for the CUP procedure.	Revise to not mention general or base zoning districts as this could create confusion. The use table allows some uses as conditional to ensure a stricter level of scrutiny.
14.3.2	Application Process/ Completeness	Sets out application submittal process and cross references submittal requirements in another section of the ordinance.	<ul style="list-style-type: none"> • Number all paragraphs. • Delete this in favor of a single, unified or standardized application review procedure section. • Either relocate submittal requirements to an outside manual, or include them with the applicable procedure.
14.3.3	Public Notice	<ul style="list-style-type: none"> • Sets out the public notice requirements. • Includes several procedural aspects. 	<ul style="list-style-type: none"> • Delete this material in favor of a consolidated standard review procedure, including notice. • Need to discuss the advisability of a notice radius that exceeds state minimum. This approach creates a higher legal burden. Suggest codifying minimum state standard and expanded radius via Town policy that is not codified.
14.3.4	Planning Board Review and Recommendation	Sets out the role of the Planning Board in review of CUP applications.	<ul style="list-style-type: none"> • This is a quasi-judicial process, and as such should not be subject to multiple public hearings. • Suggest the Planning Board be removed from review of CUPs. If not, at least revise the process so that the only public hearing is conducted with the BOA.
14.3.5	Board of Adjustment Action	Sets out the BOA role in CUP application review and decision.	Carry forward, but provide additional detail on how conditions may be offered.
14.3.6	Effect of Approval	<ul style="list-style-type: none"> • Allows an applicant to develop in accordance with the approved CUP. • Also allows applicant to develop any other permitted use allowed in the district. 	<ul style="list-style-type: none"> • DELETE the provisions allowing an applicant to develop any other use. • Clarify that the effect of CUP approval is that it allows an applicant to move forward with any other subsequent approvals like site plan, subdivision, building permit, etc.
14.3.7	Binding Effect	Sets out the provisions for modifications to an approved CUP.	Revise section name to amendments.

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Sec. #	Section Title	Description	Recommendation
14.3.8	Certificate of Occupancy	Describes the CO issuance following approval of a CUP.	Relocate to the Procedures section and broaden for application to all forms of development.
14.3.9	Twelve-Month Limitation on Re-Application	Limits re-application for a denied CUP to 12 months.	<ul style="list-style-type: none"> Carry forward. Consider including in standardized procedures section. Consider adding a time limit waiver process to be considered by Council.
14.3.10	Change in Conditional Use Permit	Clarifies change in a CUP requires re-review.	Carry forward.
14.3.11	Implementation of Conditional Use Permit (CUP)	Sets out the time limits for issuance of a building permit and rescission.	Carry forward, but rename to Expiration.
14.4	Site Plan Procedures	—	—
14.4.1	Engineering Drawing Review and Approval Procedures	This section refers to engineering drawing requirements for CUPs, and major and minor site plans. Also sets out the types of plans to be included within the set of documents referred to as "Engineering Drawings"	<ul style="list-style-type: none"> The relationship between engineering drawings and listed application procedures is not clear. Clarify. If CUP applications require review of engineering drawings as part of the CUP approval, then include these requirements with the procedure, not here. Suggest dropping use of the term "engineering drawings" altogether. As drafted, it makes these seem like a procedure when in fact they are just a step within other named procedures. Need to clarify that not all elements of full engineering drawing set apply to all forms of development. Single-family homes do not need landscaping or lighting plans, but do need minor site plans, and possibly a conditional use permit.
14.4.2	Minor Site Plans	<ul style="list-style-type: none"> Sets out the kinds of development that are decided as a minor site plan. Includes cross references to a procedure in another section. Clarifies that developments decided as minor site plans must still submit all the requirements for a set of Engineering Drawings. 	<ul style="list-style-type: none"> Confusing to have a section on a type of site plan review that references a procedure in a different section, submittal requirements in yet another section, and additional requirements (for Engineering Drawings) from yet another section. Why do minor site plan developments have to provide landscaping, lighting, and infrastructure details? This approach is confusing. This section ties the review and approval of engineering drawings to issuance of a zoning permit. This permit procedure is separate from minor site plan, and is not defined elsewhere. Clarify.
14.4.3	Major Site Plans	<ul style="list-style-type: none"> Sets out the kinds of development subject to the major site plan review procedure. Includes cross references to a procedure in another section. Clarifies that developments decided as major site plans must still submit all the requirements for a set of Engineering Drawings. Requires as-builts. 	<ul style="list-style-type: none"> Consider allowing Planning Board to decide major site plans. Disengage engineering drawing review from site plans as these are different procedures. Consider revising use of the term as-builts to a "foundation survey" or similar title that describes what is required to avoid confusion with what typically constitutes as built plans.

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
14.5	Administrative Approval	Sets out the process to be followed for review of minor site plans, and the range of submittals associated with a zoning permit.	<ul style="list-style-type: none"> Remove references to Engineering Drawings as these are actually the submittal requirements for a zoning permit. Suggest deletion in favor of calling this the Minor Site Plan procedure. Repeat as needed for the final plat procedure.
14.5.1	Administrative Approval Flowchart	<ul style="list-style-type: none"> Sets out the procedure flow chart. Includes a note pertaining to as-builts. 	<ul style="list-style-type: none"> Carry forward for minor site plan procedure. Supplement all other procedures with a flow chart. Clarify as-builts note – why is this required for minor site plans?
14.5.2	Application for Review	Sets out the process of review.	<ul style="list-style-type: none"> Carry forward, but break apart for relevant procedures. Rely on a standardized common review procedure section for greater description. Include review criteria.
14.5.3	Planning Staff and TRC Review		Need to describe the procedure to follow when the application does not comply with all requirements.
14.5.4	Permit Issued or Final Plat Approved		
14.5.5	Zoning Inspections and Certificates of Occupancy	Describes the process for issuance of a CO and submittal of as-builts.	<ul style="list-style-type: none"> Need to establish the CO as its own procedure. Clarify why some minor site plans (like sf homes) must submit an as-built.
14.6	Planning Board Review and Town Council Approval	Sets out the process to be followed for review of major site plans.	<ul style="list-style-type: none"> Consider allowing Planning Board to decide these applications. Makes no mention of nonresidential development.
14.6.1	Planning Board Review and Town Council Approval Flowchart	<ul style="list-style-type: none"> Sets out the procedure flow chart. Includes references to un-related applications like amendments. 	<ul style="list-style-type: none"> Carry forward for major site plan procedure. Supplement all other procedures with a flow chart. Remove references to unrelated procedures.
14.6.2	Application for Review	Sets out the process of review.	<ul style="list-style-type: none"> Consider allowing Planning Board to decide major site plans. Remove references to unrelated procedures such as rezonings, conditional use permits, or vesting determinations (these are separate procedures). Rely on a standardized common review procedure section for preliminary steps (like notice). Include review criteria.
14.6.3	Planning Staff and TRC Review		
14.6.4	Review and Recommendation by the Planning Board		
14.6.5	Public Hearing by the Town Council		
14.6.6	Consideration by the Town Council		
Article 15: Development Plan Regulations			
15.1	Purpose and Applicability	Sets out the purpose for the section.	Suggest deleting.
15.2	Sketch Plan	Sets out the procedure and submittal requirements.	<ul style="list-style-type: none"> Avoid repetition. Suggest relocating to an outside manual, or relocating to reside with relevant procedure.
15.3	Minor and Major Site Plan Requirements	<ul style="list-style-type: none"> Sets out submittal requirements. Includes information on validity and 	<ul style="list-style-type: none"> Clarify inconsistency with single-family/two-family uses.

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
		expiration.	<ul style="list-style-type: none"> Suggest relocating to an outside manual, or relocating to reside with relevant procedure. Do not include substantive aspects (like validity timeframe) in a section on submittal requirements.
15.4	Conditional Use Permit Requirements	Sets out the approval process and the submittal requirements.	<ul style="list-style-type: none"> Avoid repetition. Suggest relocating to an outside manual, or relocating to reside with relevant procedure.
Article 16: Subdivision Regulations			
16.1	Purpose	Sets out the purposes for subdivision the regulations.	Organize as numbered statements and broaden.
16.2	No Service or Permits Issued Until Final Plat Approval	Limits issuance of permits until after a final plat.	Revise. This prevents grading and infrastructure construction.
16.3	Duty of Register of Deeds	Sets out the responsibilities of the Register of Deeds.	Delete. This office is independent of Planning.
16.4	Compliance With Official Plans	Requires compliance with adopted policies.	Carry forward.
16.5	Exceptions and Variances	Establishes ability for Planning Board to vary subdivision regulations.	CLARIFY. This should be listed as a procedure with criteria and a process.
16.6	Procedure	Sets out the procedures for preliminary and final plats.	<ul style="list-style-type: none"> Relocate to Procedures section. Consider allowing Planning Director or TRC to approve final plats. Consider not requiring sketch plan approval by Planning Board.
16.7	Design Standards	References other sections.	Delete.
16.8	Plat Requirements; Sketch Design Plan	Sets out the submittal requirements.	Consider relocating to a procedures manual.
16.9	Forms for Final Certification	Sets out the subdivision certificates.	Consider relocating to procedures manual.
16.10	Improvement Guarantees	Sets out the standards and procedures for performance guarantees.	<ul style="list-style-type: none"> Revise this section for more clarity and best practice. Sections need to be numbered. Clarify applicant choice on surety type. Clarify warranty of public improvements (except streets). Consider requirements for POA escrow accounts.
16.11	Monuments	Sets out standards for lot monuments.	Carry forward.
16.12	Ties and Markers	Sets out standards for lot markers.	<ul style="list-style-type: none"> Carry forward. Relocate other subdivision design standards here (streets, drainage, etc.).
16.13	Coastal Area Management Act Regulations	References CAMA requirements for subdivisions near dunes.	Relocate to AEC provisions.
Article 17: Nonconforming Regulations			
17.1	Continuation of Nonconforming Situations and Completion of Nonconforming Projects	Establishes the nonconformities section	<ul style="list-style-type: none"> Carry forward. Number passages

PART 13: SECTION-BY-SECTION REVIEW OF UDO

Sec. #	Section Title	Description	Recommendation
17.2	Nonconforming Lots	<ul style="list-style-type: none">• Sets out the standards for use of a nonconforming lot.• Includes recombination requirements for lots under common ownership.	<ul style="list-style-type: none">• Carry forward.• Clarify that governmental acquisition of ROW does not render nonconforming.

PART 14: STYLE SET

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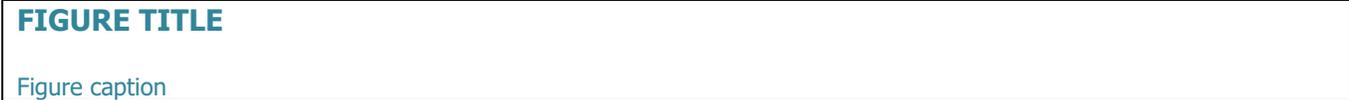
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Green Table Border: 49, 132, 155
Tan Table Border: 251, 212, 180



Footnote¹

¹ This is footnote text