

CHAPTER 5: USE REGULATIONS

5.1 TABLES OF PERMITTED USES

5.1.1 Explanation of Table Abbreviations

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- (B) Special Uses
- (C) Accessory Uses
- (D) Prohibited Uses
- (E) Use Class
- (F) Additional Regulations

5.1.2 Table of Permitted Uses - General Use Districts (Except TC & CT)

5.1.3 Table of Permitted Uses - TC District

5.1.4 Table of Permitted Uses - CT District, Walnut Street Corridor

5.2 USE-SPECIFIC STANDARDS

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- (A) Boarding House
- (B) Bed and Breakfast
- (C) Dormitory
- (D) Group Home; Family Care Home
- (E) Life Care Community
- (F) Multi-Family Dwelling, and Multi-Family Dwelling, Mid-Rise
- (G) Nursing Home
- (H) Patio Dwelling
- (I) Residential Use in Non-Residential Building
- (J) Residential Use in Mixed-Use Building
- (K) Manufactured Home
- (L) Semi-Detached/Attached Dwelling and Townhouse
- (M) Detached Dwelling
- (N) Tandem Dwelling Unit
- (O) Manufactured Home Parks
- (P) Detached Multi-family Dwellings

5.2.2 Public/Institutional Uses

- (A) Athletic Field, Public
- (B) Day Care Centers
- (C) School
- (D) Neighborhood Recreation Center, Public
- (E) Religious and Other Assembly Uses
- (F) College
- (G) Town Owned and/or Operated Facilities and Services
- (H) Governmental Offices

5.2.3 Commercial Uses

- (A) Athletic Field, Private
- (B) [Reserved]
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- (D) Electronic Gaming Operation
- (E) Kennel
- (F) Commercial Indoor Recreational Facility
- (G) Nightclub/Bar
- (H) [Reserved]

- (I) Postal Center, Private
- (J) Parking Lot as a Principal Use
- (K) Restaurant; Retail Store
- (L) Radio or TV Broadcasting Studio
- (M) Adult Business
- (N) Vehicle Filling Station, Vehicle Repair, Vehicle Service, Car Washes, and Towing and Vehicle Storage
- (O) Veterinary Hospital/Office
- (P) Private Transportation Service
- (Q) Motor Vehicle Sales/Rental
- (R) Wellness Center
- (S) Trade School

5.2.4 Industrial Uses

- (A) Outdoor Storage as a Principal Use
- (B) Recycling and Salvage Operation
- (C) Resource Extraction
- (D) Telecommunications Facilities
- (E) Research Laboratory
- (F) Warehousing and Distribution Establishment and Wholesale Establishment
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5.3 ACCESSORY USES AND STRUCTURES

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- (B) Approval of Accessory Uses and Structures
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- (E) Size of Residential Accessory Buildings and Structures
- (F) Signs
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5.3.3 Accessory Uses Prohibited

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5.3.4 Accessory Uses and Structures Allowed

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- (H) Recycling Drop-Off Stations
- (I) Swimming Pools, Hot Tubs and Spas
- (J) Animal Husbandry
- (K) Yard Parking on Single-Unit and Duplex Residential Lots
- (L) Day Care Homes, Large
- (M) Day Care Homes, Small
- (N) Caretaker's Residence
- (O) Beekeeping
- (P) Food Trucks

- (Q) Cluster Box Unit - Mailbox
- (R) Electronic Gaming Machines
- (S) Photovoltaic Systems

5.4 TEMPORARY USES AND STRUCTURES

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- 5.4.2 Table of Allowed Temporary Uses and Structures
- 5.4.3 [Reserved]
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- 5.4.5 General Requirements for All Temporary Uses and Structures
- 5.4.6 Specific Regulations for Certain Temporary Uses and Structures
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 - (B) Real Estate Sales Office and Model Sales Home
 - (C) Sale/Display of Goods Other Than Agricultural Products
 - (D) Sale of Agricultural Products Grown Off-Site
 - (E) Sale of Fireworks
 - (F) Temporary Structures In or Near the Flood Hazard Area
- 5.4.7 Events
 - (A) Purpose and Intent
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 - (C) Permit Required
 - (D) No Permit Required
 - (E) Term of Approval/Permit
 - (F) Additional Planning Requirements
 - (G) Submittal Requirements

Chapter 5: USE REGULATIONS**5.1 TABLES OF PERMITTED USES**

Table 5.1-1 below sets forth the uses allowed within all general use districts except the Town Center district, Table 5.1-2 below sets forth the uses allowed within the Town Center district and Table 5.1-3 sets forth the uses allowed within the Corridor Transition district. Each of the uses listed in Tables 5.1-1, 5.1-2, and 5.1-3 are defined in the "Use Classifications" section of Chapter 12. Allowable uses for the PDD districts are discussed in Section 4.5.3(D). Any use not listed in Tables 5.1-1, 5.1-2, or 5.1-3 as a permitted use and not otherwise prohibited or restricted by this Ordinance is an "unlisted use" that shall only be permitted if approved by the Planning Director pursuant to Section 12.3.1 of this Ordinance.

5.1.1 Explanation of Table Abbreviations**(A) Permitted Uses**

A "P" in a cell indicates that a use category is allowed by right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Ordinance, including the General Development Regulations set forth in Chapter 7.

(B) Special Uses

An "S" in a cell indicates that a use category is allowed only if reviewed and approved as a special use, in accordance with the special use review procedures of Section 3.8.

(C) Accessory Uses

An "A" in a cell indicates that a use category is allowed by right as an accessory, ancillary, or incidental use to a legally-established principal use in the respective zoning district. Accessory uses are subject to all other applicable regulations of this Ordinance.

(D) Prohibited Uses

A blank cell indicates that the use type is prohibited in the zoning district.

(E) Use Class

Adjacent to the "Use Type" entries in Table 5.1-1 is a number or numbers which correspond to the use's "Use Class". This is a figure utilized in Section 7.2 of this Ordinance to determine the required width and type of perimeter landscaping buffer required between two (2) individual uses. The information is provided in Table 5.1-1 for convenience, and more detail is available in Section 7.2.

(F) Additional Regulations

Regardless of whether a use category is permitted by right, as a special use, or as an accessory use, there may be additional regulations that are applicable to a specific use. The existence of these use-specific regulations is noted through a section reference in the last column of the use summary table entitled "Additional Regulations." References refer to subsections of Section 5.2, Use-Specific Regulations. These regulations apply to all districts unless otherwise specified and may not be varied.

5.1.2 Table of Permitted Uses - General Use Districts (Except TC & CT)

| TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT | | | | | | | | | | | | | | | | | |
|--|---|---|-----|-----|-----|----|----|-----|-----------------|----|----|-----|---|---|----------------|----------------|-------------------|
| P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit | | | | | | | | | | | | | | | | | |
| ¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² Mixed Use Overlay District (MUOD) - Neighborhood, as delineated on the Official Zoning Overlay Map. ³ MUOD - Community, as delineated on the Official Zoning Overlay Map. ⁴ MUOD - Regional, as delineated on the Official Zoning Overlay Map. | | | | | | | | | | | | | | | | | |
| Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2 | | | | | | | | | | | | | | | | | |
| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use-Specific Stds |
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| RESIDENTIAL USES | | | | | | | | | | | | | | | | | |
| Group Living | Dormitory [5] | | | | | | | | | P | P | P | | P | P | P | 5.2.1(C) |
| Group Living | Life care community [5] | | | | | | S | P | | P | | S | | P | P | P | 5.2.1(E) |
| Group Living | Nursing home [4] | | | | | | S | S | | P | S | S | | P | PS | PS | 5.2.1(G) |
| Household Living | Bed and Breakfast | S | S | | | | | | | | | | | | | | 5.2.1(B) |
| Household Living | Boarding house [4] | | S | S | S | S | S | P | | | | | | S | S | S | 5.2.1(A) |
| Household Living | Detached dwelling [2/3] | P | P | P | P | P | P | | | | | | | P | P | P | 5.2.1(M) |
| Household Living | Duplex dwelling [5] | | | | | | P | P | | | | | | P | P | P | |
| Household Living | Family care home [5] | PZ | | | | | | | | | | | | | | | 5.2.1 (D)(2) |
| Household Living | Group home [5] | Allowed in all residential dwellings as otherwise permitted by law, and may not be prohibited through zoning conditions | | | | | | | | | | | | | | | |
| Household Living | Manufactured home [4] | P | P | S | | | | | | | | | | | | | 5.2.1(K) |
| Household Living | Manufactured home park [4] | | | | | | | | | | | | | | | | |
| Household Living | Mobile home | | | | | | | | | | | | | | | | 5.2.1(O) |
| Household Living | Multi-family dwelling [4] | | | | | | | P | | | | | | P | P | P | 5.2.1(F) |
| Household Living | Patio dwelling [4] | | | | | | P | P | | | | | | P | P | P | 5.2.1(H) |
| Household Living | Residential use in non-residential building [4/5/6] | | | | | | | | | P | | P | | P | P | P | 5.2.1(I) |

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² Mixed Use Overlay District (MUOD) - Neighborhood, as delineated on the Official Zoning Overlay Map. ³ MUOD - Community, as delineated on the Official Zoning Overlay Map. ⁴ MUOD - Regional, as delineated on the Official Zoning Overlay Map.

Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Std's |
|---------------------------|---|-------------|-----|-----|-----|----|----|-----|-----------------|----|----|-----|---|---|----------------|----------------|---------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| RESIDENTIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Household Living | Semi-detached/attached dwelling [4] | | | | | | P | P | | | | | | P | P | P | 5.2.1(L) |
| Household Living | Townhouse [4] | | | | | | P | P | | | | | | P | P | P | 5.2.1(L) |
| PUBLIC/INSTITUTIONAL USES | | | | | | | | | | | | | | | | | |
| Aviation | Airport/landing strip [7] | | | | | | | | | | | | S | | | | |
| Aviation | Heliport [7] | | | | | | | | | S | | | S | | | | |
| Cemetery | All [1] | S | S | S | S | S | S | S | | S | S | S | S | | | | |
| Cultural Facilities | Library [4] | | S | S | S | S | S | S | | P | P | P | | P | P | P | |
| Cultural Facilities | Museum [4] | | S | S | S | S | S | S | | P | P | P | | P | P | P | |
| Day Care | Day care center [4/5] | S | S | S | S | S | S | S | | P | P | P | | P | P | P | 5.2.2(B) |
| Government Services | Governmental office [4] | S | S | S | S | S | S | S | P | P | P | P | P | P | P | P | 5.2.2(H) |
| Government Services | Public safety station [4] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Government Services | Public utility facility [7] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Government Services | Town owned/operated facilities and services | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.2(G) |
| Hospital | All [5] | | | | | | | | | P | P | P | | P | P | P | |
| Park and Open Space | Athletic field, public [4] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.2(A) |
| Park and Open Space | Community garden [1] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Park and Open Space | Outdoor amphitheater, public [5,6] | | S | S | S | S | S | S | S | S | S | S | S | P | P | P | |

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|-----------------------------------|--|-------------|-----|-----|-----|-----|-----|-----|-----------------|-----|-----|-----|---|---|----------------|----------------|--------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| PUBLIC/INSTITUTIONAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Park and Open Space | Park, public [1] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Park and Open Space | Neighborhood recreation center, public [4] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.2(D) |
| Park and Open Space | Resource conservation facility [1] | P | P | P | P | P | P | P | P | P | | S | | P | P | P | |
| Religious Assembly | All [4] | S/P | S/P | S/P | S/P | S/P | S/P | S/P | | P | P | P | P | P | P | P | 5.2.2(E) |
| Educational Use | Pre-school [4/5] | S | S | S | S | S | S | S | | P | P | P | | P | P | P | |
| Educational Use | College [4] | | | | | | | | | S/P | S/P | P | P | | P | P | 5.2.2(F) |
| Educational Use | School [4] | | S/P | S/P | S/P | S/P | S/P | S/P | | P | P | S | | P | P | P | 5.2.2(C) |
| Non-Governmental Utilities | Utility facility, major [7] | S | S | S | S | S | S | S | S | S | S | S | S | | | | |
| Non-Governmental Utilities | Transportation facility [7] | | | | | | S | S | | P | P | P | P | P | P | P | |
| Non-Governmental Utilities | Utility substation, minor [5] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | |
| Agricultural | Agri-Tourism | P | P | | | | | | | | | | | | | | 5.2.3(C) |
| Agricultural | Farming, general [1] | P | P | P | | | | | | | | | P | | | | 5.2.3(C) |
| Agricultural | Forestry [1] | P | P | P | | | | | | | | | | | | | 5.2.3(C) |
| Agricultural | Produce stand [1] | P | P | | | | | | | | | | | | | | 5.2.3(C) |
| Animal Service | Kennel, indoor only [4] | S | S | | | | | | | P | P | P | P | P | P | P | 5.2.3(E) |
| Animal Service | Kennel, indoor/outdoor [6] | S | S | | | | | | | S | S | P | P | | | | 5.2.3(E) |

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Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Std's |
|---------------------------|---|-------------|-----|-----|-----|----|----|-----|-----------------|----|----|-----|---|---|----------------|----------------|---------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Animal Service | Veterinary hospital/office, with indoor kennel [4] | | | | | | | | | P | P | P | P | P | P | P | 5.2.3(O) |
| Animal Service | Veterinary hospital/office, with outdoor kennel [6] | | | | | | | | | | S | S | P | | | | 5.2.3(O) |
| Assembly | Club, lodge, or hall [4] | | | | | | | | | P | P | P | P | P | P | P | 5.2.2(E) |
| Assembly | Special Event Center [4] | | | | | | | | | P | P | P | P | P | P | P | 5.2.2(E) |
| Financial Institution | Bank, with drive-through service [5] | | | | | | | | | P | P | P | P | P | P | P | |
| Financial Institution | Bank, without drive-through service [5] | | | | | | | | | P | P | P | P | P | P | P | |
| Food and Beverage Service | Nightclub/bar, indoor operation [6] | | | | | | | | | S | P | | | P | P | P | 5.2.3(G) |
| Food and Beverage Service | Nightclub/bar, with outdoor operation [6] | | | | | | | | | | S | | | P | P | P | 5.2.3(G) |
| Food and Beverage Service | Restaurant, indoor operation [6] | | | | | | | | | P | P | | | P | P | P | 5.2.3(K) |
| Food and Beverage Service | Restaurant, with outdoor operation [6] | | | | | | | | | | S | | | P | P | P | 5.2.3(K) |
| Office | Office, business or professional [4/5/6] | | | | | | | | | P | P | P | P | P | P | P | |
| Office | Radio or TV broadcasting studio [4/5/6] | | | | | | | | | P | P | P | P | P | P | P | 5.2.3(L) |
| Office | Wellness Center [6] | - | - | - | - | - | - | - | | P | P | P | P | P | P | P | 5.2.3(R) |
| Public Accommodation | Hotel or motel [5/6/7] | | | | | | | | | S | P | P | | P | P | P | |

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Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Std's |
|--|--|-------------|-----|-----|-----|----|----|-----|-----------------|----|----|-----|----|---|----------------|----------------|---------------------------|
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| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Recreation/ Entertainment, Indoor | Amusement establishment [5] | | | | | | | | | | P | S | | P | P | P | |
| Recreation/ Entertainment, Indoor | Commercial indoor recreational facility [5] | | | | | | | | | P | P | P | S | P | P | P | 5.2.3(F) |
| Recreation/ Entertainment, Indoor | Electronic Gaming Operation [6] | | | | | | | | | | PZ | PZ | PZ | | | | 5.2.3(D) |
| Recreation/ Entertainment, Indoor | Neighborhood recreation center, indoor/outdoor, private [4] | P | P | P | P | P | P | P | | | | | | P | P | P | 5.2.3(F) |
| Recreation/ Entertainment, Indoor | Pool or billiard hall [5] | | | | | | | | | | P | | | P | P | P | |
| Recreation/ Entertainment, Indoor | Theater, large [5] | | | | | | | | | | | | | S | P | P | |
| Recreation/ Entertainment, Indoor | Theater, small [5] | | | | | | | | | | P | | | P | P | P | |
| Recreation and Entertainment, Outdoor | Athletic field, private [4] | P | P | P | S | S | S | | P | | | S | S | | | S | 5.2.3(A) |
| Recreation and Entertainment, Outdoor | Commercial outdoor recreational facility [6] | | | | | | | | | | S | | S | S | S | S | |
| Recreation and Entertainment, Outdoor | Golf course, privately-owned [4] | S | S | S | S | S | S | | P | | | | | | | | |
| Recreation and Entertainment, Outdoor | Golf driving range [4] | | | | | | | | | S | S | S | S | | | P | |

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Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Stds |
|--|--|-------------|-----|-----|-----|----|----|-----|-----------------|-----|-----|-----|---|---|----------------|----------------|--------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Recreation and Entertainment, Outdoor | Motor vehicle raceway [7] | | | | | | | | | | | | S | | | | |
| Recreation and Entertainment, Outdoor | Outdoor amphitheater, commercial [6] | | | | | | | | | | | S | S | | S | S | |
| Retail Sales and Service | ABC store [6] | | | | | | | | | | P | | | P | P | P | |
| Retail Sales and Service | Convenience store [6] | | | | | | | | | | P | | | P | P | P | |
| Retail Sales and Service | Farm market [5] | | | | | | | | | S | P | P | | P | P | P | |
| Retail Sales and Service | Crematorium [6] | | | | | | | | | P | P | | P | P | P | P | |
| Retail Sales and Service | Funeral home [6] | | | | | | | | | P | P | | | P | P | P | |
| Retail Sales and Service | Shopping Center, General [6] | | | | | | | | | | P | | | P | P | P | |
| Retail Sales and Service | Shopping Center, Small [6] | | | | | | | | | | P | | | P | P | P | |
| Retail Sales and Service | Moped sales/rental [6] | | | | | | | | | | S | P | P | S | S | S | 5.2.3(Q) |
| Retail Sales and Service | Postal center, private [6] | | | | | | | | | S | P | P | P | P | P | P | 5.2.3(I) |
| Retail Sales and Service | Personal service establishment [6] | | | | | | | | | P | P | P | P | P | P | P | |
| Retail Sales and Service | Retail store [6] | | | | | | | | | P | P | | | P | P | P | 5.2.3(K) |
| Retail Sales and Service | Adult business [6] | | | | | | | | | | | S/P | | S | S | S | 5.2.3(M) |
| Retail Sales and Service | Trade school [6] | | | | | | | | | S/P | S/P | P | P | S | S | S | 5.2.3(S) |
| Parking | Parking lot [4/6] | | | | | | | | | P | S | P | P | P | P | P | 5.2.3(J) |

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² Mixed Use Overlay District (MUOD) - Neighborhood, as delineated on the Official Zoning Overlay Map. ³ MUOD - Community, as delineated on the Official Zoning Overlay Map. ⁴ MUOD - Regional, as delineated on the Official Zoning Overlay Map.

Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Std's |
|------------------------------------|--|-------------|-----|-----|-----|----|----|-----|-----------------|----|-----|-----|-----|---|----------------|----------------|---------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Parking | Parking structure [6] | | | | | | | | | P | | P | | P | P | P | |
| Vehicles and Equipment | Motor vehicle sales/rental [6] | | | | | | | | | | S/P | P | P | S/P | S/P | S/P | 5.2.3(Q) |
| Vehicles and Equipment | Car wash [6] | | | | | | | | | | P | | P | P | P | P | |
| Vehicles and Equipment | Heavy equipment sales/rental [6] | | | | | | | | | | | | P | | | | |
| Vehicles and Equipment | Private Transportation Service [6] | | | | | | | | | P | P | P | P | P | P | P | 5.2.3(P) |
| Vehicles and Equipment | Towing and vehicle storage [6] | | | | | | | | | | | S | P | | | | |
| Vehicles and Equipment | Vehicle filling station [6] | | | | | | | | | | P | | P | P | P | P | 5.2.3(N) |
| Vehicles and Equipment | Vehicle repair, heavy [6] | | | | | | | | | | | S | P | P | P | P | 5.2.3(N) |
| Vehicles and Equipment | Vehicle service, light [6] | | | | | | | | | | P | S | P | P | P | P | 5.2.3(N) |
| INDUSTRIAL USES | | | | | | | | | | | | | | | | | |
| Industrial Service | General industrial service [7] | | | | | | | | | | | | P | | S | S | |
| Industrial Service | Research laboratory [7] | | | | | | | | | | | P | P | P | P | P | |
| Manufacturing and Production | Manufacturing, heavy [7] | | | | | | | | | | | | S | | | | |
| Manufacturing and Production | Manufacturing, light [7] | | | | | | | | | | | P | P | S | S | P | |
| Manufacturing and Production | Brewery [6] | | | | | | | | | | P | P | S/P | P | P | P | 5.2.4(I) |

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² Mixed Use Overlay District (MUOD) - Neighborhood, as delineated on the Official Zoning Overlay Map. ³ MUOD - Community, as delineated on the Official Zoning Overlay Map. ⁴ MUOD - Regional, as delineated on the Official Zoning Overlay Map.

Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Std's |
|---------------------------------------|---|-------------|-----|-----|-----|-----|-----|-----|-----------------|-----|-----|-----|-----|---|----------------|----------------|---------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| INDUSTRIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Manufacturing and Production | Distillery [6] | | | | | | | | | | P | P | S/P | P | P | P | 5.2.4(I) |
| Manufacturing and Production | Winery [6] | | | | | | | | | | P | P | S/P | P | P | P | 5.2.4(I) |
| Manufacturing and Production | Prototype process and production plant [7] | | | | | | | | | | | P | P | S | S | P | |
| Manufacturing and Production | Resource extraction [7] | | | | | | | | | | | | S | | | | 5.2.4(C) |
| Telecommuni- cations Facilities | Concealed (stealth) telecommunications facility (antennae and wireless support structures) [4/5/6/7] | S/P | S/P | S/P | S/P | S/P | S/P | S/P | P | P | P | P | P | P | P | P | 5.2.4(D) |
| Telecommuni- cations Facilities | Non-stealth telecommunications facility on existing building or structure [4/5/6/7] | P | P | | | | | | P | P | P | P | P | P | P | P | 5.2.4(D) |
| Telecommuni- cations Facilities | Other freestanding non-stealth wireless support structures [4/5/6/7] | S | S | | | | | | S/P | S/P | S/P | S/P | S/P | S/P | S/P | S/P | 5.2.4(D) |
| Telecommuni- cations Facilities | Collocation on small wireless facilities [4/5/6/7] | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.4(H) |
| Telecommuni- cations Facilities | City utility poles and utility poles associated with small wireless facilities [4/5/6/7] | | | | | | | | | | | | | | | | 5.2.4(H) |

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² Mixed Use Overlay District (MUOD) - Neighborhood, as delineated on the Official Zoning Overlay Map. ³ MUOD - Community, as delineated on the Official Zoning Overlay Map. ⁴ MUOD - Regional, as delineated on the Official Zoning Overlay Map.

Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Stds |
|--------------------------------|--|-------------|-----|-----|-----|----|----|-----|-----------------|----|----|-----|---|---|----------------|----------------|--------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| INDUSTRIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Warehouse and Freight Movement | Mini-storage [6] | | | | | | | | | | S | P | | | | | |
| Warehouse and Freight Movement | Outdoor storage [7] | | | | | | | | | P | | P | | | | 5.2.4(A) | |
| Warehouse and Freight Movement | Railroad stations and yards [7] | | | | | | | | | | | S | | | | | |
| Warehouse and Freight Movement | Warehousing and distribution establishment [6] | | | | | | | | | S | P | P | | | | | |
| Warehouse and Freight Movement | Wholesale establishment [6] | | | | | | | | | S | P | P | | S | P | | |
| Waste-Related Uses | Recycling and salvage operation [7] | | | | | | | | | | | S | | | | 5.2.4(B) | |
| ACCESSORY USES | | | | | | | | | | | | | | | | | |
| Accessory Uses | Accessory dwelling unit | A | A | A | | | | | | | | | A | A | A | 5.3.4(A) | |
| Accessory Uses | Beekeeping | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(O) | |
| Accessory Uses | Day care home, large | S | S | S | S | S | S | S | | | | | S | S | S | 5.3.4(L) | |
| Accessory Uses | Day care home, small | A | A | A | A | A | A | A | | | | | A | A | A | 5.3.4(M) | |
| Accessory Uses | Home occupation | A | A | A | A | A | A | A | | A | A | A | A | A | A | 5.3.4(C) | |
| Accessory Uses | Kennel | A | A | | | | | | | A | A | A | A | | | 5.2.3(E) | |

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT PDD, TC & CT) AND MIXED USE OVERLAY DISTRICT

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

¹ Where the base zoning district is Mixed Use District (MXD), a use listed herein as Special Use shall instead be a Permitted Use, subject to the same use-specific standards, provided that the use is represented on the approved Preliminary Development Plan component of the MXD district. ² Mixed Use Overlay District (MUOD) - Neighborhood, as delineated on the Official Zoning Overlay Map. ³ MUOD - Community, as delineated on the Official Zoning Overlay Map. ⁴ MUOD - Regional, as delineated on the Official Zoning Overlay Map.

Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2

| Use Category | Use Type and [Use Class] | RESIDENTIAL | | | | | | | NON-RESIDENTIAL | | | | | MIXED USE OVERLAY DISTRICT ¹ | | | Use- Specific Std's |
|------------------------|-----------------------------------|-------------|-----|-----|-----|----|----|-----|-----------------|----|----|-----|---|---|----------------|----------------|---------------------------|
| | | R80 | R40 | R20 | R12 | R8 | TR | RMF | RR | OI | GC | ORD | I | N ² | C ³ | R ⁴ | |
| ACCESSORY USES (Cont.) | | | | | | | | | | | | | | | | | |
| Accessory Uses | Outdoor display/sales | | | | | | | | | A | A | A | A | A | A | A | 5.3.4(D) |
| Accessory Uses | Outdoor storage | | | | | | | | A | A | A | A | A | | | | 5.3.4(E) |
| Accessory Uses | Photovoltaic System | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(S) |
| Accessory Uses | Satellite dish antenna | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(F) |
| Accessory Uses | Swimming pool, hot tub, or spa | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(I) |
| Accessory Uses | Recycling drop-off station | | | | | | | A | | A | A | A | A | A | A | A | 5.3.4(H) |
| Accessory Uses | Vehicular gate | | | | | | | | A | A | A | A | A | A | A | A | 5.3.4(G) |
| Accessory Uses | Animal husbandry | A | A | A | A | A | A | | | | | | | A | A | A | 5.3.4(J) |
| Accessory Uses | Caretaker's residence [4] | | | | | | | | | | | A | A | A | A | A | 5.3.4(N) |
| Accessory Uses | Food truck | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(P) |
| Accessory Uses | Cluster box unit - Mailbox | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(Q) |
| Accessory Uses | Electronic Gaming Machine [6] | | | | | | | | | | AZ | | | | | | 5.3.4(R) |

5.1.3 Table of Permitted Uses - TC District

| TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES | | | | | | | | | | | | | | | | | |
|---|---|---|-----|--------------|------|------------|-----|-----|---------|---------|-------|-----|-----|----------|-----|----------|-------------------|
| P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit | | | | | | | | | | | | | | | | | |
| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/ OS | CB &R | COM | CLI | OFC/ INS | INS | OFC/ IND | Use Specific Stds |
| RESIDENTIAL USES | | | | | | | | | | | | | | | | | |
| Group Living | Dormitory | P | P | P | P | P | | | | | | P | | P | P | P | 5.2.1(C) |
| Group Living | Life care community | P | P | P | P | P | | | | | | | | | | | 5.2.1(E) |
| Group Living | Nursing home | S | P | P | S | | | | | | | S | | P | P | | 5.2.1(G) |
| Household Living | Bed and Breakfast | P | P | | | | | | | | P | P | | | | | 5.2.1(B) |
| Household Living | Boarding house | S | S | S | S | S | | | | | S | | S | S | S | S | 5.2.1(A) |
| Household Living | Detached dwelling | S | | | P | | P | P | P | | P | | | | | | 5.2.1(M) |
| Household Living | Detached multi-family dwelling | S | | | | | | | | | | | | | | | 5.2.1(P) |
| Household Living | Duplex dwelling | | | | P | | P | | | | | | | | | | |
| Household Living | Family care home | PZ Allowed in all residential dwellings as otherwise permitted by law, and may not be prohibited through zoning conditions | | | | | | | | | | | | | | | 5.2.1 (D)(2) |
| Household Living | Group home | | | | | | | | | | | | | | | | |
| Household Living | Manufactured home | | | | | | | | | | | | | | | | |
| Household Living | Manufactured home park | | | | | | | | | | | | | | | | |
| Household Living | Mobile home | | | | | | | | | | | | | | | | |
| Household Living | Multi-family dwelling | P | P | P | P | P | P | | | | P | | | | | | 5.2.1(F) |
| Household Living | Multi-family dwelling, mid-rise | P | P | P | P | P | P | | | | | | | | | | 5.2.1(F) |
| Household Living | Patio dwelling | | | P | P | P | P | P | P | | | | | | | | 5.2.1(H) |
| Household Living | Residential use in non-residential building | P | P | | | | | | | | P | | | | | | 5.2.1(I) |
| Household Living | Residential use in mixed use building | P | P | | | | | | | | P | | | | | | 5.2.1(J) |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/OS | CB &R | COM | CLI | OFC/INS | INS | OFC/IND | Use Specific Stds |
|----------------------------------|---|------|-----|--------------|------|------------|-----|-----|---------|--------|-------|-----|-----|---------|-----|---------|-------------------|
| RESIDENTIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Household Living | Semi-detached/attached dwelling | P | P | P | P | P | P | | | | | | | | | | |
| Household Living | Townhouse | P | P | P | P | P | P | | | | | | | | | | 5.2.1(L) |
| PUBLIC/INSTITUTIONAL USES | | | | | | | | | | | | | | | | | |
| Aviation | Heliport | S | S | | | | | | | | | | | | | S | |
| Cemetery | All | | | | | | | | | | | | | P | P | | |
| Day Care | Day care center | S | S | S | S | S | S | S | S | | | P | P | P | | P | 5.2.2(B) |
| Government Services | Governmental office | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.2(H) |
| Government Services | Public safety station | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Government Services | Public utility facility | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Government Services | Town owned/operated facilities and services | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.2(G) |
| Cultural Facilities | Library | P | P | S | S | S | S | S | S | | | P | | P | P | P | |
| Cultural Facilities | Museum | P | P | S | S | S | S | | | | | P | | P | P | P | |
| Park and Open Space | Athletic field, public | | | S | S | | | | | P | | | | S | S | S | 5.2.2(A) |
| Park and Open Space | Community garden | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Park and Open Space | Outdoor amphitheater, public | S | S | | | | | | | P | | S | | S | S | S | |
| Park and Open Space | Park, public | P | P | P | P | P | P | P | P | P | | P | | P | P | P | |
| Park and Open Space | Neighborhood recreation center, public | P | P | P | P | P | P | P | P | P | | | | P | P | P | 5.2.2(D) |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/OS | CB &R | COM | CLI | OFC/INS | INS | OFC/IND | Use Specific Stds |
|--|--|------|-----|--------------|------|------------|-----|-----|---------|--------|-------|-----|-----|---------|-----|---------|-------------------|
| PUBLIC/INSTITUTIONAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Park and Open Space | Resource conservation facility | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Public Safety Station | All | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Religious Assembly | All | S | S | S | S | S | S | S | S | | S | P | | P | P | S | 5.2.2(E) |
| Educational Use | Pre-school | S | S | S | S | S | S | S | S | | S | S | S | P | P | S | |
| Educational Use | College | P | P | S | S | | | | | | | P | | P | P | P | |
| Educational Use | School | P | P | S/P | S/P | S/P | S/P | S/P | S/P | | | P | | P | P | S | 5.2.2(C) |
| Non-Governmental Utilities | Utility facility, major | S | S | S | S | S | S | S | S | S | S | S | S | S | S | S | |
| Non-Governmental Utilities | Transportation facility | P | P | S | S | S | | | | | | P | | P | | P | |
| Non-Governmental Utilities | Utility substation, minor | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| COMMERCIAL USES | | | | | | | | | | | | | | | | | |
| Animal Services | Kennel, indoor only | | P | | | | | | | | | P | P | P | | P | 5.2.3(E) |
| Animal Services | Kennel, indoor/outdoor | | S | | | | | | | | | S | S | S | | S | 5.2.3(E) |
| Animal Services | Veterinary hospital/office, with indoor kennel | | P | | | | | | | | | P | P | P | | P | 5.2.3(O) |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/OS | CB &R | COM | CLI | OFC/INS | INS | OFC/IND | Use Specific Stds |
|--------------------------------|---|------|-----|--------------|------|------------|-----|-----|---------|--------|-------|-----|-----|---------|-----|---------|-------------------|
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Animal Services | Veterinary hospital/office, with outdoor kennel | | S | | | | | | | | | S | S | S | | S | 5.2.3(O) |
| Assembly | Club, lodge, or hall | P | P | | | | | | | | | P | S | P | P | P | 5.2.2(E) |
| Assembly | Special Event Center | P | P | | | | | | | | | P | | P | | | 5.2.2(E) |
| Financial Institution | Bank, with drive-through service | S | P | | | | | | | | | P | P | P | | P | |
| Financial Institution | Bank, without drive-through service | P | P | | | | | | | | | P | P | P | | P | |
| Food and Beverage Service | Nightclub/bar, indoor operation | P | P | | | | | | | | | P | P | P | | P | 5.2.3(G) |
| Food and Beverage Service | Nightclub/bar, with outdoor operation | P | P | | | | | | | | | P | P | P | | P | 5.2.3(G) |
| Food and Beverage Service | Restaurant, indoor operation | P | P | | | | | | | | | P | P | P | | P | 5.2.3(K) |
| Food and Beverage Service | Restaurant, with outdoor operation | P | P | | | | | | | | | P | P | P | | P | 5.2.3(K) |
| Office | Office, business or professional | P | P | | | | | | | | P | P | P | P | | P | |
| Office | Radio or TV broadcasting studio | S | S | | | | | | | | S | P | | P | | P | |
| Office | Wellness Center | | | | | | | | | | | P | | P | P | P | 5.2.3(R) |
| Public Accommodation | Hotel or motel | P | P | | | | | | | | | P | | S | | P | |

| TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES | | | | | | | | | | | | | | | | | |
|---|---|------|-----|--------------|------|------------|-----|-----|---------|---------|-------|-----|-----|----------|-----|----------|-------------------|
| P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit | | | | | | | | | | | | | | | | | |
| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/ OS | CB &R | COM | CLI | OFC/ INS | INS | OFC/ IND | Use Specific Stds |
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Recreation and Entertainment, Indoor | Amusement establishment | S | P | | | | | | | | | P | P | | | S | |
| Recreation and Entertainment, Indoor | Commercial indoor recreational facility | P | P | | | | | | | | | P | P | P | P | P | 5.2.3(F) |
| Recreation and Entertainment, Indoor | Electronic Gaming Operation | | | | | | | | | | | PZ | | | | | 5.2.3(D) |
| Recreation and Entertainment, Indoor | Neighborhood recreation center, indoor/outdoor, private | S | S | S | S | S | S | S | S | | S | | | | | | 5.2.3(F) |
| Recreation and Entertainment, Indoor | Pool or billiard hall | S | P | | | | | | | | | P | S | | | S | |
| Recreation and Entertainment, Indoor | Theater, large | P | P | | | | | | | | | P | | P | | | |
| Recreation and Entertainment, Indoor | Theater, small | P | P | | | | | | | | | P | | P | P | | |
| Recreation and Entertainment, Outdoor | Athletic field, private | | | | | | | | | P | | | | | | S | |
| Recreation and Entertainment, Outdoor | Commercial outdoor recreational facility | | | | | | | | | | | S | | | | | |
| Recreation and Entertainment, Outdoor | Outdoor amphitheater, commercial | | | | | | | | | | | | | | | S | |
| Retail Sales and Service | ABC store | P | P | | | | | | | | | P | | | | | |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/OS | CB &R | COM | CLI | OFC/INS | INS | OFC/IND | Use Specific Stds |
|--------------------------------|--------------------------------|------|-----|--------------|------|------------|-----|-----|---------|--------|-------|-----|-----|---------|-----|---------|-------------------|
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Retail Sales and Service | Convenience store | P | P | | | | | | | | | P | P | | | | 5.2.3(B) |
| Retail Sales and Service | Farm market | P | P | | | | | | | | | P | | S | | P | |
| Retail Sales and Service | Crematorium | | | | | | | | | | | | | | | | |
| Retail Sales and Service | Funeral home | | S | | | | | | | | | P | S | P | | | |
| Retail Sales and Service | Moped sales/rental | P/S | P/S | | | | | | | | | P | S | | | P | 5.2.3(Q) |
| Retail Sales and Service | Postal center, private | | | | | | | | | | | | | P | | S | 5.2.3(I) |
| Retail Sales and Service | Personal service establishment | P | P | | | | | | | | P | P | P | P | | P | 5.2.3(K) |
| Retail Sales and Service | Retail store | P | P | | | | | | | | P | P | P | P | | | 5.2.3(K) |
| Retail Sales and Service | Shopping Center, General | | | | | | | | | | | P | | | | | |
| Retail Sales and Service | Shopping Center, Small | | | | | | | | | | | P | | | | | |
| Retail Sales and Service | Trade school | | | | | | | | | | | S | | S | | P | 5.2.3(S) |
| Parking | Parking lot | S | S | | | | | | | | | S | | P | | P | 5.2.3(J) |
| Parking | Parking structure | P | P | | | | | | | | | | | P | | P | |
| Vehicles and Equipment | Motor vehicle sales/rental | P/S | P/S | | | | | | | | | P | S | | | P | 5.2.3(Q) |
| Vehicles and Equipment | Car wash | P/S | P/S | | | | | | | | | P | | | | | 5.2.3(N) |
| Vehicles and Equipment | Towing and vehicle storage | P/S | P/S | | | | | | | | | | | S | | P | 5.2.3(N) |
| Vehicles and Equipment | Heavy equipment sales/rental | | | | | | | | | | | | | | | S | |
| Vehicles and Equipment | Vehicle filling station | P/S | P/S | | | | | | | | | P | S | | | S | 5.2.3(N) |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/ OS | CB &R | COM | CLI | OFC/ INS | INS | OFC/ IND | Use Specific Stds |
|--------------------------------|--|------|-----|--------------|------|------------|-----|-----|---------|---------|-------|-----|-----|----------|-----|----------|-------------------|
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Vehicles and Equipment | Vehicle service/repair | P/S | P/S | | | | | | | | | P | S | P | | P | 5.2.3(N) |
| Industrial Service | Research laboratory | | | | P | | | | | | | | | | | P | 5.2.4(E) |
| Manufacturing and Production | Manufacturing, heavy | | | | | | | | | | | | | | | | |
| Manufacturing and Production | Manufacturing, light | P | S/P | | | | | | | | | P | | | | P | 5.2.4(G) |
| Manufacturing and Production | Brewery | P | P | | | | | | | | | P | P | | | P | 5.2.4(I) |
| Manufacturing and Production | Distillery | P | P | | | | | | | | | P | P | | | P | 5.2.4(I) |
| Manufacturing and Production | Winery | P | P | | | | | | | | | P | P | | | P | 5.2.4(I) |
| Manufacturing and Production | Prototype process and production plant | | S | | | | | | | | | | | | | P | |
| Telecommunications Facilities | Concealed (stealth) telecommunications facilities (antennae and wireless support structures) | S | S | S | S | S | S | S | S | S | S | P | P | P | P | P | 5.2.4(D) |
| Telecommunications Facilities | Non-stealth telecommunications facility on existing building or structure | S | S | S | S | S | S | S | S | S | S | P | P | P | P | P | 5.2.4(D) |
| Telecommunications Facilities | Other freestanding non-stealth support structures | S | S | | | | | | | | | | | S | S | S | 5.2.4(D) |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/OS | CB &R | COM | CLI | OFC/INS | INS | OFC/IND | Use Specific Stds |
|--------------------------------|--|------|-----|--------------|------|------------|-----|-----|---------|--------|-------|-----|-----|---------|-----|---------|-------------------|
| COMMERCIAL USES (Cont.) | | | | | | | | | | | | | | | | | |
| Telecom-munications Facilities | Collocation of small wireless facilities | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | 5.2.4(H) |
| Telecom-munications Facilities | City utility poles and utility poles associated with small wireless facilities | | | | | | | | | | | | | | | | 5.2.4(H) |
| Warehouse and Freight Movement | Mini-storage | | | | | | | | | | | | | | | S | |
| Warehouse and Freight Movement | Outdoor storage | P/S | P/S | | | | | | | | | P | | | | | 5.2.4(A) |
| Warehouse and Freight Movement | Railroad stations and yards | | | | | | | | | | | | | P | | | |
| Warehouse and Freight Movement | Warehousing and distribution establishment | P/S | P/S | | | | | | | | | | | | | P | 5.2.4(F) |
| Warehouse and Freight Movement | Wholesale establishment | P/S | P/S | | | | | | | | | | | | | S | 5.2.4(F) |
| Waste-Related Uses | Recycling and salvage operation | | | | | | | | | | | | | | | S | 5.2.4(B) |
| ACCESSORY USES | | | | | | | | | | | | | | | | | |
| Accessory Uses | Accessory dwelling unit | | | | | | A | A | A | | A | | | | | | 5.3.4(A) |
| Accessory Uses | Beekeeping | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(O) |
| Accessory Uses | Day care home, small | A | A | | | | | | A | | | A | A | A | A | | 5.3.4(M) |
| Accessory Uses | Day care home, large | S | S | | | | | | S | | | | | | A | A | 5.3.4(L) |
| Accessory Uses | Home occupation | A | A | A | A | A | A | A | A | | A | A | A | A | A | A | 5.3.4(C) |

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES

P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit

| Use Category | Use Type | HMXD | MXD | HDR Mid-Rise | MXDR | HDR Garden | MDR | LDR | LDR -12 | PKS/OS | CB &R | COM | CLI | OFC/INS | INS | OFC/IND | Use Specific Stds |
|-------------------------------|--------------------------------|------|-----|--------------|------|------------|-----|-----|---------|--------|-------|-----|-----|---------|-----|---------|-------------------|
| ACCESSORY USES (Cont.) | | | | | | | | | | | | | | | | | |
| Accessory Uses | Kennel | | | | | | | | | | | | | | | | 5.2.3(E) |
| Accessory Uses | Outdoor display/sales | A | A | | | | | | | | A | A | A | A | A | A | 5.3.4(D) |
| Accessory Uses | Outdoor storage | | | | | | | | | | A | A | A | A | A | A | 5.3.4(E) |
| Accessory Uses | Photovoltaic System | A | A | A | A | A | A | A | A | A | A | A | A | A | A | A | 5.3.4(S) |
| Accessory Uses | Satellite dish antenna | A | A | A | A | A | A | A | A | | A | A | A | A | A | A | 5.3.4(F) |
| Accessory Uses | Swimming pool, hot tub, or spa | A | A | A | A | A | A | A | A | | A | | | | | | 5.3.4(I) |
| Accessory Uses | Recycling drop-off station | A | A | A | A | A | | | | | | A | A | A | A | A | 5.3.4(H) |
| Accessory Uses | Vehicular gate | A | A | | | | | | | | | A | A | A | A | A | 5.3.4(G) |
| Accessory Uses | Caretaker's residence [4] | A | A | A | | | | | | | | | | | | | 5.3.4(N) |
| Accessory Uses | Animal husbandry | | | | | | A | A | A | | | | | | | | 5.3.4(J) |
| Accessory Uses | Food truck | A | A | A | A | A | A | A | A | | A | A | A | A | A | A | 5.3.4(P) |
| Accessory Uses | Cluster box unit - Mailbox | A | A | A | A | A | A | A | A | | A | A | A | A | A | A | 5.3.4(Q) |
| Accessory Uses | Electronic Gaming Machine | | | | | | | | | | | AZ | | | | | 5.3.4(R) |

5.1.4 Table of Permitted Uses - CT District, Walnut Street Corridor

| TABLE 5.1-3: TABLE OF CORRIDOR TRANSITION (CT) DISTRICT USES | | | | | | | | | | | | | | | | | | | |
|---|--------------|-------------------|--------------------------|-----------|-----------------------|----------------|----------------------|----------------------|-------------------------|---|----------------|--------------------|---------------------|--------|-------------------|--------------|--------------------------------|--------------|------------|
| Walnut Street Corridor | | | | | | | | | | | | | | | | | | | |
| P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use PZ=Permitted Use Requiring Zoning Compliance Permit (Uses not listed are prohibited) | | | | | | | | | | | | | | | | | | | |
| Corridor Sub-Area | Nursing home | Detached dwelling | Family Care & Group Home | Townhouse | Multi-family dwelling | Live/work unit | Day care home, large | Day care home, small | Public utility facility | Town owned/operated facilities and services | Park, public | Religious assembly | Club, lodge or hall | Office | Bed and Breakfast | Funeral home | Personal service establishment | Retail store | Restaurant |
| Conversion Area | | P | PZ | | | S/P | S | P | | P | P | | | S/P | S/P | | S/P | | |
| Redevelopment Area (on parcels with less than 1 acre) | | P | PZ | | | P | P | P | | P | P | | | P | P | | P | | |
| Redevelopment Area (on parcels with 1 or more acres) | P | P | PZ | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Infill Area (1st 300 feet from Walnut Street) | P | P | PZ | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| Infill Area (301 or more feet from Walnut Street) | | P | PZ | P | | | | | | P | P | P | | | | | | | |
| Use Specific Standards | 5.2.1 (G) | 5.2.1 (M) | 5.2.1 (D) | 5.2.1 (L) | 5.2.1 (F) | | 5.3.4 (L) | 5.3.4 (M) | | 5.2.2 (G) | 5.2.2(A) & (D) | 5.2.2 (E) | 5.2.2 (E) | | 5.2.1 (B) | | 5.2.3 (K) | 5.2.3 (K) | 5.2.3 (K) |
| ¹ Family care Homes and Group Homes are allowed in all residential dwellings as otherwise permitted by law, and may not be prohibited through zoning conditions. | | | | | | | | | | | | | | | | | | | |

(Ord. No. 04-001, 1-8-04; Ord. No. 04-007, 7-15-04; Ord. No. 06-005, adopted 3-23-06; eff. 3-23-06; Ord. No. 06-009, 4-27-06; Ord. No. 2007-04, 3-22-07; Ord. No. 2008-LDO-01, 9-25-08; Ord. No. 2010-LDO-01, 1-14-10; Ord. No. 2010-LDO-02, 1-28-10; Ord. No. 2010-LDO-03, 2-25-10; Ord. No. 2010-LDO-05, 12-16-10; Ord. No. 2011-LDO-01, 1-11-11; Ord. No. 2011-LDO-05, 12-15-11; Ord. No. 12-LDO-01, 2-23-12; Ord. No. 2012-LDO-03, 5-10-12; Ord. No. 2012-LDO-04, 5-24-12; Ord. No. 2012-LDO-07, 8-23-12; Ord. No. 2012-LDO-08, 10-11-12; Ord. No. 2013-LDO-02, 6-13-13; Ord. No. 2013-LDO-04, 9-26-13; Ord. No. 2014-LDO-01, 1-9-14; Ord. No. 2014-LDO-03, 8-14-14; Ord. No. 2015-LDO-001, 4-21-15; Ord. No. 2015-LDO-006, 12-10-15; Ord. No. 2016-LDO-01, 7-25-16; Ord. No. 2017-LDO-01, 1-24-17; Ord. No. 2017-LDO-02, 3-30-17; Ord. No. 2017-ACT-01, 10-26-17; Ord. No. 2017-ACT-02, 12-14-17; Ord. No. 2018-LDO-01, 5-3-18; Ord. No. 2020-LDO-01, 5-7-20; Ord. No. 2021-LDO-01, 6-24-21; Ord. No. 2022-LDO-01, 1-13-22; Ord. No. 2023-LDO-03, 6-22-23; Ord. No. 2025-CODE-01, 4-10-25; Ord. No. 2025-CODE-02, 5-22-25)

5.2 USE-SPECIFIC STANDARDS

5.2.1 Residential Uses

(A) Boarding House

- (1) A minimum of four (4) off-street parking spaces shall be provided for the principal dwelling. The Planning Department may approve an exception to this requirement if the property owner provides written verification that the occupants of the sleeping room(s), due to age or disability, will not have vehicles on-site.
- (2) No more than two (2) vehicles owned by the boarder(s) of each room shall be permitted, and all vehicles on-site shall be parked off-street.
- (3) All parking provided for a boarding house shall meet the requirements of this Ordinance unless otherwise permitted.
- (4) Each rental room shall house no more than two (2) persons.

(B) Bed and Breakfast

- (1) The operator of the bed and breakfast must reside on the premises on a full-time basis;
- (2) The property owner shall maintain a current guest register;
- (3) The structure(s) shall be located on a lot which complies with the required minimum lot area and dimensional standards for existing uses in its respective zoning district;
- (4) The structure(s) shall not be altered in a way that changes its general residential appearance;
- (5) No meals other than breakfast may be served to registered guests;
- (6) No meals shall be served to the general public;
- (7) No cooking or kitchen facilities, apart from microwaves or mini-refrigerators, shall be allowed in the guest rooms;
- (8) A maximum of eight (8) bedrooms may be rented to registered guests;
- (9) A particular guest stay shall not exceed fourteen (14) consecutive days;
- (10) One (1) off-street parking space shall be required for each guest bedroom in addition to parking required for the residential dwelling;
- (11) In the R-40 and R-80 zoning districts, guest parking located less than fifty (50) feet from side and rear property lines shall be screened with landscaping meeting the performance standard of a Type A opaque buffer. Guest parking shall not be located within twenty (20) feet of a side or rear property line or within the applicable front setback. This section 5.2.1(B)(10) shall not apply to Bed and Breakfast use in the Town Center; and

- (12) The resident owner shall comply with all laws and regulations of the Town of Cary, the applicable county, and the State of North Carolina.

(C) Dormitory

- (1) The dormitory shall be accessory to a training facility located on the same property; and
- (2) The dormitory shall house only persons who are students at or employees of the facility.

(D) Group Home; Family Care Home

(1) Group Home

- (a) Group homes shall be limited to a maximum of ten (10) residents.
- (b) Group homes with four (4) or more residents shall be spaced at least one-quarter mile (1,320 feet) from any other group or family care home with four (4) or more residents.
- (c) Parking shall be as required for group homes by Table 7.8-1 of this Ordinance.
- (d) Where four (4) or more parking spaces are required, parking areas shall be clearly delineated, and shall be screened to a minimum height of three (3) feet from the view of adjacent residential properties. Such screening may be provided by evergreen plantings that will attain a minimum height of three (3) feet within three (3) years of planting, or by the use of a fence made of wood (or a comparable composite material) that is at least three (3) feet in height and is designed to screen at least three-quarters (3/4) of the view through the fence from adjacent properties. Screening shall not be required for parking areas located in the portion of a one (1)- or two (2)-car wide driveway between the street and the front of the residence or located adjacent to non-residential property except where such areas are being expanded to meet parking requirements.
- (e) Group homes must comply with any applicable federal, state and local licensing requirements and health regulations.
- (f) The property owner may request a reasonable accommodation to the requirements of Section 5.2.1(D)(1)(a) through (d), or any other standards of this ordinance as needed to ensure compliance with the Federal Fair Housing Act.

(2) Family Care Home

- (a) Family care homes shall be limited to a maximum of six (6) residents.
- (b) Family care homes with four (4) or more residents shall be spaced one-quarter mile (1,320 feet) from any other family care or group home with four (4) or more residents.
- (c) Family Care homes must comply with all applicable federal, state and local licensing requirements and health regulations.

- (d) The property owner may request a reasonable accommodation to the requirements of Section 5.2.1(D)(2)(a) and (b), or any other standards of this ordinance as needed to ensure compliance with the Federal Fair Housing Act.

(E) Life Care Community

- (1) The life care community shall be for the sole residency of persons sixty-two (62) years old or older, and shall not exceed the density set forth in the following table, not including the number of persons occupying hospital or clinic beds:

| TABLE 5.2-1: DENSITY FOR LIFE CARE COMMUNITIES | |
|---|-----------------------------|
| District | Density (units/acre) |
| TR | 7 |
| RMF | 8 |
| OI ORD | 12* |
| TC Mixed Use Overlay | no density limit |
| * For the purpose of calculating residential density in the OI and ORD districts, dwelling units or rooming units in a structure housing three or more such units shall be equivalent to ½ dwelling unit. | |

- (2) The number of persons who may be housed in non-independent rooms or apartments (not including hospital or clinic beds) shall not exceed the number of persons housed in independent dwelling units by a ratio of greater than three to one (3:1);
- (3) The number of hospital or clinic beds shall not be more than fifty (50) percent of the total number of permitted dwelling units;
- (4) All retail stores and personal service establishments located within the life care community shall be part of an existing building and may not exceed twenty (20) percent of the floor area of the building; and
- (5) The life care community shall provide open space and/or recreational facilities in the same amount and ratios as required in Section 8.3.1 of this Ordinance.

(F) Multi-Family Dwelling, and Multi-Family Dwelling, Mid-Rise

- (1) Individual storage space containing at least twenty-four (24) square feet of enclosed floor area with a minimum height of seven (7) feet, shall be provided for each dwelling unit in a multi-family development. Such storage space shall be located either in the same building as the dwelling unit it serves or in an accessory building that may also house parking, recreational, laundry, or other facilities that serve the occupants of the development.
- (2) The development shall include sufficient open space and recreational facilities to meet the needs of its residents in accordance with the provisions of Section 8.3.1 of this Ordinance.
- (3) The development shall provide adequate and appropriate facilities for waste disposal, and such facilities shall be screened from view in a manner consistent with the requirements of this Ordinance.

- (4) The maximum density for multi-family dwelling developments shall be as follows:
- (a) In the RMF district, the total density shall be in accordance with Table 6.1-1, *Table of Density and Dimensional Standards Residential Districts (Not including TC District)*;
 - (b) within the TC district, total density shall be in accordance with Table 6.1-3, *Table of Density and Dimensional Standards Town Center District*;
 - (c) for multi-family dwellings approved through the mixed use district (MXD) zoning process, Section 3.4.5, the maximum density shall be that shown on the approved preliminary development plan (PDP);
 - (d) for multi-family dwellings approved through the Planned Development District (PDD) zoning process, Section 3.4.3, the maximum density shall be that shown on the approved master plan.
- (5) Mid-rise multi-family dwellings shall comply with the following additional standards:
- (a) In districts where a mixing of residential and non-residential uses is allowed, such uses may include ground-level retail stores and personal service establishments as incidental uses, to provide goods and services to residents of the building. Greater amounts of retail and/or personal service establishments may be permitted within a Mixed Use Overlay District, subject to the provisions of 4.4.2 and Table 5.1-1 of this Ordinance.
- (6) Multi-family dwelling units shall be allowed in the Redevelopment Area and first three hundred (300) feet of Infill Area portions of the Corridor Transition District for the Walnut Street Corridor provided the following conditions are met:

- (a) The principal use of the building is for offices or personal services; and
- (b) Such uses combined shall not have more than one (1) entrance for units separate from that of the principal use.

(G) Nursing Home

- (1) The nursing home shall not exceed the density set forth in the following table:

| TABLE 5.2-2: DENSITY FOR NURSING HOMES | |
|---|-----------------------------|
| District | Density (units/acre) |
| TR | 10 |
| GC RMF TC | 15 |
| OI ORD | 20 |
| Mixed Use Overlay | no density limit |

- (2) All retail stores and personal service establishments located within the nursing home shall be part of an existing building and shall not exceed twenty (20) percent of the floor area of such building; and
- (3) The nursing home shall provide open space and/or recreational facilities in the same amount and ratios as required in Section 8.3.1 of this Ordinance.

(H) Patio Dwelling

- (1) In the RMF district, the density of patio dwelling units shall not exceed twelve (12) dwelling units per acre.
- (2) In the TR district, the density of patio dwelling units shall not exceed six (6) dwelling units per acre.
- (3) There are no density limits for patio homes within a Mixed Use Overlay District.
- (4) Density limits for patio homes within the TC district shall be in accordance with Table 6.1-3.

(I) Residential Use in Non-Residential Building

In the OI and ORD districts, residential uses may be permitted in non-residential buildings without a rezoning provided the following standards are met:

- (1) A development plan (see Section 3.9) shall be required prior to occupation of any residential uses;
- (2) At least fifty (50) percent of the building's total floor space (in square feet) must be reserved for office uses;
- (3) Up to fifty (50) percent of the building's total floor space (in square feet) may be utilized for residential uses;

- (4) No more than twenty (20) percent of the building's total floor space (in square feet) may be utilized for retail or personal services uses;
- (5) The development shall include sufficient open space and recreational facilities to meet the needs of its residents; and
- (6) All residential and non-residential uses must be integrated into the same structure, and stand-alone residential structures are prohibited.

(J) Residential Use in Mixed-Use Building

In the HMXD district of the Town Center, at least twenty (20) percent of the total floor area must be dedicated to a non-residential use.

(K) Manufactured Home

Each manufactured home shall be located on an individual lot meeting the requirements of the applicable base zoning district and shall meet the following requirements:

- (1) All electrical and telephone lines connected directly to the home shall be installed underground.
- (2) There shall be a masonry foundation around the exterior perimeter of all dwellings. The foundation shall have a minimum depth of twelve (12) inches below grade.
- (3) The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. The roofing materials shall be similar in color, texture, and materials to other dwellings in the same zoning district in which the home is to be located.

(L) Semi-Detached/Attached Dwelling and Townhouse

- (1) Densities within the TC district shall be in accordance with Table 6.1-3.
- (2) All developments shall include sufficient open space and recreational facilities to meet the needs of its residents in accordance with the provisions of Section 8.3.1 of this Ordinance.
- (3) In the Infill Sub-district of the Corridor Transition (CT) District, townhouses are a permitted use up to five (5) units per acre.
- (4) Dwellings in the TR, RMF and MUOD zoning districts that have driveways on alleys shall be limited to a maximum of eight (8) units per building. All other dwellings in the TR, RMF and MUOD zoning districts shall be limited to a maximum of five (5) units per building. For such dwellings that are part of a development plan submitted prior to May 7, 2020 and subsequently approved in accordance with G.S. 143-755, more than eight (8) or five (5) units respectively may be attached.

(M) Detached Dwelling

- (1) Detached dwellings constructed in the Infill Area portion of the Corridor Transition District for the Walnut Street Corridor shall be limited to a maximum allowable density of five (5) units per acre on parcels or portions of parcels located three hundred (300) or more feet away from the ultimate right-of-way boundary for Walnut Street.

- (2) Detached dwellings may be allowed in a Neighborhood Center provided the entrance to the subdivision or Planned Development District (PDD) housing the detached dwellings fronts a thoroughfare or collector roadway.
- (3) Detached dwellings may be allowed in a Community Center provided the entrance to the subdivision or Planned Development District (PDD) housing the detached dwellings fronts a thoroughfare or collector roadway.
- (4) Detached dwellings may be allowed in a Destination Center provided the following standards are met:
 - (a) There is an approved mixed use sketch plan that specifies a reasonable mix of housing types and densities consistent with the vision of the Comprehensive Plan, including higher-density housing types such as multi-family dwellings, semidetached/ attached dwellings, or townhouses; and
 - (b) The detached dwellings constitute a reasonable portion of the total housing stock planned for the Destination Center, and do not dominate the overall Destination Center housing stock.
- (5) Detached dwellings may be allowed in the HMXD sub-district of the Town Center provided the following standards are met:
 - (a) Such uses shall obtain a Special Use Permit consistent with Section 3.8 of this Ordinance; and
 - (b) The property is located within the Downtown Historic District.
 - (c) Evidence of issuance of a Certificate of Appropriateness from the Wake County Historic Preservation Commission for any building or property designated as a Cary/Wake County Landmark shall be provided.

(N) Tandem Dwelling Unit

[Reserved]

(O) Manufactured Home Parks

The following provisions shall apply to manufactured home parks established prior to July 1, 2003:

- (1) Manufactured homes lawfully permitted within a manufactured home park established prior to July 1, 2003 may be removed or replaced with another manufactured home or relocated to an alternative manufactured home space within the boundaries of the manufactured home park. A manufactured home shall not be replaced with a modular home or site-built home.

- (2) After January 11, 2011, manufactured home park owners shall not permit the replacement or relocation of a manufactured home, or permit the addition, relocation or modification of an accessory structure or building to the manufactured home within the manufactured home park unless all of the following are met:
- (a) An application for a building permit shall be submitted for the replacement or relocation of a manufactured home, or the addition, relocation or modification of an accessory structure or building to a manufactured home.
 - (b) The building permit application shall include a sketch that includes the location of manufactured homes and other improvements on the manufactured home lot and all adjoining manufactured home lots, sufficient to demonstrate compliance with the following:
 - 1. A minimum separation of ten (10) feet between a manufactured home on a manufactured home space, and a manufactured home on an adjoining manufactured home space;
 - 2. A minimum separation of ten (10) feet between an accessory building or structure located on a manufactured home space, and a manufactured home, accessory building or accessory structure located on an adjoining manufactured home space; and
 - 3. The combined floor area of all detached accessory structures shall occupy no more than thirty-three percent (33%) of the total heated floor area of the manufactured home, unless otherwise allowed in this Ordinance. The accessory structure shall be deemed attached if it is located closer than five (5) feet to the manufactured home.
- (3) Manufactured homes, and accessory structures and buildings existing on January 11, 2011, that do not meet the requirements of 5.2.1(O)(2), shall be deemed conforming with regard to those requirements provided that:
- (a) The manufactured home is in compliance with the HUD-administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended; and
 - (b) Accessory structures or buildings on the site comply with requirements of the North Carolina State Building Code.

(P) Detached Multi-family Dwellings

- (1) Detached multi-family dwellings may be allowed in the HMXD sub-district of the Town Center provided the following standards are met:
- (a) Such uses shall obtain a Special Use Permit consistent with Section 3.8 of this Ordinance; and
 - (b) The property is located within the Downtown Historic District.
 - (c) Evidence of issuance of a Certificate of Appropriateness from the Historic Preservation Commission for any building or property designated as a Landmark shall be provided.

5.2.2 Public/Institutional Uses**(A) Athletic Field, Public**

- (1) All facilities shall be designed to be compatible with the surrounding landscape, such that the minimum possible grading will be required and the minimum disturbance and removal of existing vegetation will be required.
- (2) Any enclosure, such as fences and walls, shall be designed to be compatible with surrounding structures and shall not include the use of barbed or razor wire.
- (3) If installed, exterior lighting shall meet the functional needs of the facility without adversely affecting adjacent properties or the neighborhood. Exterior lighting shall not be used before 7:00 am or after 10:00 pm.

(B) Day Care Centers

Day care facilities shall comply with all state and federal laws that pertain to child health, safety, and welfare. In addition, all day care facilities shall comply with the following specific requirements:

- (1) The center shall provide a fenced play area as required by the General Statutes. The fence shall be a solid (opaque) fence at least four (4) feet high. This requirement is not applicable for adult day care homes;
- (2) Landscaping shall be provided in order to blend the center into the neighborhood, screen its purely functional aspects from the street and neighboring yards, and absorb and/or deflect any excessive noise; and
- (3) The structure in which the center is located is similar in appearance to the character of the neighborhood in terms of architectural style, predominant building materials, building mass and height, and setbacks.
- (4) If a new center is proposed for property in a residential district, then all the development standards of this Ordinance shall be met, and *minor modifications or other reductions to the standards shall not be granted.*
- (5) If the center is proposed for property in a residential district, then it must be located on property which fronts a thoroughfare or collector street as depicted in the Cary Transportation Plan.

(C) School

- (1)** Any proposed school, whether public or private, proposed within a residential district on a site or parcel of twenty (20) acres in size or smaller shall be required to meet the following standards:
 - (a)** Such uses shall obtain a Special Use Permit consistent with Section 3.8 of this Ordinance;
 - (b)** Such uses shall be located on parcel or site which fronts a thoroughfare or collector roadway; and
 - (c)** New schools shall meet all the development standards of this Ordinance, *and minor modifications or other reductions to the standards shall not be granted*; and
 - (d)** Expansions or alterations to existing schools shall be required to meet these requirements to the maximum extent practicable.
 - (e)** Any subsequent principle or accessory use associated with an existing school (which is required to obtain a Special Use Permit) which would increase the intensity of the facility shall also be required to obtain a special use. For the purposes of this Section, increases in intensity shall be measured as increases in vehicular trips generated and/or increases in impervious surface by five (5) percent or more for either aspect.
- (2)** Temporary structures serving as expansion space for schools are allowed in all districts in which schools are allowed, subject to the following standards:
 - (a)** Such temporary structures shall not be located between the principal building and any abutting right-of-way. An exception to this requirement may be considered where there is no other practical alternative due to topography, presence of utilities or easements, existence of undisturbed open space and buffers, or other site features that are beyond the applicant's control.
 - (b)** At least six hundred (600) square feet of evergreen screening material shall be provided in the immediate vicinity of each temporary structure in order to screen the base of the structures from the view of other properties and public streets.
- (3)** Any proposed school, whether public or private, required by Section 3.9.2 to submit a Traffic Management Plan shall comply with the terms of the approved Traffic Management Plan.

(D) Neighborhood Recreation Center, Public

- (1) *Enclosure Required for Swimming Pools, Hot Tubs, and Spas***
 - (a) General Requirement**

In order to protect unattended children from the risk of drowning:

1. All below-ground outdoor swimming pools, hot tubs, or spas having a depth of eighteen (18) inches or greater at the deepest point shall be completely surrounded by a fence or wall with a height of no less than four (4) feet. The fence or wall may be made of any suitable and durable material. The fence or wall shall be designed so that a four and one-half (4½) inch diameter sphere cannot pass through any opening. The principal or accessory building may be used as part of such enclosure.
2. All above-ground swimming pools shall maintain gates at access points into the pool.
3. All gates required by this section shall have self-closing and self-latching devices that keep the gate or door closed at all times when not in actual use. However, the door of any dwelling that furnishes part of the enclosure need not be so equipped.

(b) Exemption

A portable spa or hot tub with a safety cover that complies with ASTM ES13 entitled "Emergency Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs," 1989 edition, is exempt from the requirements of this section.

(2) Separate Approval Required

The approval of the Planning Director shall be required prior to the construction of a swimming pool, hot tub, or spa covered by subsection (a) above. The Director shall approve the swimming pool, hot tub, or spa if it meets all of the above standards.

(E) Religious and Other Assembly Uses

- (1) Any religious or other assembly use (i.e., club, lodge, or hall) located upon residentially-zoned property that is twenty (20) acres in size or smaller shall be required to meet the following standards:
 - (a) Such uses shall obtain a Special Use Permit consistent with Section 3.8 of this Ordinance. This requirement shall also apply to residentially-zoned properties twenty (20) acres in size or smaller located within a Mixed Use Overlay District and/or a residentially-designated portion of a planned development district;
 - (b) New or proposed religious or other assembly uses shall be located on parcel or site which fronts a thoroughfare or collector roadway; and
 - (c) Such uses shall meet all the development standards of this Ordinance, *and minor modifications or other reductions to the standards shall not be granted.* Existing religious or other assembly uses shall meet this requirement to the maximum extent practicable.
 - (d) Any subsequent principal or accessory use associated with an existing religious or other assembly (which is required to obtain a Special Use Permit) that would increase the intensity of the facility shall also be required to obtain a special use. For the purposes of this Section, increases in intensity shall be measured as increases in vehicular trips generated and/or increases in impervious surface by five (5) percent or more for either aspect.

- (e) Uses that have or are intended to have more than one worship ceremony or meeting within any two (2) hour window shall be required to provide overflow parking at one (1) space for every two and one-half (2.5) persons of maximum fire-rated occupancy in addition to the standard parking requirements listed in Section 7.8.
- (2) Any religious or other assembly use (i.e., club, lodge, or hall; special event center) required by Section 3.9.2 to submit a Traffic Management Plan shall comply with the terms of the approved Traffic Management Plan.
- (3) Special event centers shall be required to meet the following standards: Outdoor space for tables and/or seating to accommodate event guests may be provided, however the size of such area shall not exceed the event space within the building.

PRINCIPLES OF INTERPRETATION

For the use-specific standards included in Sections 5.2.2(B), (C) and (E), the intent of prohibiting minor modifications or other reductions to development standards is to maximize the compatibility of such proposed uses with surrounding uses when located in residential areas. Reductions or modifications to development standards such as, but not limited to, buffers, landscaping, setbacks, parking, and building height (i.e. standards included in *Chapter 6 - Dimensional Standards and Measurements*, and *Chapter 7 - Development and Design Standards* of this Ordinance) would be inconsistent with the intent of creating and operating uses on sites that are compatible, to the extent practical, with their surroundings.

(F) College

- (1) Special Use Permit approval (see Section 3.8) shall be required for colleges within the OI and GC districts if:
 - (a) The campus includes athletic fields, gymnasiums, auditoriums or residential use including dormitories; or
 - (b) The property is located within four hundred (400) feet of a residential use or zoning district.

(G) Town Owned and/or Operated Facilities and Services

- (1) The development standards for sites and/or uses, including but not limited to setbacks, buffers, landscaping, parking, etc., shall be those specified for the same (or most similar in nature) use listed in Chapter 12 of this Ordinance.

(H) Governmental Offices

To the extent allowed by state and federal law, (see LDO section 1.6), the following use-specific standards apply to governmental offices that are not Town owned or operated:

In any residential, resource/recreational, and/or general commercial districts, government offices may be allowed as either a permitted or a special use in Table 5.1-1, provided that:

- (1) For a federal office, the federal building security level is Level 2 or less as defined by the U.S. Department of Justice; and
- (2) the site contains no physical perimeter security barriers to the building and/or parking areas through the use of fencing or other obstructions.

These types of governmental offices may also be allowed in all Town Center sub-districts that permit residential dwelling units.

All types of governmental offices may be allowed as either a permitted or a special use in Table 5.1-1 or Table 5.1-2 in all other districts not specifically mentioned above.

5.2.3 Commercial Uses

(A) Athletic Field, Private

Private athletic fields shall comply with the use-specific standards for Public Athletic Fields set forth in Section 5.2.2(A).

(B) [Reserved]

(C) Agricultural Uses

(1) Produce Stands

In the R-40 and R-80 districts, any structure or building used for the sale of products grown or raised on the premises shall have a floor area or lot coverage no greater than five hundred (500) square feet, be located no closer than one hundred (100) feet from the side or rear property line, and have a height less than fifteen (15) feet. Such uses shall provide safe vehicular access and adequate parking for customers, and shall comply with applicable sign requirements as set forth in Section 9.3.2 of this Ordinance.

(2) Agri-tourism

In the R40 and R-80 districts, farming operations may operate education and entertainment programs including but not limited to corn mazes, petting zoos of farm animals, hay rides and farming techniques. Accessory uses to the agri-tourism enterprise may include refreshments and concessions, entertainment, and the sale of farm or agricultural related products which may or may not be produced on site.

(3) Bona Fide Farms

Property that is located in the Town's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt from the provisions of this Ordinance to the same extent bona fide farming activities are exempt from county zoning pursuant to G.S. 160D-903, as further described in LDO Section 1.6.5.

(D) Electronic Gaming Operation

- (1) In the GC, ORD, and I zoning districts, such use shall be separated by a minimum of five hundred (500) feet from any residence and/or residentially-zoned property, religious assembly, licensed day care facility, public or private school, or another electronic gaming operation. The five hundred (500)-foot distance shall be measured on a straight line from property line to property line, with no consideration as to intervening structures, roads, or land forms.

- (2) In the ORD district, such use shall be allowed only on properties within the Airport Overlay District.
- (3) In the Town Center Commercial (COM) sub-district, such use shall be separated by a minimum distance of five hundred (500) feet from any other electronic gaming operation. The five hundred (500)-foot distance shall be measured on a straight line from property line to property line, with no consideration as to intervening structures, roads, or land forms.
- (4) No alcohol may be served in the establishment.

(E) Kennel

(1) *Requirements for All Kennels*

- (a) All kennel buildings shall be sufficiently insulated so that no unreasonable noise or odor shall be detected off-premises.
- (b) Indoor and outdoor kennels may be allowed in the R-40 and R-80 districts as a special use provided that the kennel is accessory to an existing principal dwelling unit on the same parcel.

(2) *Additional Requirements for Outdoor Kennels*

An outdoor run or pen shall be located on site and shall be screened from the view of all adjacent streets and properties by fencing or vegetation. No unreasonable noise or odor shall be detected off-premises.

(F) Commercial Indoor Recreational Facility

- (1) All swimming pools, hot tubs, and spas shall provide an enclosure meeting the standards set forth in Section 5.2.2(D) above.
- (2) In the OI district, the use shall be allowed only if all of the following conditions are present:
 - (a) The principal use of the building is office;
 - (b) The total floor area of all such uses and/or structures is no greater than twenty (20) percent of the total gross floor area of the building;
 - (c) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use;
 - (d) The use does not have a drive-up window, nor an outside amphitheater, stage, or other provision for live or recorded acoustic or amplified entertainment outside of the building.
- (3) In the OFC/INS subdistrict of the TC district, this use may be allowed as an ancillary use whose primary purpose is to service the needs of another principal use that is allowed as either a permitted or a special use in Table 5.1-2, provided that:
 - (a) The total floor area of all such uses and/or structures is no greater than twenty (20) percent of the total gross floor area of the building;

- (b) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use; and
- (c) The use does not have a drive-up window, nor an outside amphitheater, stage, or other provision for live or recorded acoustic or amplified entertainment outside of the building.

(G) Nightclub/Bar

(1) General Provisions

The use shall not have a drive-up window, nor an outside amphitheater, stage, or other provision for live or recorded acoustic or amplified entertainment outside of the building, unless such feature is approved as part of a special use permit.

(2) Outdoor Activities as Part of a Special Use Permit

Nightclubs and bars having any outside amphitheater, stage, sports equipment, playing field or court, or any provision for live or recorded acoustic or amplified entertainment outside of the building, shall comply with the following standards:

- (a) The use shall be located no closer than one hundred (100) feet from any residential zoning district or use.
- (b) The Zoning Board of Adjustment may establish a closing time for any outside facility that is earlier than the closing time of the activities that occur entirely within the building.

(3) OI District

Nightclubs or bars may be approved as a special use in the OI district provided they comply with the following standards:

- (a) The principal use of the building shall be office.
 - (b) The total floor area of all such uses shall not be greater than twenty (20) percent of the total gross floor area of the building.
 - (c) Such uses combined shall not have more than one (1) entrance for customers separate from that of the office use.
- (4)** In the OFC/INS subdistrict of the TC district, this use may be allowed as an ancillary use whose primary purpose is to service the needs of another principal use that is allowed as either a permitted or a special use in Table 5.1-2, provided that:
- (a) The total floor area of all such uses and/or structures is no greater than twenty (20) percent of the total gross floor area of the building; and
 - (b) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use.

(H) [Reserved]

(I) Postal Center, Private

In the OI district, such uses shall meet the following standards:

- (1) The principal uses of the business shall be parking and office, and floor space for the private postal center shall be limited to no more than twenty (20) percent of the gross square footage of the office building.
- (2) Vehicle and/or equipment maintenance, repair, and warehouse uses shall not be permitted.

(J) Parking Lot as a Principal Use

Parking lots shall only be allowed as a permitted principal use of property if the following conditions are met:

- (1) The parking lot is used for shared parking with another principal use and/or offsite parking; or
- (2) The property is located in the Airport Overlay district.

(K) Restaurant; Retail Store

(1) OI District

In the OI district, the use shall be allowed as a permitted use only if all of the following conditions are present:

- (a) The principal use of the building is office;
 - (b) The total floor area of all such uses is no greater than twenty (20) percent of the total gross floor area of the building;
 - (c) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use;
 - (d) The use does not have a drive-up window, nor an outside amphitheater, stage, or other provision for live or recorded acoustic or amplified entertainment outside of the building.
- (2) In the OFC/INS subdistrict of the TC district, this use may be allowed as an ancillary use whose primary purpose is to service the needs of another principal use that is allowed as either a permitted or a special use in Table 5.1-2, provided that:
- (a) The total floor area of all such uses and/or structures is no greater than twenty (20) percent of the total gross floor area of the building;
 - (b) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use; and
 - (c) The use does not have a drive-up window, nor an outside amphitheater, stage, or other provision for live or recorded acoustic or amplified entertainment outside of the building.
- (3) In the OFC/IND district, the use shall be allowed as a permitted use provided that:
- (a) The total floor area of all such uses is no greater than thirty-three (33) percent of the total gross floor area of the building; and

- (b) The use does not have a drive-through facility, nor an outside amphitheater, stage, or other provision for live or recorded acoustic or amplified entertainment outside of the building.

(4) Outdoor Activities

Restaurants having any outside amphitheater, stage, sports equipment, playing field or court, or any provision for live or recorded acoustic or amplified entertainment outside of the building, shall comply with the following standards:

- (a) The use shall be located no closer than one hundred (100) feet from any residential zoning district or use; and
- (b) The Town Council may establish a closing time for any outside facility that is earlier than the closing time of the activities that occur entirely within the building.

(5) CT District

Restaurants (indoor and/or outdoor) and/or retail stores shall be allowed in the Redevelopment Area and first three hundred (300) feet of Infill Area portions of the Corridor Transition District for the Walnut Street Corridor provided the following conditions are met:

- (a) The principal use of the building is office or personal services;
- (b) The total square footage of such uses (whether combined or otherwise) shall be limited to twenty (20) percent of the total building square footage;
- (c) Such uses combined do not have more than one (1) entrance for customers which is separate from that of the office use; and
- (d) Such uses do not have a drive-up window, nor an outside amphitheater, stage or other provision for live or recorded acoustic or amplified entertainment outside of the building.

(L) Radio or TV Broadcasting Studio

Such uses shall require approval of a special use permit for associated towers or helipads.

(M) Adult Business

- (1) In the Mixed Use Overlay District, and the portion of the ORD district outside of the Airport Overlay District, adult businesses may be permitted with a special use permit (see Section 3.8) provided that:
 - (a) No such business shall locate within two thousand (2,000) feet of any other adult business, as measured in a straight line from property line to property line;
 - (b) No adult business shall be located within one thousand (1,000) feet of a church, public or private elementary or secondary school, child day care center or nursery school, public park, residences and/or residentially zoned property, or any establishment with an on-premise ABC license. The one thousand (1,000) foot distance shall be measured on a straight line from property line to property line, with no consideration as to intervening structures, roads or land forms;

- (c) There shall not be more than one (1) adult business on the same property or in the same building, structure, or portion thereof;
 - (d) No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult business; and
 - (e) Except for the signs permitted under Section 9.3 of this Ordinance, no other advertisements, displays or signs or other promotional materials shall be visible to the public from pedestrian sidewalks, walkways, or vehicular use areas.
 - (2) In the portion of the ORD district within the Airport Overlay District, adult businesses shall be permitted by right subject to the use-specific standards listed in 5.2.3(M)(1).
- (N) Vehicle Filling Station, Vehicle Repair, Vehicle Service, Car Washes, and Towing and Vehicle Storage**
- (1) No vehicle shall be parked or stored as a source of parts and no vehicle shall be parked for the purpose of sale or lease/rent.
 - (2) All repairs and storage shall be contained within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than twenty-five (25) percent of the total lot area. Such areas shall be located to the rear of the principal structure and shall be screened from offsite views by a solid, decorative fence or masonry wall at least eight (8) feet in height. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.
 - (3) No vehicle that has been repaired and is awaiting removal, or that is awaiting repair, shall be stored or parked for more than thirty (30) consecutive days.

PRINCIPLES OF INTERPRETATION

In cases where a vehicle has been abandoned by its lawful owner prior to or during the repair process, the vehicle may remain on site as long as is necessary after the thirty (30) day period provided that the owner or operator of the establishment can demonstrate that steps have been taken to remove the vehicle following the premises using the appropriate legal means.

- (4) Uses established after July 1, 2003 or alterations to existing uses established prior to July 1, 2003 shall require compliance with Section 14.3 Illegal Discharges to the Storm Sewer System.
- (5) In the HMXD and MXD subdistricts of the TC district, such uses may be permitted based upon the following conditions:
 - (a) Such uses must be lawfully established prior to July 1, 2003;
 - (b) Expansion of the building(s) or increased use of the site beyond that legally established on July 1, 2003 is permitted by right, provided that such expansions comply with the TC district standards;
 - (c) Maintenance and minor repair of structures and/or the site is permitted by right;

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- (d) If the use ceases or is interrupted for more than one hundred and eighty (180) consecutive days, then the use shall not be re-established, with the exception of vehicle service and repair use, which may be re-established by right provided that:
1. The existing building was legally used for vehicle service and repair use at some point in past; and
 2. The building has been vacant for a period of at least twenty-four (24) months; and
 3. All restoration activities, and storage of automotive parts and materials, shall be contained within an enclosed building, except that storage of vehicles may be allowed in an outdoor storage area that meets all of the following requirements:
 - a) is no larger than twenty-five (25) percent of the total lot area.
 - b) is located to the rear of the principal structure; and
 - c) is screened from offsite views by a solid, decorative fence or masonry wall at least eight (8) feet in height.
- (6) In the HMXD and MXD subdistricts of the TC district, such uses may be permitted with a special use permit (see section 3.8) if there is an addition of land to a parcel or site containing such uses through an action of the owner or their agent after July 1, 2003.
- (7) These standards shall also apply within the HMXD and MXD subdistricts to other land uses in the Vehicles and Equipment Use Category of Table 5.1-2, including but not limited to, car washes and towing and vehicle storage establishments.

(O) Veterinary Hospital/Office

- (1) No kennel shall be maintained outside of the principal building.
- (2) Where outdoor enclosed yard area is provided, such yard area shall be enclosed by a solid, decorative fence or masonry wall at least eight (8) feet in height.
- (3) The animal hospital structure shall be insulated and soundproofed, in order to minimize all loud and disturbing noises that might disturb those persons in adjoining structures or in the nearby vicinity.

(P) Private Transportation Service

Businesses that provide transportation services to move people from one (1) location to another location using passenger vehicles such as sedans, sport utility vehicles, vans, buses, or limousines. The business may include both an office component and a parking component, with the opportunity for the parking component to occur independently of the office component, on a separate lot with a different principal use, if certain conditions are met. This use does not include taxis or medical transportation vehicles.

(1) Vehicle Types Defined

For the purpose of this section, vehicle types shall be distinguished as follows:

(a) Type I Passenger Fleet Vehicles

Type I passenger fleet vehicles are limited to two (2)-axle and four (4)-tire vehicles that are manufactured primarily for the purpose of carrying passengers. Such vehicles include sedans, coupes, station wagons, sport utility vehicles and mini-vans.

(b) Type II Passenger Fleet Vehicles

Type II passenger fleet vehicles are limited to two (2) axles and six (6) tires, and are manufactured primarily for the purpose of carrying passengers. Such vehicles are typically taller, longer or heavier than Type I passenger vehicles, and may include stretch limousines and buses.

(2) Development Standards

Specific standards for the private transportation service use, including both on-site and off-site passenger fleet parking, shall be met in accordance with Table 5.2-2a.

| TABLE 5.2-2a USE-SPECIFIC STANDARDS FOR PRIVATE TRANSPORTATION SERVICE | | | | | |
|--|-------------------------------------|---|-----------------------------|--------------------|---------------------|
| USE-SPECIFIC DEVELOPMENT STANDARDS | | ZONING DISTRICTS WHERE USE IS PERMITTED | | | |
| | | OI | GC | I | MXD |
| Office Component - Parking | | As required for <i>Office, Business or Professional</i> , per Table 7.8-1 | | | |
| Passenger Fleet Parking Component | Vehicle Type(s) Allowed | Type I only | Type I and Type II | Type I and Type II | Type I only |
| | Maximum Number of vehicles per site | 30 | 60 | No limit | 30 |
| | Location of Parking Spaces on Site | Rear of Building(s) | Side or Rear of Building(s) | No Restriction | Rear of Building(s) |

(3) Additional Fleet Parking Requirements

- (a) Such parking spaces shall be in excess of the minimum required for the principal use of the property.
- (b) For off-site passenger fleet parking, a notarized statement from the property owner, or a copy of a parking agreement ensuring permission to utilize the off-site parking spaces, shall be submitted prior to development plan approval.
- (c) When fleet parking is located adjacent to or across a local street from property that is zoned OI or zoned for residential use, the areas being used for fleet parking shall be screened from the view of such properties through the use of either a six (6)-foot tall opaque fence (in addition to normal buffer planting requirements) or through the use of evergreen landscaping (minimum height of six (6) feet at installation, planted every six (6) feet on center) that will screen the view of the fleet parking from the ground level up. If the evergreen landscaping option is selected in this situation, then the evergreen material being utilized to provide this required screening may be counted towards any comparable evergreen plantings associated with the normal buffer landscape requirements.

(Q) Motor Vehicle Sales/Rental

- (1) In the GC district and the Mixed Use Overlay District, motor vehicle rental shall be permitted by right based upon the following conditions:
 - (a) The rental office is located within a tenant space in a general shopping center use;
 - (b) The portion of the parking lot utilized by rental vehicles consists of no more than ten (10) spaces per one thousand (1,000) square feet of heated leasable space for the rental use or as determined by private contract with the property management, whichever is less;
 - (c) The vehicles available for rent shall be limited to passenger vehicles; and
 - (d) No signage may be displayed on vehicles.

- (2) In the GC district and the Mixed Use Overlay District, motor vehicle sales and rental shall be permitted as Special Uses based upon the following conditions:
- (a) The use is proposed or was established or enlarged after March 22, 2001;
 - (b) The vehicles sales or rental lot is separated from any other business use by at least a thirty (30) foot Type A perimeter buffer; and
 - (c) A permanent sales or rental office is located on the site of the sales or rental use.
- (3) In the HMXD and MXD subdistricts of the TC district, motor vehicle sales and rental shall be permitted by right based upon the following conditions:
- (a) Such uses must be lawfully established prior to July 1, 2003;
 - (b) Expansion of the building(s) or increased use of the site beyond that legally established on July 1, 2003 is permitted by right, provided that such expansions comply with the TC district standards;
 - (c) Maintenance and minor repair of structures and/or the site is permitted by right;
 - (d) If the use ceases or is interrupted for more than one hundred eighty (180) consecutive days, then the use shall not be re-established;
 - (e) An addition of land to a parcel or site containing such uses through an action of the owner or their agent after July 1, 2003 shall require special use permit approval (see Section 3.8).

(R) Wellness Center

(1) OI District

In the OI district, the use shall be allowed as a permitted use only if all of the following conditions are present:

- (a) The principal use of the building is office;
- (b) The total floor area of all such uses is no greater than fifty (50) percent of the total gross floor area of the building, or ten thousand (10,000) square feet, whichever is less;
- (c) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use unless required by building or fire code;

(2) ORD District

In the ORD district, any of these uses shall be permitted as an ancillary use provided that:

- (a) The total floor area of all such uses is no greater than fifty (50) percent of the total gross floor area of the building or ten thousand (10,000) square feet, whichever is less;
- (b) Such uses combined do not have more than one (1) entrance for customers separate from that of the office use unless required by building or fire code;

(S) Trade School

- (1) Trade schools within the OI and GC districts shall comply with the following standards:
 - (a) All activities shall be performed inside a building;
 - (b) No outdoor storage shall be associated with the use; and
 - (c) The trade school is not related to metal fabrication, automotive repair, or other industrial activities.
- (2) Special Use Permit approval (see Section 3.8) shall be required for trade schools within the OI and GC districts if the property is located within four hundred (400) feet of a residential use or zoning district.

5.2.4 Industrial Uses**(A) Outdoor Storage as a Principal Use**

- (1) All outdoor storage areas shall be screened from views from adjacent parcels and streets by a solid, decorative fence or masonry wall at least eight (8) feet in height. The height of merchandise, materials, and equipment stored shall not exceed the height of the screening fence or wall.
- (2) No customer or vehicular circulation may occur through the area used for outdoor storage.
- (3) In the GC district, outdoor storage is limited to twenty-five (25) percent of the lot area (this limitation shall not apply in the I district).
- (4) In the HMXD and MXD subdistricts of the TC district, such uses may be permitted based upon the following conditions:
 - (a) Such uses must be lawfully established prior to July 1, 2003;
 - (b) Expansion of the building(s) or increased use of the site beyond that legally established on July 1, 2003 is permitted by right, provided that such expansions comply with the TC district standards;
 - (c) Maintenance and minor repair of structures and/or the site is permitted by right;
 - (d) If the use ceases or is interrupted for more than one hundred and eighty (180) consecutive days, then the use shall not be re-established;
- (5) In the HMXD and MXD subdistricts of the TC district, such uses may be permitted with a special use permit (see section 3.8) if there is an addition of land to a parcel or site containing such uses through an action of the owner or their agent after July 1, 2003.

(B) Recycling and Salvage Operation

In addition to any landscaped buffer required under Section 7.2.3 of this Ordinance, all outdoor storage areas shall be surrounded by a solid fence that is at least eight (8) feet high, located no less than one hundred (100) feet from any public right-of-way, and located no less than fifty (50) feet from any adjacent property.

(C) Resource Extraction**(1) State Mining Permit**

- (a) Prior to applying for a special use permit, the applicant shall secure a mining permit issued by the North Carolina Department of Environment and Natural Resources, Division of Land Resources, in accordance with the requirements set forth in the North Carolina Mining Act of 1971 and G.S. 74-65, as amended;
- (b) Two (2) copies of all documents required by the State of North Carolina for a mining permit shall be submitted with the special use application;
- (c) If the owner, developer, or operator is granted a modification of the terms or conditions of his or her State permit or reclamation plan, the applicant shall be required to reapply to the Town, within sixty (60) days of approval by the State, to have his or her special use permit reapproved by the Zoning Board of Adjustment. Failure to reapply within the specified time will result in the automatic revocation of the special use permit; and
- (d) The suspension or revocation of a State permit for the use shall result in automatic revocation of the special use permit.

(2) Additional Special Use Permit Requirements

- (a) The Zoning Board of Adjustment may require the submission of detailed plans, in addition to those required by the soil erosion and sedimentation control provisions in Section 14.4 of this Ordinance, that specify the type of wind, soil, and water erosion sedimentation control measures that are to be employed during construction and general operation of the proposed use;
- (b) The applicant shall submit additional supporting scientific data and evidence, such as maps, charts or consultant's reports, satisfactory to the Zoning Board of Adjustment, to support a conclusion that the standards and conditions set forth in this Ordinance are met so as to ensure that the value of the surrounding real property is not depreciated;
- (c) Recognizing that land values in the Cary area exceed those in many areas covered by the State Mining Act of 1971, the Zoning Board of Adjustment may require the applicant to submit a bond, in addition to that required by the State, for the purpose of reclamation; and
- (d) The transfer of a special use permit to a new holder shall require the new holder to apply to the Town within sixty (60) days for transfer of the special use permit. Failure to apply within the specified time will result in the automatic revocation of the special use permit.

(3) Development Standards

- (a) All mining activities, buildings, equipment, storage, parking, grading, related structures, and material shall be located no closer than three hundred (300) feet to any property line adjacent to said use. An Opaque Type A buffer, meeting the requirements of this Ordinance (see Section 7.2.3) shall be planted within the three hundred (300) foot setback;

- (b) All mining activities shall comply with the nuisance and hazard control standards set forth in Section 14.2; and
- (c) All mining activities shall conform to the vibration policy adopted by the North Carolina Department of Health, Environment and Natural Resources, Division of Land Resources.

(D) Telecommunications Facilities

(1) *Applicability; Definitions.*

This Section 5.2.4(D) applies to telecommunications facilities that are not “qualifying small wireless facilities,” “qualifying utility poles,” or “qualifying city utility poles” and that are not exempted in Section 5.2.4(D)(4) or (H)(4). Qualifying small wireless facilities, qualifying utility poles, and qualifying city utility poles are addressed in Section 5.2.4(H).

The definitions contained in Section 5.2.4(H) shall apply to this Section 5.2.4(D).

(2) *Purpose*

The purpose of this section is to:

- (a) Minimize the impacts of telecommunications facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
- (b) Encourage the location and co-location of telecommunications facilities equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures;
- (c) Encourage coordination between suppliers of telecommunications services in the Town of Cary and its planning and development regulation jurisdiction;
- (d) Accommodate the growing demand for telecommunications services and the resulting need for telecommunications facilities;
- (e) Regulate in accordance with all applicable federal and state laws;
- (f) Establish review procedures to ensure that applications for telecommunications facilities are reviewed and acted upon within a reasonable period of time or any specific period of time required by law;
- (g) Protect the unique aesthetics of the Town while meeting the needs of its citizens and businesses to enjoy the benefits of wireless communications services; and
- (h) Encourage the use of existing buildings and structures as locations for telecommunications facilities infrastructure as a method to minimize the aesthetic impact of related infrastructure.

It is not the purpose or intent of this section to prohibit, have the effect of prohibiting, or materially limit or inhibit wireless communication services; unreasonably discriminate among providers of functionally equivalent wireless communication services; regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency emissions where it is demonstrated that the wireless communications facility does or

will comply with applicable FCC regulations; or prohibit or effectively prohibit collocations or modification that the town must approve under state or federal law. The provisions of this Section 5.2.4(D) are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the Town.

(3) *Siting*

- (a) New wireless support structures are prohibited in Town right-of-way. See LDO Sections 5.2.4(H) and 8.1.4(E) for provisions regarding utility poles.
- (b) The following list indicates the Town's preferences for facility locations, in descending order of preference:
- Collocations on Existing Wireless Support Structures
 - Concealed (Stealth) Telecommunications Facility on Existing Building/Structure
 - New Concealed (Stealth) Wireless Support Structure
 - Non-Stealth Telecommunications Facility on Existing Building/Structure
 - New Freestanding Non-Stealth Wireless Support Structure (monopoles)
 - New Freestanding Non-Stealth Wireless Support Structure (lattice-type)

These preferences are intended as guidance for development of an application for telecommunications facilities.

(4) *Compliance with Law; Exemptions.*

- (a) Nothing in this ordinance shall be interpreted to excuse compliance with, or to be in lieu of any other requirement of state or local law, except as specifically provided herein. Without limitation, the provisions of this ordinance do not permit placement of telecommunications facilities on privately-owned utility poles or wireless support structures, or on private property, without the consent of the property owner or any person who has an interest in the property.
- (b) Unless expressly set forth herein, the following categories of telecommunications facilities are exempt from the requirements in Section 5.2.4(D), provided they meet the location and design requirements set forth below:
1. Any telecommunications facility below sixty-five (65) feet when measured from ground level which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission and used exclusively for amateur radio operations.
 2. Over the air reception devices covered under 47 C.F.R. § 1.4000, so long as it satisfies the requirements set forth in Section 5.3.4(F)(2).
 3. Removal or replacement of an antenna or equipment on an existing wireless support structure or base station that does not change the physical dimensions of the wireless support structure or base station, or defeat any of the concealment elements of the wireless support structure or base station.
 4. Routine maintenance of existing telecommunications facilities, including activities associated with regular and general upkeep of transmission equipment, and the replacement of existing telecommunications facilities with facilities of the same size (so long as any of the concealment elements of the facilities are not defeated).

5. A temporary telecommunications facility, (1) upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town of Cary designees; except that such facility must comply with all federal and state requirements and must be removed at the conclusion of the emergency; or (2) if necessary to continue providing service while a wireless support structure or other structure upon which the existing telecommunications facility has been placed, such as a building or water tank, is undergoing maintenance, replacement, or reconstruction during which it will be impossible or unsafe to operate the existing telecommunications facility; except that (i) the temporary facility if located on site must be no taller than the existing wireless support structure or other structure; (ii) the temporary facility if located off site must be no taller than one hundred fifty (150) feet and there shall be no more than one (1) temporary facility per wireless service provider; (iii) the temporary facility must meet the setback requirements of section 5.2.4(D)(7)(c) (setbacks for concealed (stealth) telecommunications facilities; these setbacks are applicable for all temporary support structures, whether concealed (stealth) or non-stealth); (iv) the temporary facility must comply with all federal and state requirements; and (v) the temporary facility must be removed within sixty (60) days of the conclusion of the maintenance, replacement, or reconstruction, or within one (1) year, whichever is shorter, unless the time is extended by the Planning Director for good cause shown.
6. Public safety facilities or installations required for public safety on public or private property, including transmitters, repeaters, and remote cameras so long as the facilities are designed to match the supporting structure.

(5) *Eligible Facilities Requests and Collocations*

Collocation and eligible facilities requests, as defined in G.S. 160D-931 or 47 U.S.C. 1455, shall be processed in accordance with G.S. 160D-933, 160D-934, and/or federal laws and regulations as appropriate. In approving any eligible facilities request, the Town solely intends to comply with a requirement of federal law or state law and not to grant any property rights or interests except as compelled by federal or state law. Without limitation, approval does not exempt applicant from, or prevent Town from, opposing a proposed modification that is subject to complaint under the National Historic Preservation Act or the National Environmental Policy Act. Collocations are only permitted as provided in LDO Section 5.2.4(D)(6) or (7).

(6) *Non-Stealth Telecommunications Facility on Existing Building or Structure*

Non-Stealth Telecommunications facilities on existing buildings or structures shall be allowed as a permitted use on land used for any purpose in nonresidential zoning districts, and on land used for non-residential purposes in the R-40 district, R-80 district, Planned Development District and Mixed Use Overlay District. Non-stealth telecommunications facilities on existing buildings or structures are prohibited in the public right-of-way.

(a) *Height*

- (i) Non-stealth telecommunications facilities on existing buildings or structures located outside of the right-of-way and not on an existing utility pole shall have a maximum height as described in Table 5.2-3. The antenna portion of a non-stealth telecommunications facility on an existing building or structure shall not exceed ten (10) feet in height.

**TABLE 5.2-3:
MAXIMUM HEIGHT FOR NON-STEALTH TELECOMMUNICATIONS FACILITY ON EXISTING
BUILDINGS OR STRUCTURES (outside of right-of-way, not on utility pole)**

| Structure Height | Maximum Height (including antennae; measured from the height of the structure) |
|--|---|
| Over one-hundred fifty (150) feet | Fifteen (15) percent of structure height |
| Seventy-five (75) to one hundred forty-nine (149) feet | Twenty-five (25) percent of structure height |
| Less than seventy-five (75) feet | Forty (40) percent of structure height |

(ii) Non-stealth telecommunications facilities are not permitted to locate on an existing utility pole.

- (b) The ground-mounted components of non-stealth telecommunications facilities on existing buildings or structures shall be located flush to grade where necessary to avoid inconveniencing the public, or creating a hazard; and to the extent permitted above ground, shall otherwise be appropriately camouflaged to blend in with the surroundings, and non-reflective paints shall be used.
- (c) All structure-mounted telecommunications facilities shall be designed to meet current building standards and wind load requirements.

(7) Concealed (Stealth) Telecommunications Facilities

(a) Design Considerations and Visibility

Concealed (stealth) wireless support structures shall be designed to complement the physical landscape in which they are intended to be located. Examples of stealth wireless support structures that may be compatible include but are not limited to faux pine trees, unipoles/slick sticks, bell towers, etc. New stealth wireless support structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape, horizon, and adjacent properties. New freestanding stealth wireless support structures shall be designed to be compatible with adjacent structures and landscapes with specific design considerations such as architectural designs, scale, color, and texture.

(b) Review and Decision Authority

The decision authority and review type for applications for new concealed (stealth) wireless support structures shall be in accordance with the following:

| Max. Height | Location of Proposed Stealth Wireless Support Structure | | |
|--|--|---------------------------------|--|
| | Residentially-Zoned Land Used for Residential Purposes or Vacant | Non-Residential Zoning District | Residentially-Zoned Land Used for Non-residential Purposes |
| up to 150 feet | A | A | A |
| greater than 150 feet, up to 175 feet | B | A | A |
| greater than 175 feet, up to max. height allowed | B | A | A |

A — Planning Director * — Permitted Use with Development Plan Review;

B — Zoning Board of Adjustment — Special Use and Development Plan Review

* *Review and decision by the Planning Director is only permitted when no reduction in the minimum required setback(s) is requested. If a reduction of the minimum setback(s) is requested for wireless support structures that could otherwise be reviewed and decided upon by the Planning Director, review and decision by the Zoning Board of Adjustment shall be required pursuant to LDO Section 5.2.4(D)(8)(b).*

(c) Setbacks

Stealth wireless support structures must comply with the minimum building setback for the zoning district in which they are located and shall also be set back as follows:

1. From all existing dwellings in a non-residential zoning district by a minimum of the height of the proposed wireless support structure;
2. From the property line of non-residentially zoned property by a distance equal to one-half (1/2) the height of the proposed wireless support structure, but in no case less than the minimum required buffer width (see Chapter 7 of this Ordinance).
3. From the property line of all residentially-zoned property that is used for residential purposes or is vacant by a minimum of the height of the proposed wireless support structure;
4. From the property line of all residentially-zoned property used for non-residential purposes by a distance equal to one-half (1/2) the height of the proposed wireless support structure, but in no case less than the minimum required buffer width (see Chapter 7 of this Ordinance); and
5. From adjacent road right-of-way boundaries by the height of the proposed wireless support structure.

(d) Height

The maximum permitted height for stealth wireless support structures is one-hundred ninety-nine (199) feet.

(e) Stealth Antennae

Stealth antennae shall be allowed as a permitted use in all non-residential zoning districts, and on residentially-zoned land used for non-residential purposes. A special use permit granted by the Zoning Board of Adjustment is required to erect or install any stealth antenna(e) in the RMF zoning district. Unless otherwise allowed above, stealth antennae shall be prohibited in all other residential zoning districts. If located in the right-of-way of any public road or street, stealth antennae shall be located on an existing utility pole which does not exceed a height of thirty-five (35) feet above the immediate surrounding ground. Stealth antennae located on an existing utility pole, whether inside or outside of the right-of-way, shall not be higher than ten (10) feet above the highest point of the pole. The ground-mounted components of stealth antennae, whether inside or outside of the right-of-way, shall be located flush to grade where necessary to avoid inconveniencing the public, or creating a hazard; and to the extent permitted aboveground, shall otherwise be appropriately camouflaged to blend in with the surroundings, and non-reflective paints shall be used.

(8) Other Freestanding Non-stealth Wireless Support Structures**(a) Review and Decision Authority**

1. In non-residential zoning districts, a special use permit granted by the Zoning Board of Adjustment is required to erect any freestanding non-stealth wireless support structure within two hundred (200) feet of the property line of any property used, zoned, or otherwise approved (e.g., MXD, MUSP, PDD, etc.) for residential purposes.
2. In non-residential zoning districts, freestanding non-stealth wireless support structures located more than two hundred (200) feet from the property line of any property used, zoned or otherwise approved (e.g., MXD, MUSP, PDD, etc.) for residential purposes may be permitted without a special use.
3. A special use permit granted by the Zoning Board of Adjustment is required to erect a freestanding non-stealth wireless support structure in the R40 or R80 zoning districts.
4. If a request for reduction of the minimum required setbacks listed in Section 5.2.4(D) is associated with a freestanding non-stealth wireless support structure that could otherwise be reviewed and decided upon by the Planning Director, review and decision by the Zoning Board of Adjustment under a development plan and special use review as part of a quasi-judicial hearing process shall be required pursuant to LDO Section 5.2.4(D)(8)(b).

(b) Setbacks

Freestanding non-stealth wireless support structures must comply with the minimum building setback for the zoning district in which they are located and shall also be set back as follows:

1. From all existing dwellings in a non-residential zoning district by a minimum of two-hundred (200) feet or two times (2x) the height of the proposed wireless support structure, whichever is greater;

2. From the property line of non-residentially zoned property by the height of the proposed wireless support structure;
3. From the property line of all residentially-zoned property that is used for residential purposes or is vacant by a minimum of two-hundred (200) feet or two times (2x) the height of the proposed wireless support structure, whichever is greater;
4. From the property line of all residentially-zoned property used for non-residential purposes by the height of the proposed wireless support structure; and
5. From adjacent road right-of-way boundaries by the height of the proposed wireless support structure.

(c) Height

The maximum permitted height for freestanding non-stealth wireless support structures is three-hundred fifty (350) feet.

(9) *Additional Requirements/Standards for All Wireless Support Structures*

(a) Existing Wireless Support Structures

New antennae may be co-located upon wireless support structures that exist on the effective date of this Ordinance. A request for an increase in height for an existing wireless support structure shall require issuance of a special use permit by the Zoning Board of Adjustment if a special use permit would be required to erect a new wireless support structure at the requested height.

(b) Collocation Required

Wireless support structures shall be constructed to accommodate antenna arrays as follows:

1. All freestanding wireless support structures up to one hundred twenty (120) feet in height shall be engineered and constructed to accommodate no less than four (4) antenna arrays.
2. All wireless support structures between one hundred twenty-one (121) feet and one hundred fifty (150) feet shall be engineered and constructed to accommodate no less than five (5) antenna arrays.
3. All wireless support structures between one hundred fifty-one (151) feet and taller shall be engineered and constructed to accommodate no less than six (6) antenna arrays.

(c) General Development Standards

1. Design and Neighborhood Compatibility

- a. The exterior appearance of all associated support structures and buildings shall be compatible with the other buildings in the

surrounding area. Telecommunications facilities shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Telecommunications facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.

- b. The review and decision body may require the applicant to apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than a red and white marking pattern, when the review and decision-making body determines such a marking pattern would cause aesthetic blight due to the visibility of the wireless support structure.
- c. Support buildings located in any residential district may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
- d. No sign shall be permitted on any telecommunications facility except for official or public notice or warning signs required by a valid and applicable federal, state, or local law, regulation or chapter; by a public utility company; or by order of a court of competent jurisdiction.

2. Buffering and Screening

- a. All fences and walls shall be screened in accordance with the requirements of Chapter 7 of this Ordinance.
- b. The base of the wireless support structure and each guy anchor shall be surrounded by an opaque fence or wall at least eight (8) feet in height.

(d) Neighborhood Meeting

At the time of submitting an application for a proposed wireless support structure that requires approval as a special use, the applicant shall submit written documentation that they have conducted a neighborhood meeting, to which owners of property within four hundred (400) feet of the subject property have been invited, to explain the proposed facility and answer questions. Documentation should include the time, date, and location of the meeting; a list of meeting attendees; a brief summary of any presentations and/or information discussed; and questions/concerns expressed by neighboring property owners.

(e) Balloon Test

A balloon test shall be required for all wireless support structures that require approval as a special use proposed within four hundred (400) feet of property zoned and used or otherwise approved for residential purposes. The balloon test shall be required prior to the submittal of photo simulations in order to

illustrate the proposed height of the wireless support structure. The applicant shall arrange to raise a colored balloon no less than three (3) feet in diameter at the maximum height of the proposed wireless support structure, and within fifty (50) horizontal feet of the center of the proposed wireless support structure.

The applicant shall meet the following for the required balloon test:

1. Applicant must inform the Planning Department and abutting property owners within four hundred (400) feet of the subject property in writing of the date and times, including alternative date and times, of the test at least fourteen (14) days in advance.
2. The date, time, and location, including alternative date, time and location, of the balloon test shall be advertised in a locally distributed paper by the applicant at least seven (7) but no more than fourteen (14) days in advance of the test date.
3. The balloon shall be flown at the required height for at least four (4) consecutive hours during daylight hours on the date chosen. The applicant shall record the weather conditions during the balloon test.

(10) *Additional Requirements/Standards for All Telecommunications Facilities Requiring a Special Use Permit*

(a) Availability of Existing Structures

Applicants seeking a special use permit for wireless support structures greater than seventy-five (75) feet in height, and proposed to be located within three thousand (3,000) feet of any other wireless support structure greater than seventy-five (75) feet in height, shall provide evidence that reasonable efforts have been made to lease or otherwise acquire space on all existing, planned, or constructed wireless support structures. No new freestanding wireless support structure shall be permitted unless the applicant demonstrates that no existing or previously approved wireless support structure can reasonably be used for the telecommunications facility placement instead of the construction of a new wireless support structure; that residential, historic, and designated scenic areas cannot be served from outside the area; or that the proposed height of a new wireless support structure or initial telecommunications facility placement or a proposed height increase of a substantially changed wireless support structure, or replacement wireless support structure, is necessary to provide the applicant's designed service. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the wireless support structure is unwilling to enter into a contract for such use at fair market value.

(b) Setback Reductions

1. In considering an application for special use and/or development plan for telecommunications facilities, the ZBOA may grant a reduction of the minimum required setbacks listed in Section 5.2.4(D) upon consideration of circumstances or aspects which reduce the off-site effects of the facility on adjacent properties. Such circumstances or aspects may include, but are not limited to: topography; berms; the proximity of existing or potential uses; existing vegetation and improvements made or proposed to the site

to obscure or reduce the visibility of the wireless support structure from adjacent properties; the concentration of existing and/or proposed wireless support structures in the area; and whether the height, design (including structural features), placement or other characteristics of the proposed wireless support structure could be modified to have a less intrusive impact.

2. Requests under this sub-section may be approved provided that such action is not inconsistent with the general purposes and applicable approval criteria of this Ordinance. The ZBOA, in considering any request(s) for reduction of the minimum required setbacks under this Section, shall consider any unique circumstances for such a request(s).

(c) Conditions

Notwithstanding any of the standards of this Section, the ZBOA may require any other reasonable conditions (including any modifications of the standards in this Section 5.2.4(D)) to mitigate the impact of the wireless support structure on adjacent properties and uses including, but not limited to, conditions or modifications related to the style, height, and design of the facility.

(11) *Outside Experts and Disputes*

- (a) Review by an outside consultant shall be required for all facilities requiring approval of a special use permit. The fee for review by the outside consultant shall be collected together with the application fee for the special use permit. Additional reasonable and cost based fees may be imposed for costs incurred should the applicant amend its application. Selection of the outside consultant shall be at the sole discretion of the Town.
- (b) If an applicant for a telecommunications facility claims that one (1) or more standards of this Ordinance are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the decision-making body may require that the application be reviewed by a qualified engineer for a determination of the accuracy of such claims. Any costs shall be charged to the applicant.

(12) *Standard Conditions*

- (a) Applicant must obtain all other required permits, authorizations, approvals, agreements, and declarations that may be required for installation, modification, and/or operation of the proposed facility under federal, state, or local law, rules, or regulations, including but not limited to encroachment agreements and FCC approvals. An approval issued under this Section 5.2.4(D) is not in lieu of any other permit required under the LDO or Town Code, nor is it a franchise, license, or other authorization to occupy the public right-of-way, or a license, lease, or agreement authorizing occupancy of any other public or private property. It does not create a vested right in occupying any particular location, and an applicant may be required to move and remove facilities at its expense consistent with other provisions of applicable law. An approval issued in error, based on incomplete or false information submitted by an applicant or that conflicts with the provisions of the LDO, is not valid. No person may maintain a telecommunications facility in place unless required state or federal authorization remain in force.

- (b) All telecommunications facilities and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The telecommunications facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than thirty (30) calendar days from the date of notification by the Town. All the telecommunications facility equipment must be removed upon the expiration/termination/revocation of the approval and/or when no longer in operation, whichever occurs first.

In public rights-of-way, damaged or deteriorated components must be corrected within five (5) business days of notification. If a telecommunications facility or portions of a telecommunications facility are taken out of service, the components must be removed within thirty (30) business days of being taken out of service, and affected facilities restored to their prior condition.

- (c) The property owner(s) or applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer which verifies that structure height complies with the approved development plan.
- (d) Any approval issued by the Town for a new wireless support structure or collocation that is a substantial change shall be conditioned on the construction of the approved facilities within twenty-four (24) months.
- (e) The applicant or owner shall maintain onsite at the telecommunications facility contact information for all parties responsible for maintenance of the facility.
- (f) Telecommunications facilities, whether operating alone or in conjunction with other facilities, shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.
- (g) After written notice to the applicant and/or owner, the Town may require the relocation, at the applicant/owner's expense and according to the then-existing standards for telecommunication facilities, of any telecommunication facility located in the public right-of-way, as necessary for maintenance or reconfiguration of the right-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the Town.
- (h) Collocation or modification of telecommunications facilities on an existing non-conforming wireless support structure or base station shall not be construed as an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use, provided that the collocation or modification constitute an eligible facilities request.
- (i) No portion of a telecommunications facility may be placed in the public right-of-way in a manner that:
1. Obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference;

2. Results in ground-mounted, above-ground equipment cabinets in the public right-of-way associated with the support structure that are ten percent (10%) larger in height or overall volume than other equipment cabinets in the same area; or
3. Involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than eight (8) feet above ground level.

(13) Submittal Requirements

- (a) In addition to the submittal requirements of Sections 3.8 (Special Uses) and 3.9 (Subdivision Plats and Development Plans) of this Ordinance, as may be applicable, applications for proposed telecommunications facilities shall also include maps, reports, and documents as specified by the Planning Director. At a minimum, this information shall describe the facility with regard to its proposed location, design, and operation; and, if applicable, a clear statement that the request is being made as an eligible facilities request under state law and/or federal law.
- (b) If, as part of review by an outside expert, additional submittal information is determined to be necessary in order to review the application for compliance with this Ordinance, such information shall be required regardless of the items initially submitted with the application.

(14) Nonconforming Setbacks for Existing Wireless Support Structures

Wireless support structures that do not meet the minimum required setbacks from lots that were created after the construction of the wireless support structure shall be deemed conforming with regard to setbacks for the purposes of Section 5.2.4(D).

Note: Refer to Section 6.2.2(C) for requirements associated with creating residentially zoned lots from an existing lot or parcel that contains a wireless support structure (stealth or non-stealth).

(E) Research Laboratory

In the MXDR subdistrict of the TC district, such uses shall be permitted by right based upon the following conditions:

- (1) Such uses must be lawfully established prior to July 1, 2003;
- (2) Expansion of the building(s) or increased use of the site beyond that legally established on July 1, 2003 is permitted by right, provided that such expansions comply with the TC district standards;
- (3) Maintenance and minor repair of structures and/or the site is permitted by right;
- (4) If the use ceases or is interrupted for more than one hundred and eighty (180) consecutive days, then the use shall not be re-established;

- (5) An addition of land to a parcel or site containing such uses through an action of the owner or their agent after July 1, 2003 shall require special use permit approval (see Section 3.8).

(F) Warehousing and Distribution Establishment and Wholesale Establishment

- (1) In the HMXD and MXD subdistricts of the TC district, such uses may be permitted based upon the following conditions:
 - (a) Such uses must be lawfully established prior to July 1, 2003;
 - (b) Expansion of the building(s) or increased use of the site beyond that legally established on July 1, 2003 is permitted by right, provided that such expansions comply with the TC district standards;
 - (c) Maintenance and minor repair of structures and/or the site is permitted by right;
 - (d) If the use ceases or is interrupted for more than one hundred and eighty (180) consecutive days, then the use shall not be re-established;
- (2) In the HMXD and MXD subdistricts of the TC district, such uses may be permitted with a special use permit (see Section 3.8) if there is an addition of land to a parcel or site containing such uses through an action of the owner or their agent after July 1, 2003.

(G) Light Industrial

- (1) In the HMXD and COM Sub-districts of the Town Center, goods produced on site shall be available for retail purchase on the site.
- (2) In the MXD Sub-district of the Town Center, such use shall be allowed by right if goods produced on site are available for retail purchase on the site. Otherwise, such use may be allowed as a special use.

(H) Small Wireless Facilities

(1) Purpose

The purpose of this section is to:

- (a) Minimize the impacts of small wireless facilities on surrounding areas by establishing standards for location, structural integrity and compatibility;
- (b) Encourage the location and collocation of small wireless facilities equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures;
- (c) Encourage coordination between suppliers of small wireless facilities in the Town of Cary and its planning and development regulation jurisdiction;
- (d) Accommodate the growing demand for wireless services and the resulting need for small wireless facilities;
- (e) Regulate in accordance with all applicable federal and state laws;

- (f) Establish review procedures to ensure that applications for small wireless facilities are reviewed and acted upon within a reasonable period of time or any specific period of time required by law;
- (g) Protect the unique aesthetics of the Town while meeting the needs of its citizens and businesses to enjoy the benefits of wireless communications services; and
- (h) Encourage the use of existing buildings and structures as locations for small wireless facilities infrastructure as a method to minimize the aesthetic impact of related infrastructure.

It is not the purpose or intent of this section to prohibit, have the effect of prohibiting, or materially limit or inhibit wireless communications services; unreasonably discriminate among providers of functionally equivalent wireless communication services; regulate the placement, construction or modification of wireless communications facilities on the basis of the environmental effects of radio frequency emissions where it is demonstrated that the small wireless facility does or will comply with applicable FCC regulations; or prohibit or effectively prohibit collocations or modification that the town must approve under state or federal law. The provisions of this Section 5.2.4(H) are in addition to, and do not replace, any obligations an applicant may have under any franchises, licenses, encroachments, or other permits issued by the Town.

(2) **Definitions**

The following terms shall be defined as follows:

ACCESSORY EQUIPMENT means any equipment installed and owned by a third party used to deliver a service (other than a communications service) to a telecommunications facility, such as an electric meter.

ANTENNA has the same meaning as the term “antenna” defined in G.S. Chapter 160D, Article 9, Part 3.

APPLICABLE CODES has the same meaning as the term “applicable codes” defined in G.S. Chapter 160A, Part 3E.

BASE STATION means a structure or equipment at a fixed location that enables Federal Communications Commission licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a wireless support structure or any equipment associated with such structure. The term includes wireless facilities.

1. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. The term includes, but is not limited to, radio transceivers, antennae, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small wireless facilities).
3. The term includes any structure other than a wireless support structure that, at the time the relevant application is filed with the Town under this section, supports or houses equipment described in paragraphs (1) through (2) above

that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

4. The term does not include any structure that, at the time the relevant application is filed with the Town under this ordinance, does not support or house equipment described in paragraphs (1)-(2) above.

CITY UTILITY POLE has the same meaning as the term “city utility pole” as defined in G.S. Chapter 160D, Article 9, Part 3.

COLLOCATION has the same meaning as the term “collocation” as defined in G.S. Chapter 160D, Article 9, Part 3.

CONCEALED WIRELESS FACILITY, CONCEALED WIRELESS SUPPORT STRUCTURE, or CONCEALED ANTENNA means a stealth wireless facility, stealth wireless support structure, or stealth antenna.

CONCEALMENT ELEMENT means any design feature, including but not limited to painting, shielding requirements, shrouds, and restrictions on location or height in relation to the surrounding area that are intended to make a telecommunications facility less visible to the casual observer and to make the facility look like something other than a telecommunications facility. The design elements of a concealed (stealth) telecommunications facility are concealment elements. Concealment elements need not have been explicitly articulated as a condition or requirement of a prior approval; any design element considered by the Town in its approval of a stealth wireless support structure or stealth wireless facility is a concealment element, including requirements for walls or fences surrounding equipment. Such design elements are intended to be conditions ensuring the equipment is fully obscured and looks like something other than a telecommunications facility.

ELIGIBLE FACILITIES REQUEST means any request for modification of an existing wireless support structure or base station that does not substantially change the physical dimensions of such telecommunications tower or base station, as defined in either 47 C.F.R. 1.40001(b) or G.S. Chapter 160D, Article 9, Part 3.

MONOPOLE means a single, self-supporting, freestanding pole-type structure built for the sole purpose of supporting one or more antennae. For the purposes of this LDO, a utility pole is not a monopole.

QUALIFYING CITY UTILITY POLE means a modified or replacement city utility pole that does not exceed fifty (50) feet above ground level and that is associated with a new small wireless facility that does not extend more than ten (10) feet above such city utility pole.

QUALIFYING SMALL WIRELESS FACILITY means a new small wireless facility that does not extend more than ten (10) feet above the utility pole, city utility pole, or wireless support structure on which it is collocated and is located either (i) in the Town right-of-way or (ii) outside of Town right-of-way on non-residential or multi-family residential property.

QUALIFYING UTILITY POLE means a new utility pole or a modified or replacement utility pole that does not exceed fifty (50) feet above ground level and that is associated with a new small wireless facility that does not extend more than ten (10) feet above such utility pole.

SHROUD means a box or other container that contains, and is designed to camouflage or conceal the presence of, a telecommunications facility, antenna, or accessory equipment.

SMALL WIRELESS FACILITY has the same meaning as the term “small wireless facility” as defined in G.S. Chapter 160D, Article 9, Part 3.

STEALTH WIRELESS FACILITY, STEALTH WIRELESS SUPPORT STRUCTURE, or STEALTH ANTENNA means any telecommunications facility, wireless support structure, or antenna that is integrated as an architectural feature of a structure or that is designed to camouflage or conceal the presence of the telecommunications facility, wireless support structure, or antenna so that the purpose of the telecommunications facility, wireless support structure, or antenna is not readily apparent to a casual observer. Any telecommunications facility, wireless support structure, or antenna that was approved with concealment elements is a stealth wireless facility, wireless support structure, or antenna.

SUBSTANTIAL CHANGE has the same meaning as the term “substantial change” as defined by Federal Communications Commission regulations, 47 CFR 1.40001(b)(7).

SUBSTANTIAL MODIFICATION has the same meaning as the term “substantial modification” as defined in G.S. Chapter 160D, Article 9, Part 3.

TELECOMMUNICATIONS FACILITY means a facility consisting of a base station and accessory equipment, and the utility pole, city utility pole, or wireless support structure, if any, associated with the facility.

UTILITY POLE has the same meaning as the term “utility pole” as defined in G.S. Chapter 160D, Article 9, Part 3.

WIRELESS FACILITY has the same meaning as the term “wireless facility” as defined in G.S. Chapter 160D, Article 9, Part 3. The term includes small wireless facilities.

WIRELESS SUPPORT STRUCTURE has the same meaning as the term “wireless support structure” as defined in G.S. Chapter 160D, Article 9, Part 3. A utility pole or city utility pole is not a wireless support structure.

(3) *Siting*

To protect the unique aesthetics of the Town, to minimize new visual, aesthetic, and public safety impacts, and to reduce the need for additional antenna-supporting structures, the Town prefers that small wireless facilities be located outside the public right-of-way; collocated on existing utility poles or wireless support structures; concealed; and have their accessory equipment mounted on the utility pole or wireless support structure. These preferences are intended as guidance for development of an application for small wireless facilities.

(4) *Applicability; Compliance with Law; Exemptions*

- (a)** The standards established herein shall apply only to qualifying small wireless facilities, qualifying utility poles, and qualifying city utility poles, as defined herein. Nothing in this ordinance shall be interpreted to excuse compliance with, or to be in lieu of, any other requirement of state or local law, except as specifically provided herein. Without limitation, the provisions of this ordinance do not permit placement of small wireless facilities on privately-owned utility poles or wireless

support structures, or on private property, without the consent of the property owner or any person who has an interest in the property.

(b) Unless expressly set forth herein, the following categories of small wireless facilities are exempt from the requirements in Section 5.2.4(H), provided they meet the location and design requirements set forth below:

1. Any telecommunications facility below sixty-five (65) feet when measured from ground level which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission and used exclusively for amateur radio operations.
2. Over the air reception devices covered under 47 C.F.R. § 1.4000, so long as it satisfies the requirements set forth in Section 5.3.4(F)(2).
3. Eligible facilities requests that satisfy the requirements set forth in Section 5.2.4(D)(5).
4. Routine maintenance of small wireless facilities; the replacement of small wireless facilities with small wireless facilities that are the same size or smaller; or installation, placement, maintenance, or replacement of micro wireless facilities (as defined in G.S. Chapter 160D, Article 9, Part 3) that are suspended on cables strung between existing utility poles or city utility poles in compliance with all applicable laws or regulations by or for a communications service provider authorized to occupy the Town rights-of-way and who is remitting taxes under G.S. 105-164.4(a)(4c) or (a)(6).
5. A temporary small wireless facility, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the Town of Cary; except that such facility must comply with all federal and state requirements and must be removed at the conclusion of the emergency.
6. Public safety facilities or installations required for public safety on public or private property, including transmitters, repeaters, and remote cameras so long as the facilities are designed to match the supporting structure.
7. A small wireless facility located in an interior structure or upon the site of any stadium or athletic facility, provided that the small wireless facility complies with applicable codes.

(5) Collocation of Small Wireless Facilities

Collocation of small wireless facilities on land used as single-unit residential property or vacant land that is zoned for single-unit residential development, and any small wireless facility that extends more than ten (10) feet above the utility pole, city utility pole, or wireless support structure on which it is collocated, are subject to LDO Section 5.2.4(D). Notwithstanding the foregoing, replacement of an existing streetlight for which the Town is financially responsible with a streetlight capable of including a collocated, concealed small wireless facility is permitted on land used as single-unit residential property or vacant land that is zoned for single-unit residential development, pursuant to the requirements of Section 5.2.4(H)(6).

Collocations of qualifying small wireless facilities in Town right-of-way or outside of Town right-of-way on land that is in a non-residential zoning district or land that is used for non-single-unit residential property, are subject to the following requirements:

- (a) **Application.** Applicants must complete an application as specified in form and content by the Town.
- (b) **Height.** Each new small wireless facility shall not extend more than ten (10) feet above the utility pole, city utility pole, or wireless support structure on which it is collocated.
- (c) **Public Safety.** In order to protect public safety:
 - (1) Small wireless facilities shall cause no signal or frequency interference with public safety facilities or traffic control devices and shall not physically interfere with other attachments that may be located on the existing pole or structure.
 - (2) A structural engineering report prepared by an engineer licensed by the State of North Carolina shall be submitted by the applicant, certifying that the host structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennae and other equipment, extensions, and appurtenances associated with the installation.
 - (3) A traffic and pedestrian management plan must be submitted for any installation that requires work in the public right-of-way.
 - (4) No portion of a small wireless facility may be placed in the public right-of-way in a manner that:
 - i. Obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference; or
 - ii. Involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than eight (8) feet above ground level.
 - (5) An abandoned small wireless facility shall be removed within one hundred eighty (180) days of abandonment.
- (d) **Objective Design Standards.**
 - (1) No signs are permitted on small wireless facilities except for official or public notice or warning signs required by a valid and applicable federal, state, or local law, regulation or chapter; by a public utility company; or by order of a court of competent jurisdiction.
 - (2) Small wireless facilities shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Small wireless facilities shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.

(e) Stealth and Concealment.

- (1) All small wireless facilities shall be stealth facilities. Antenna and accessory equipment must be shrouded or otherwise concealed. Small wireless facilities shall blend with or match the structure to which they are attached.
- (2) Small wireless facilities to be collocated with a streetlight must be designed such that all cabling is inside the streetlight pole.

(f) Screening, Landscaping, and Spacing Requirements for Ground Equipment.

- (1) Ground equipment shall be screened, to the extent possible, with evergreen plantings or other acceptable alternatives approved by the Planning Director.

(g) Historic Preservation.

- (1) Small wireless facilities located in designated historic districts or on property designated as a landmark (pursuant to G.S. Chapter 160D, Article 9, Part 4) shall be required to obtain a Certificate of Appropriateness as required by LDO Section 3.27.

(h) Applicable Codes.

- (1) Small wireless facilities must meet applicable codes.

(6) *Utility Poles and City Utility Poles Associated with Small Wireless Facilities*

The placement of new utility poles is prohibited by the Town's undergrounding requirements in LDO Section 8.1.4(E)(2), unless permitted by that section. Modification or replacement of qualifying utility poles and qualifying city utility poles existing as of December 14, 2017, is not prohibited; however, the maintenance, modification, operation, or replacement of qualifying utility poles and qualifying city utility poles associated with small wireless facilities are subject to the following requirements:

(a) Application.

Applicants must complete an application as specified in form and content by the Town.

(b) Height.

Each modified or replacement utility pole or city utility pole shall not exceed (i) forty (40) feet above ground level on property zoned for or used as single-unit residential property, or in the right-of-way adjacent to such property, where existing utilities are installed underground, unless a variance is granted pursuant

to LDO Section 3.20; or (ii) fifty (50) feet above ground level on all other property. Each new small wireless facility shall not extend more than ten (10) feet above the associated utility pole, city utility pole, or wireless support structure on which it is collocated.

(c) Small Wireless Facilities.

All requirements of LDO Section 5.2.4(H)(5) apply to small wireless facilities located on a utility pole, city utility pole, or wireless support structure.

(d) Public Safety.

In order to protect public safety:

- (1)** No replacement utility poles or city utility poles associated with a small wireless facility are permitted in the clear zone as defined in the Town of Cary Standard Specifications & Details Manual unless such replacement pole is breakaway rated.
- (2)** No portion of a utility pole or city utility pole associated with a small wireless facility may be placed in the public right-of-way in a manner that:
 - i.** Obstructs pedestrians or vehicular or bicycle access, obstructs sight lines or visibility for traffic, traffic signage, or signals; or interferes with access by persons with disabilities. An applicant may be required to place equipment in vaults to avoid obstructions or interference; or
 - ii.** Involves placement of pole-mounted equipment (other than cabling) whose lowest point is lower than eight (8) feet above ground level.

(e) Objective Design Standards.

- (1)** No signs are permitted on utility poles or city utility poles except for official or public notice or warning signs required by a valid and applicable federal, state, or local law, regulation or chapter; by a public utility company; or by order of a court of competent jurisdiction.
- (2)** Utility poles or city utility poles associated with a small wireless facility shall be blended with the natural surroundings as much as possible. Colors and materials shall be used that are compatible with the surrounding area, except when otherwise required by applicable federal or state regulations. Utility poles or city utility poles associated with a small wireless facility shall be located, designed, and/or screened to blend in with the existing natural or built surroundings to reduce the visual impacts as much as possible, and to be compatible with neighboring land uses and the character of the community.

(f) Stealth and Concealment.

- (1)** All antenna and accessory equipment must be shrouded or otherwise concealed and shall blend with or match the pole to which they are attached.

- (2) Small wireless facilities to be collocated with a streetlight must be designed such that all cabling is inside the streetlight pole.

(g) Historic Preservation.

- (1) Utility poles or city utility poles associated with a small wireless facility located in designated historic districts or on property designated as a landmark (pursuant to G.S. Chapter 160D, Article 9, Part 4) shall be required to obtain a Certificate of Appropriateness as required by LDO Section 3.27.

(h) Applicable Codes.

- (1) Utility poles and city utility poles associated with a small wireless facility must meet applicable codes.

(7) Standard Conditions

- (a) Applicant must obtain all other required permits, authorizations, approvals, agreements, and declarations that may be required for installation, modification, and/or operation of the proposed facility under federal, state, or local law, rules, or regulations, including but not limited to encroachment agreements and FCC approvals. An approval issued under this Section 5.2.4(H) is not in lieu of any other permit required under the LDO or Town Code, nor is it a franchise, license, or other authorization to occupy the public right-of-way, or a license, lease, or agreement authorizing occupancy of any other public or private property. It does not create a vested right in occupying any particular location, and an applicant may be required to move and remove facilities at its expense consistent with other provisions of applicable law. An approval issued in error, based on incomplete or false information submitted by an applicant or that conflicts with the provisions of the LDO, is not valid. No person may maintain a small wireless facility in place unless required state or federal authorization remain in force.
- (b) All small wireless facilities and related equipment, including but not limited to fences, cabinets, poles, and landscaping, shall be maintained in good working condition over the life of the use. This shall include keeping the structures maintained to the visual standards established at the time of approval. The small wireless facility shall remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than thirty (30) calendar days from the date of notification by the Town. In public rights-of-way, damaged or deteriorated components must be corrected within five (5) business days of notification.
- (c) The property owner(s) or applicant shall submit a certification letter from a North Carolina certified land surveyor or licensed engineer which verifies that structure height complies with the approved development plan.
- (d) The applicant or owner shall maintain onsite at the facility contact information for all parties responsible for maintenance of the facility.
- (e) Small wireless facilities, whether operating alone or in conjunction with other facilities, shall not generate radio frequency emissions in excess of the standards established by the Federal Communications Commission.
- (f) After written notice to the applicant and/or owner, the Town may require the relocation, at the applicant/owner's expense, of any small wireless facility, and the associated

utility pole, city utility pole, or wireless support structure on which it is collocated, located in the public right-of-way, as necessary for maintenance or reconfiguration of the right-of-way or for other public projects, or take any other action or combination of actions necessary to protect the health and welfare of the Town.

- (g) Collocation or modification of small wireless facilities on an existing non-conforming wireless support structure or base station shall not be construed as an expansion, enlargement, or increase in intensity of a non-conforming structure and/or use, provided that the collocation or modification constitute an eligible facilities request.
- (h) Collocation of small wireless facilities shall commence within six (6) months of approval and each small wireless facility shall be activated for use no later than one (1) year from the date of approval. These time limits shall be extended if delay is caused by a lack of commercial power to the small wireless facility. The Planning Director may grant an extension of these time limits, for good cause shown, upon receiving a request from the applicant before the expiration of the applicable time limit. Section 3.9.2(k)(2) of the LDO shall not apply to collocation of small wireless facilities.

(I) Brewery, Distillery, or Winery

(1) *GC, MXD, HMXD, MXD, CLI, COM*

Breweries, distilleries, or wineries in the GC district, Mixed Use District, or HMXD, MXD, CLI or COM subdistricts of the Town Center shall include either a tasting room or restaurant, which shall be open to the public.

(2) *Industrial District*

Breweries, distilleries, or wineries in the Industrial district with a tasting room or restaurant are allowed only as a special use.

(3) *Outdoor Activities Requiring a Special Use Permit*

- (a) In all districts, any brewery, distillery, or wineries proposed to include an outside amphitheater, stage, or provision for live or recorded acoustic or amplified entertainment outside of the building within one hundred (100) feet of the following residential zoning districts shall be allowed only as a special use: R80, R40, R20, R12, R8, TR, RMF, HDR Mid-Rise, HDR Garden, MXDR, MDR, and LDR.
- (b) The one hundred (100) foot distance shall be measured from the center of the outdoor facility to the property line of the nearest residential zoning district specified above.
- (c) Outdoor seating is allowed without a special use permit.

(4) *Outside Storage*

In all districts, storage of materials, products for distribution, and other items requiring long-term storage shall be allowed in areas behind the building, within service alleys, or otherwise screened from view of the public right-of-way or pedestrian way.

(Ord. No. 04-001, 1-8-04; Ord. No. 04-007, 7-15-04; Ord. No. 05-001, 1-13-05; Ord. No. 06-005, adopted 3-23-06; eff. 3-23-06; Ord. No. 06-009, 4-27-06); Ord. No. 2007-04, 3-22-07; Ord. No. 2007-21, 12-13-07; Ord. No. 2008-LDO-01, 9-25-08; Ord. No. 2010-LDO-01, 1-14-10; Ord. No. 2010-LDO-02, 1-28-10; Ord. No. 2010-LDO-03, 2-25-10; Ord. No. 2010-LDO-05, 12-16-10; Ord. No. 2011-LDO-01, 1-11-11; Ord. No.

2011-LDO-04, 11-17-11; Ord. No. 2011-LDO-05, 12-15-11; Ord. No. 12-LDO-01, 2-23-12; Ord. No. 2012-LDO-03, 5-10-12; Ord. No. 2012-LDO-04, 5-24-12; Ord. No. 2012-LDO-08, 10-11-12; Ord. No. 2013-LDO-02, 6-13-13; Ord. No. 2013-LDO-04, 9-26-13; Ord. No. 2013-LDO-06, 11-21-13; Ord. No. 2014-LDO-01, 1-9-14; Ord. No. 2014-LDO-03, 8-14-14; Ord. No. 2015-LDO-001, 4-21-15; Ord. No. 2015-LDO-003, 7-23-15; Ord. No. 2015-LDO-006, 12-10-15; Ord. No. 2016-LDO-01, 7-25-16; Ord. No. 2017-LDO-01, 1-24-17; Ord. No. 2017-ACT-01, 10-26-17; Ord. No. 2017-ACT-02, 12-14-17; Ord. No. 2018-LDO-01, 5-3-18; Ord. No. 2018-LDO-03, 11-15-18; Ord. No. 2018-LDO-04, 12-13-18; Ord. No. 2019-LDO-01, 9-26-19; Ord. No. 2019-LDO-03, 10-10-19; Ord. No. 2020-LDO-01, 5-7-20; Ord. No. 2021-LDO-01, 6-24-21; Ord. No. 2022-LDO-02, 4-28-22; Ord. No. 2022-LDO-03, 10-27-22; Ord. No. 2023-LDO-03, 6-22-23; Ord. No. 2023-LDO-04, 11-16-23)

5.3 ACCESSORY USES AND STRUCTURES

5.3.1 Purpose

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The Town's intent in adopting this Section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the performance criteria set forth in this section in order to reduce potentially adverse impacts on surrounding properties.

5.3.2 General Standards and Limitations

(A) Compliance with Ordinance Requirements

All accessory uses and accessory structures shall conform to the applicable requirements of this Ordinance, including the use regulations of Chapter 5 and the dimensional standards of Chapter 6. The provisions of this section establish additional requirements and restrictions for particular accessory uses and structures.

(B) Approval of Accessory Uses and Structures

Unless otherwise specified in this Section, any accessory use or accessory structure shall be treated as a permitted use in the zoning district in which it is located. An accessory use or structure may be approved in conjunction with approval of the principal use or structure.

(C) Accessory Use Permit

Some accessory uses in this Section require the issuance of an Accessory Use Permit consistent with the requirements set forth in Section 3.5 of this Ordinance.

(D) Location of Accessory Buildings, Structures, or Vehicles

(1) Definition of Attached Accessory Structure

If an accessory structure other than a garage is located closer than five (5) feet to the principal structure, the accessory structure shall be deemed attached to the principal structure.

(2) General Location Restrictions

Accessory structures or vehicles shall meet the standards set forth in Chapter 6 of this Ordinance, and shall not be located within any easements.

In instances where the principal structure is allowed by zoning to be less than five (5) feet from the rear or side property line, the minimum required setback of the accessory structure may equal the setback of the principal structure provided the accessory structure complies with all applicable building code requirements.

(3) Additional Location Restrictions Applicable to Boats, Trailers and Vehicles

Storage or parking of all boats, recreational vehicles and utility or travel trailers or other vehicles allowed by this Section shall be located as follows:

- (a)** within a side yard (not including corner side yards) such that they are not closer to the front of a lot or the street than the principal structure;

- (b) within a rear yard (not including rear yards adjacent to a public street); or
- (c) within a corner side yard, or rear yard that is between the principal structure and an adjacent public street, where screened from the view of the street by an opaque fence with a minimum height of six (6) feet, plus additional opaque fencing (up to a height of eight (8) feet) and/or evergreen trees sufficient to obscure the full height of the boat, recreational vehicle, or trailer.

Storage of such boats, vehicles or trailers shall not occur within a front yard (defined as the yard between the façade with the front door and the street) or within a side or rear building setback.

(4) Additional Location Restrictions for Accessory Dwelling Units, Garages and Similar Structures

- (a) Except as provided in Section (b) below, accessory dwelling units, garages and similar accessory structures shall be located no closer to the front of a lot than the principal structure, except where such accessory structure is attached to the principal structure by a minimum of fifty percent (50%) of the length of attached side of the accessory structure.
- (b) Section (a) above shall not apply to accessory dwelling units, garages and similar accessory structures located on lots forty thousand (40,000) square feet or larger, provided that the accessory structure is located a minimum of one hundred (100) feet from the front property line.

This section (4) shall not apply to carports or other structures which are open on three (3) or more sides.

(E) Size of Residential Accessory Buildings and Structures

- (1)** For structures accessory to residential uses, the combined floor area of all detached accessory structures shall occupy no more than thirty-three (33) percent of the total heated floor area of the principal structure, unless otherwise allowed in this Ordinance.

This requirement shall not apply to roofed structures without walls (such as carports) provided such structures are not located within the minimum required setbacks for the principal structure on the lot.

For lots forty thousand (40,000) square feet or greater in area:

- a) The combined floor area of all detached accessory structures shall not exceed five percent (5%) of the total lot area.
- b) No single detached structure shall exceed seventy percent (70%) of the total heated floor area of the principal structure, excluding accessory structures for agricultural purposes (e.g. barn).
- c) All detached accessory structures that exceed fifty percent (50%) of the total heated floor area of the principal structure shall meet the minimum required setbacks for the principal structure, regardless of their location on the lot in relation to the principal structure.

This Section 5.3.2(E)(1) shall not apply to accessory dwelling units.

(F) Signs

All signs shall be governed by the standards set forth in Chapter 9.

(G) Temporary Accessory Uses and Structures

Temporary accessory uses and structures shall be governed by the standards and temporary use permit procedures set forth in Sections 3.7 and 5.4 of this Ordinance.

5.3.3 Accessory Uses Prohibited**(A) Prohibited in All Zoning Districts**

The following activities shall not be regarded as accessory to a principal use on any site and are prohibited in all zoning districts:

(1) *Use of Travel Trailer, Recreational Vehicle, or Tent as Residence*

The use of a travel trailer, recreational vehicle, or tent as a residence, permanent or temporary is prohibited, with the exception of a trailer approved as a temporary use for security under Section 5.4. However, a recreational vehicle (RV) may be used as a temporary residence for up to two (2) weeks, provided the vehicle is located in the driveway or a side or rear yard, such that the RV is no closer to the front or corner side of a lot than the principal structure. Utilization of an RV as a temporary residence is not considered as "storage" as described in Section 5.3.2.

(2) *Use of Motor Vehicle or Trailer for Sales, Service, Storage, or Other Business*

The use of any motor vehicle, or trailer or shipping container, as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted. However, this subsection shall not prohibit the following:

- (a) The retail sale of agricultural products, as allowed by Section 5.4.6(D) of this Ordinance; or
- (b) Use of a motor vehicle, trailer, or shipping container in connection with an approved recycling operation; or
- (c) Use of a trailer or shipping container in conjunction with construction authorized by a valid building permit; or
- (d) Use of a trailer or shipping container for the temporary loading and unloading of goods not intended for retail sale, provided that no individual trailer or container is in place longer than forty-eight (48) hours; or
- (e) The operation of a food truck as allowed by Section 5.3.4(P) of this Ordinance.

(B) Prohibited in Residential Zoning Districts

The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:

(1) *Automotive Repair*

Automotive repair, including engine, body, or other repair or repainting of more than one (1) vehicle at any one (1) time; as well as automotive repair of any vehicle not owned by a person residing at that address, regardless of whether compensation was paid for the service.

(2) *Parking of Business Vehicles*

The storage or parking of a vehicle or trailer, for a period of one (1) or more nights, if the vehicle or trailer is licensed or regularly used for business purposes, and is either:

- (a) A vehicle for which a commercial driver's license is required by state law; or
- (b) A vehicle or trailer having in excess of two (2) axles; or
- (c) Any trailer bearing commercial signage, logo, or carrying commercial or industrial equipment or materials; or
- (d) A vehicle or trailer having a height in excess of ninety (90) inches, which is stored or parked in any yard.

5.3.4 Accessory Uses and Structures Allowed**(A) *Accessory Dwelling Units***

An accessory dwelling unit shall be permitted as an accessory use subject to the following standards:

(1) *Districts Allowed*

Accessory dwelling units, including temporary health care structures as provided in G.S. 160D-915, shall be allowed as accessory uses to principal detached dwelling units as depicted in Table 5.1-1 as well as in planned development districts, unless explicitly prohibited; and in the TC district, as allowed by Section 4.2.2(N).

(2) *Where Permitted on Lot*

A permitted accessory dwelling unit shall comply with all applicable site and building design, access, and other standards for principal detached dwelling units in the zoning district in which the accessory dwelling unit will be located; except that such structures, not including temporary health care structures, shall only be required to meet the setback requirements for accessory structures. Temporary health care structures shall comply with all setback requirements that apply to the primary structure.

(3) *Size of Accessory Dwelling Unit*

- (a) The heated floor area of accessory dwelling units shall not exceed the lessor of (i) fifty (50) percent of the heated floor area of the principal detached dwelling, or (ii) eight hundred (800) square feet (if the total lot is less than forty thousand (40,000) square feet in size) or one thousand (1,000) square feet (if the total lot is forty thousand (40,000) square feet or greater), except as provided in subsection (b).
- (b) The heated floor area of accessory dwelling units that result from the conversion of an existing level or floor within the principal detached dwelling (e.g. basement, attic, or second story) with no new heated square footage added, shall not exceed fifty (50) percent of the heated floor area of the principal dwelling as it existed prior to the conversion.

(4) *Limit on Number*

There shall be no more than one (1) accessory dwelling unit on a lot.

(5) Off-Street Parking

At least one (1) off-street parking space shall be provided for an accessory dwelling unit.

(6) Home Occupations

Home occupations shall be prohibited within an accessory dwelling unit.

(7) Height

In the R-12, R-8, and TR zoning districts, and for any PDD approved after June 2, 2025, detached accessory dwelling units shall be no taller than the principal dwelling. For all other zoning districts, accessory dwelling units shall not exceed the maximum height for structures for that zoning district.

(8) Access

Units that are within or attached to the principal detached dwelling unit shall have a separate exterior entrance, or an entrance to an internal common area accessible to the outside.

(B) [Reserved]**(C) Home Occupations**

A home occupation shall be permitted as accessory to a principal dwelling unit in accordance with the following:

(1) General Requirements

The following standards apply to all home occupation uses:

(a) Employees and Residency

- (i)** The principal person or persons providing the business or service resides in the dwelling on the premises.
- (ii)** The home occupation employs no more than one (1) person who does not reside on the premises.

(b) Neighborhood Compatibility

- (i) The home occupation causes no change in the external appearance of the existing buildings and structures on the property.
- (ii) There shall be no commercial vehicles, and no more than two (2) noncommercial vehicles associated with the home occupation.
- (iii) There is sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself pursuant to Section 7.8 of this Ordinance.
- (iv) No additional parking areas other than driveways shall be located in the required front setback.
- (v) [Reserved]
- (vi) The property contains no outdoor display or storage of goods or services that are associated with the home occupation.
- (vii) Wholesale or retail sales of goods do not occur on the premises.
- (viii) The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

(c) Compliance Regulations for Food Preparation

Prior to receiving an Accessory Use Permit for businesses associated with food preparation or catering, the applicant must show proof of compliance with all County environmental and health regulations and NC State Building Code regulations.

(2) Size and Area**(a) Type I Home Occupation**

A Type I home occupation involves administrative support for the rendering of a service off-site in exchange for monetary fees or other remuneration, and complies with all of the following:

- (i) no customers or clients visit the home;
- (ii) no employees living outside the home are physically employed at the residence;

- (iii) no delivery of goods or materials to the home is required in connection with the business; and
- (iv) no material goods or products are produced, stored, or manufactured at the residence.

A Type I home occupation may occupy up to twenty (20) percent of the heated floor area of the residence, or five hundred (500) square feet, whichever is less.

(b) Type II Home Occupation

A Type II home occupation involves the rendering of service on-site, or administrative or other support for the rendering of a service off-site in exchange for monetary fees or other remuneration in a manner that complies with the general requirements specified in Section 5.3.4(C)(1), but does not qualify as a Type I Home Occupation.

A Type II home occupation may occupy up to ten (10) percent of the heated floor area of the residence, or five hundred (500) square feet, whichever is less.

(3) *Applicability of Accessory Use Permit*

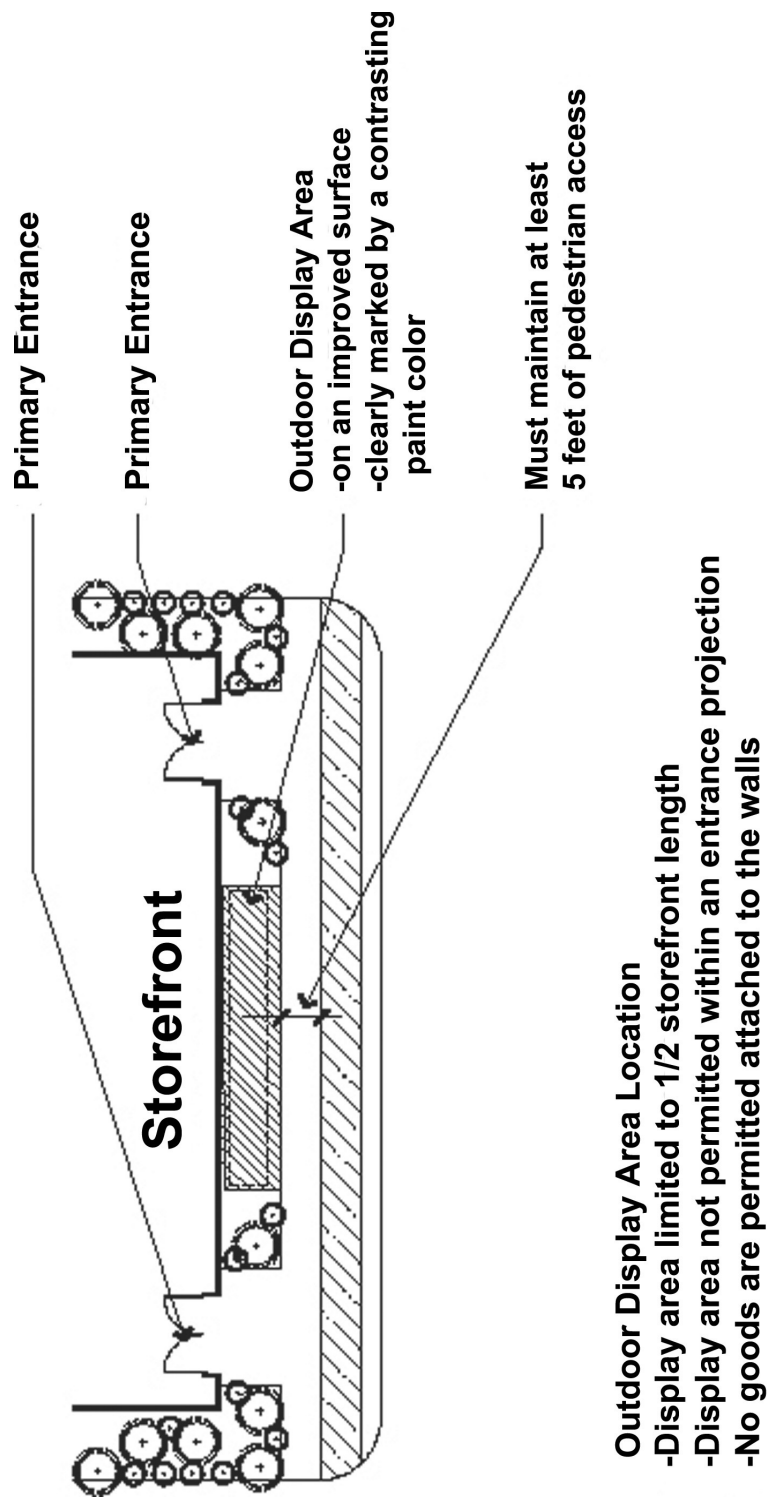
Approval of an accessory use permit shall be required for all Type II home occupation uses.

(4) *Applicability to Small and Large Day Care Homes*

Requirements of this Section 5.3.4(O) do not apply to Large and Small Day Care Homes, which are regulated by Sections 5.3.4(L) and 5.3.4(M), respectively.

(D) Outdoor Display and Sales

Outdoor display and/or sale may be allowed as an accessory use for all uses requiring development plan approval. It is the intent of this Ordinance to allow the display of merchandise for sale by the merchant of the principal use, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. This shall not include hazardous and flammable materials, such as gasoline, oil, antifreeze, kerosene, poisons, pesticides and similar items. The display of goods shall meet all of the following requirements:



Outdoor Display and Sales

(1) Procedural Requirements

Outdoor display and/or sale shall require approval of the Planning Director. All new development plans must show the location of such areas in accordance with this section. Existing non-residential uses must submit a sketch showing the location of the outdoor display or sales areas and how the requirements of this section are to be met. Approval may be subject to appropriate conditions by the Planning Director.

(2) Where Permitted

- (a)** All outdoor display and/or sale of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes, or parking lots, except as otherwise allowed or required in this Section 5.3.4(D)(2).
- (b)** The area in front of a store that may be used for outdoor display and/or sales shall be limited to no more than one-half (1/2) of the length of the front of the building. In the case of a shopping center, the "front of the building" shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed fifty (50) percent of the aggregate building frontage of the overall shopping center. If the store is located in a building that is one hundred thousand (100,000) square feet or larger in size and meets a minimum setback of three hundred (300) feet from a thoroughfare, then the area on one (1) side of the building may be used for outdoor display and/or sales, as long as the area is limited to no more than three-quarters (3/4) of that side of the building.
- (c)** The area of outdoor display and/or sales shall not encompass the width of the entrance doors to the facility as projected straight out from the facility. For example, if the width of the entrance doors is ten (10) feet, then there shall be at least a ten (10) foot clearance from the doors as projected straight out and away from the facility.
- (d)** Where adjacent to and accessible from an on-site parking area, at least five (5) feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.
- (e)** No goods shall be attached to a building's wall surface.
- (f)** The height of the outdoor display shall not exceed six (6) feet, unless an exception to this provision has been granted by the Planning Director.
- (g)** Where adjacent to and accessible from an on-site parking area, the outdoor display and/or sales area shall take place on an improved surface such as the sidewalk or pavement. Either the outdoor display and/or sales area, or the required area of pedestrian/handicap movement, must be clearly marked by a contrasting paint color or a unique surface treatment (e.g., use of different materials, scored surface, etc.).
- (h)** Retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container is prohibited, unless explicitly allowed in this Section 5.3.4(D)(2).

- (i) Where the principal use is located within a general shopping center (as defined in LDO Chapter 12), or Mixed Use Overlay District, sale of bulk horticultural or agricultural products such as plants, mulch and pine straw may occur in parking lots from March 15 through June 15 of each year, subject to all of the following:
 - (i) such display and/or sales may occur from a maximum of two (2) vehicles, trailers, or shipping containers; and
 - (ii) such display and/or sales may occur outside of drive aisles within a designated area in the parking lot not to exceed two thousand (2,000) square feet provided that: any parking spaces located within the designated area are in addition to the minimum number of parking spaces required for the principal use; such designated area is delineated by barrier at least three (3) feet in height, with a single entrance; such designated area is set back at least five (5) feet from any adjacent drive aisle; and access to such designated area is located so as to minimize the need to cross drive aisles;
 - (iii) such designated areas, vehicles, trailers or containers will not interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic; and
 - (iv) such designated areas, vehicles, trailers or containers shall be located in a manner that minimizes visibility from public streets.
- (j) Within the area inside the outer perimeter of the Town Center District, including all subdistricts and conditional use districts, outdoor display and sales area may not exceed twenty-five percent (25%) of the floor area of the principal use, subject to the following:
 - (i) all of or a portion of the allowable outdoor display and/or sales area may be located in the side and/or rear yards if enclosed within a minimum forty-two (42)-inch-high decorative fence attached to the building; and
 - (ii) up to forty percent (40%) of the allowable outdoor display and/or sales area may be located between the front of the building and the street right-of-way.

(3) *Temporary Sales Events Distinguished*

Temporary sales events not meeting all requirements of this Section 5.3.4(D) may be allowed as a special event with approval of a temporary use permit in accordance with Section 5.4.7.

(E) *Outdoor Storage as an Accessory Use*

Outdoor storage may be allowed as an accessory use for all uses requiring development plan approval. The storage area shall meet all of the following requirements:

- (1) Each outdoor storage area shall be incorporated into the overall design of the primary structure on the site and shall be located at the rear of the primary structure.
- (2) Goods stored in an approved outdoor storage area shall be limited to those sold on the premises as part of an associated, additional primary use.

- (3) Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall between six (6) and eight (8) feet in height that incorporates at least one (1) of the predominant materials and one (1) of the predominant colors used in the primary structure. The fence may exceed eight (8) feet in height where the difference in grade between the right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area. Materials may not be stored higher than the height of the primary structure. The perimeter of the fence or wall must be landscaped with a seven (7)-foot wide strip containing a minimum of one (1) tree for every one hundred fifty (150) square feet of lot area.
- (4) A landscaped earth berm may be used instead of or in combination with a required fence or wall.
- (5) If the outdoor storage area is covered, then the covering shall include at least one (1) of the predominant exposed roofing colors on the primary structure.
- (6) Flammable liquids or gases in excess of one thousand (1,000) gallons shall be stored underground.
- (7) No materials may be stored in areas intended for vehicular or pedestrian circulation.
- (8) If installed, exterior lighting shall meet the functional needs of the facility without adversely affecting adjacent properties or the neighborhood.

(F) Satellite Dish Antenna

(1) Purpose

These regulations are adopted in order to:

- (a) Comply with applicable state and federal law, including the federal Telecommunications Act of 1996;
- (b) Control the location and screening of satellite dish antennae to lessen any impact on surrounding properties; and
- (c) Preserve the Town's image and character.

(2) Small Satellite Dish Antennae

Satellite dish antennae of one (1) meter (or thirty-nine (39) inches) or less in diameter are permitted accessory uses in all residential and non-residential zoning districts. Such dishes shall not be located within the public right-of-way.

(3) Large Satellite Dish Antennae**(a) Non-Residential Zoning Districts**

Satellite dish antennae measuring one meter (or 39 inches) or more are permitted accessory uses in non-residential zoning districts.

(b) Residential Zoning Districts

Satellite dish antennae measuring one meter or more are permitted accessory uses in the residential zoning districts. Such dishes are subject to the requirements set forth below to the maximum extent feasible, but only where there is no impairment of acceptable signal quality. These regulations are not intended to impose unreasonable delays or impose unreasonable costs on the installation, maintenance, or use of satellite dishes, and shall not be interpreted or enforced in any manner contrary to federal or state law.

1. Location

Satellite dishes shall be located to the rear of the principal building, but not within ten feet of any side or rear property line or in any required buffer.

2. Screening

Satellite dishes shall be screened so that no more than 40 percent of the area of the satellite dish antenna is visible from any public street or private street open to the public. The screen may consist of, but is not limited to, fences, buildings, plantings, or any other opaque vegetation or structure permanently affixed to the real property. Screens of vegetation may be installed to meet this requirement.

(G) Vehicular Gate**(1) Purpose and Intent**

The regulations of this section are intended to clarify existing Town prohibitions on vehicular gates in residential districts and to specify the conditions under which vehicular gates used for security purposes may be installed in other districts.

(2) Public Streets

No vehicular gate shall be allowed on any public street, nor on private streets in residential districts, nor in any residential development.

(3) Public Vehicular Areas

Vehicular gates may be allowed on public vehicular areas only as set forth in this section. "Public vehicular areas" include areas for driving, parking, and loading or unloading of vehicles.

(a) Residential Districts

No vehicular gate shall be allowed in any residential district.

(b) Non-Residential Districts

1. Vehicular gates may be permitted in non-residential districts, provided they are not in residential use, at entrances and exits of:
 - a. Parking lots to regulate or control parking where the parking lot is a principal use of the property;
 - b. Mini-storage areas, to control access to the mini-storage containers only; and
 - c. Outdoor equipment storage areas, provided in all cases it is only the equipment storage area that is enclosed by the vehicular gate, and no building access is affected by the vehicular gate.
2. Vehicular gates may be permitted in non-residential districts at the entrances and exists of other uses not listed above provided the following standards are met:
 - a. The primary purpose of the gate is to provide safety and security for the area located beyond the gate by regulating access of motor vehicles to that area; and
 - b. The vehicular security gate shall be staffed 24 hours a day so that police and all emergency vehicles will be allowed immediate access without delay, unless all emergency service providers find that such staffing is not necessary; and
 - c. The vehicular security gate is maintained in good operating condition.

(H) Recycling Drop-Off Stations

Recycling drop-off stations shall be permitted as accessory uses in conjunction with any use which does not receive refuse collection from the Town of Cary. Section 10-37 of the Code of Ordinances states that the Town will not provide refuse collection services for any building with more than six (6) units in a residential, office, business or industrial zone or permitted use in an overlay zone, nor will the Town provide refuse collection services for any use or building which exceeds the maximum stated volume of refuse (four 32 gallon containers picked up twice a week). Recycling drop-off stations shall comply with the following standards:

- (1) All drop-off containers and storage bins, with the exception of roll-out carts located in townhouse and multi-family developments and recycling containers located on school sites, shall be screened from view to at least fifty (50) percent of the height of the containers and bins in the station. The screen may be fencing or plantings. If plantings are used, the plants must reach the height indicated in the previous sentence within three (3) years of planting. Roll-out carts shall be a neutral or earth tone color, not be visible from a public street, and be located within the interior of the development;
- (2) The station shall be kept free of litter, debris, and residue;

- (3) Each station shall be allowed one ground identification sign no more than sixty (60) inches high and seventeen (17) square feet in area, apportioned between all the sides of the sign. The sign shall include the name and telephone number of a party responsible for management and maintenance of the station shall be clearly posted at the station;
- (4) Drop-off containers and storage bins shall be located no closer than fifty (50) feet to a lot occupied by a dwelling;
- (5) Excluding screening, drop-off containers and storage bins shall occupy no more than five hundred (500) square feet in total;
- (6) The station shall not occupy or block access to parking spaces or aisles which Chapter 12 of this Ordinance requires for the principal use;
- (7) The station shall not involve the unattended parking of a trailer;
- (8) All drop-off containers and storage bins shall be durable, waterproof, rustproof, covered, and secure from unauthorized entry, and shall be clearly marked to indicate the type of material to be deposited therein;

(I) Swimming Pools, Hot Tubs and Spas**(1) *Enclosure Required for Swimming Pools, Hot Tubs, and Spas*****(a) General Requirement**

In order to protect unattended children from the risk of drowning:

1. All below-ground outdoor swimming pools, hot tubs, or spas having a depth of eighteen (18) inches or greater at the deepest point shall be completely surrounded by a fence or wall with a height of no less than four (4) feet. The fence or wall may be made of any suitable and durable material. The fence or wall shall be designed so that a four (4) and one-half (1/2) inch diameter sphere cannot pass through any opening. The principal or accessory building may be used as part of such enclosure.
2. All above-ground swimming pools shall maintain gates at access points into the pool.
3. All gates required by this section shall have self-closing and self-latching devices that keep the gate or door closed at all times when not in actual use. However, the door of any dwelling that furnishes part of the enclosure need not be so equipped.

(b) Exemption

A portable spa or hot tub with a safety cover that complies with ASTM ES13 entitled "Emergency Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs," 1989 edition, is exempt from the requirements of this section.

- (2) Such uses shall be required to meet the setback provisions for accessory structures indicated in Table 6.3-1.
- (3) Above-ground mechanical and utility equipment associated with swimming pools, hot tubs, or spas requires screening. Mechanical and utility equipment internally encapsulated within the swimming pool, hot tub, or spa shall not require screening.
 - (a) Screening materials must immediately surround all vertical sides of the equipment and may include walls, fencing and other appropriate materials so long as one hundred (100) percent opacity is achieved at the time of installation.
 - (b) Screening materials shall exceed the height of the equipment and shall not interfere with the operation of the equipment.
 - (c) Inclusive of screening materials, associated above-ground mechanical and utility equipment shall be required to meet the setback provisions for accessory structures indicated in Table 6.3-1.

(J) Animal Husbandry

For the purpose of this section the definitions of "chicken," "domestic fowl" and "livestock" from Chapter 6 of the Town of Cary Code of Ordinances shall apply.

(1) Residential-80 and Residential-40 Zoning Districts

The keeping of livestock and domestic fowl shall be allowed as an accessory use in the R-40 and R-80 zoning districts with no permit required, provided all of the following conditions are met:

- (a)** Such animals may not be kept for the express purpose of commercial sale;
- (b)** Cows, bulls, horses, mules, ponies, burros, llamas or other hooved mammals are limited in quantity per acre in accordance with North Carolina Department of Agriculture guidelines;
- (c)** Stables for the keeping of hooved mammals may not be erected closer than three hundred (300) feet to any residence on an adjacent property;
- (d)** The keeping of swine is prohibited; and
- (e)** The keeping of roosters is prohibited on lots smaller than five (5.0) acres.

(2) Other Zoning Districts

The keeping of chickens shall be permitted as an accessory use in conjunction with detached, single-unit residential uses in the R-20, R-12, R-8, TR, TC-MDR, TC-LDR, TC-LDR-12, PDD and MXD districts where the minimum lot size is six thousand (6,000) square feet. Such use shall only occur in accordance with the following:

(a) Accessory Use Permit Required

An accessory use permit must be secured in accordance with Section 3.5. The permit application must include a plot plan that shows the location and dimensions of the chicken coop and chicken pen, and their distance from the property lines.

(b) Number and Type of Chickens Allowed

The maximum number of female chickens (hens) allowed is five (5) per lot. No roosters are permitted.

(c) Personal Use Only

Eggs, chicks, adult chickens, and processed chickens shall not be sold. Chicken manure and compost using chicken manure shall not be sold or otherwise distributed.

(d) Chickens Enclosed

A chicken coop and pen shall be provided, and such coops and enclosures may not include residential structures or garages. Chickens shall be secured in the

chicken coop during non-daylight hours. During daylight hours, chickens may be located in the chicken pen.

(e) Location of Coops, Pens and Tractors

Chicken coops, pens, and tractors (whether stationary or moveable) shall only be located in rear yards (behind the line formed by the back wall of the residence), shall comply with a minimum setback of fifteen (15) feet from side and rear property lines, shall be located closer to the owner's primary structure than any neighbor's primary structure, and shall be outside of regulated urban transition buffers. The cumulative area limitations for accessory structures contained in Section 5.3.2(E) are not applicable unless a building permit is required for such an accessory structure.

(f) Coop and Pen Construction and Design

The chicken coop, tractor, and/or pen shall be properly designed and constructed to provide adequate security from rodents, wild birds, and predators; sufficient ventilation; and suitable shelter for the hens.

(g) Chicken Coop and Pen Management

(i) Maintenance.

The permittee shall ensure that chickens shall have adequate access to feed, clean water, and bedding at all times. The chicken coop, chicken pen, and surrounding area shall be cleaned of hen droppings, uneaten feed, feathers and other waste, and shall be kept in a neat and sanitary condition at all times to preclude odors and aesthetic nuisances. Chicken feed shall be stored in a secure container.

(ii) Manure and Compost.

Chicken manure shall be bagged and disposed of with household waste or composted on-site. All stored manure shall be completely contained in a waterproof container. Any compost using chicken manure shall be produced in an enclosed backyard composter and such activity shall comply with the Town Code of Ordinances.

(iii) Slaughter or Disposal of Dead Chickens.

On-site slaughter shall be prohibited in accordance with the Town Code of Ordinances.

Dead chickens. If a chicken dies from causes other than slaughter, it shall be promptly placed into a plastic bag, which shall be closed securely and disposed of with household waste.

(K) Yard Parking on Single-Unit and Duplex Residential Lots

(1) Vehicular parking area shall not exceed either of the following:

(a) Forty (40) percent of any streetyard; or

(b) Three hundred and thirty (330) square feet plus:

- i) an area equal to the linear depth of the front yard multiplied by fifteen (15) feet; or
 - ii) a circular or semi-circular driveway, not to exceed a width of fifteen (15) feet, with no more than two (2) access points on the street; or
 - iii) a combination of i) and ii) above.
- (2) Vehicular parking area shall be located in clearly delineated space(s) on an improved surface such as concrete, asphalt, gravel or other non-eroding material, with the following exception:
 - (a) Up to two (2) vehicles may be parked on an unimproved surface on lots recorded and developed prior to January 14, 2010, provided that said parking is parallel to the driveway.

PRINCIPLES OF INTERPRETATION

Section 5.3.4(K) is not intended to apply to parking for a short duration, such as for deliveries, visitors, and infrequent social events.

(L) Day Care Homes, Large

- (1) A large day care home is intended for the care of seven (7) to twelve (12) children at any given time. Large day care home uses may be permitted as a special use in any single-unit residential dwelling on a lot which is twelve thousand (12,000) square feet or greater in size provided that all the following provisions are met:
 - (a) Appropriate licensing by the North Carolina Department of Health and Human Services, Division of Child Development is maintained;
 - (b) The home shall be reviewed and approved as a special use in accordance with the procedures and standards set forth in Section 3.8 of this Ordinance;
 - (c) No building modifications may be made to the structure to accommodate the use except those required by the Building Code;
 - (d) The home shall comply with or exceed the parking standards in Table 7.8-1 and the number and location of parking spaces shall be adequate to provide for child drop-off and pick-up in a safe manner;
 - (e) If construction of additional parking area or driveway width is needed in order to meet minimum parking requirements, then such areas shall be clearly delineated, and shall be screened to a minimum height of three (3) feet from the view of adjacent residential properties. Such screening may be provided by evergreen plantings that will attain a minimum height of three (3) feet within three (3) years of planting, or by the use of a fence made of wood (or a comparable composite material) that is at least three (3) feet in height and is designed to screen at least three-quarters (3/4) of the view through the fence from adjacent

properties. Screening shall not be required for parking areas located in the portion of a one (1)- or two (2)-car wide driveway between the street and the front of the residence or located adjacent to non-residential property.

- (f) A sketch of the site shall be provided showing the residence, driveway and parking areas, outdoor play area, fencing, residences located on adjoining lots;
 - (g) The principal person or persons operating the day care home must reside on the premises;
 - (h) The day care home shall employ no more than one (1) person who does not reside on the premises; and
 - (i) The operator obtains all required permits and licenses from the Town of Cary.
- (2) Day care homes that are licensed by the State of North Carolina and authorized by the Town of Cary to care for up to eight (8) children as of January 28, 2010 shall be deemed conforming and may continue to operate as approved without a Special Use Permit as long as a valid license from the North Carolina Department of Health and Human Services, Division of Child Development is maintained and the use does not cease operation for more than one hundred eighty (180) consecutive days.

(M) Day Care Homes, Small

- (1) A small day care home is intended for the care of up to six (6) children not related to the care provider by birth, marriage, or adoption at any given time. Adult care is limited to three (3) adults eighteen (18) years old or older. Small day care home uses shall be permitted as an accessory use in a residential dwelling unit provided that all the following provisions are met:
- (a) Appropriate licensing by the North Carolina Department of Health and Human Services, Division of Child Development is maintained;
 - (b) The home shall comply with the parking standards in Table 7.8-1. No less than three (3) on-site parking spaces shall be provided, and the number and location of parking spaces shall be adequate to provide for child drop-off and pick-up in a safe manner;
 - (c) If construction of additional parking area or driveway width is needed in order to meet minimum parking requirements, then such parking areas shall be clearly delineated, and shall be screened to a minimum height of three (3) feet from the view of adjacent residential properties. Such screening may be provided by evergreen plantings that will attain a minimum height of three (3) feet within three (3) years of planting, or by the use of a fence made of wood (or a comparable composite material) that is at least three (3) feet in height and is designed to screen at least three-quarters (3/4) of the view through the fence from adjacent properties. Screening shall not be required for parking areas located in the portion of a one (1)- or two (2)-car wide driveway between the street and the front of the residence or located adjacent to non-residential property.
 - (d) The principal person or persons operating the day care home must reside on the premises;

- (e) The day care home shall employ no more than one (1) person who does not reside on the premises; and
- (f) The operator obtains all required permits from the Town of Cary.

(N) Caretaker's Residence

A caretaker's residence may be allowed as a permitted accessory use provided the following standards are met:

- (1) The residence shall be occupied by a bona fide caretaker or watchman employed by the principal on the property and shall be accessory to the principal use;
- (2) The principal use of the property shall be a kennel, animal hospital, mini-storage facility, light or heavy manufacturing establishment, warehousing and distribution establishment, wholesale establishment, research laboratory, or prototype processing and production plant;
- (3) There shall be no more than one (1) caretaker's residence on the property; and
- (4) The living quarters shall be limited to one (1) floor and constructed so that the exterior of the premises provides a development style uniform with the main structure.

(O) Beekeeping

(1) General Requirements

- (a) The maximum number of hives allowed shall be five hives on a single parcel.
- (b) No hive shall be established or kept within ten (10) feet of a property line.
- (c) Hives shall be placed at ground level or securely attached to an anchor or stand.
- (d) A constant and adequate on-site source of fresh water shall be provided, and shall be located closer to the hive than any water source on adjacent property.
- (e) An accessory use permit must be secured in accordance with Section 3.5. The permit application must include a plot plan that indicates the number of beehives, shows the location of each beehive and water source(s), and their respective distances from property lines.
- (f) In the event that a nuisance is not abated in accordance with Town Code Section 6-71a (Nuisance Bees) and no final appeal is made, then the Planning Director may revoke the owner's Accessory Use Permit, and the owner shall be unable to reapply for another Accessory Use Permit for Beekeeping for a period of twelve (12) months. The owner may appeal revocation of the Accessory Use Permit to the Zoning Board of Adjustment pursuant to Section 3.21 of the Land Development Ordinance.

(2) Additional Requirements for Community Gardens

Beekeeping shall also be permitted as an accessory use in conjunction with a community garden. Such use shall only occur in accordance with the requirements identified in Section 5.3.4(O)(1) and the following additional requirements:

- (a) The property owner(s) signs the accessory use permit application granting permission for beekeeping to occur on the property.
- (b) A beekeeper(s) that is a registered member of a local or state beekeeping association and has documented training in beekeeping, also signs the application and certifies that he/she will be responsible for the ongoing maintenance and overall care of the hive(s).

(P) Food Trucks

The purpose of these regulations is to promote the general health, safety and welfare of the citizens of the town by establishing reasonable regulations and review procedures to allow for the retail sale of food and food products via mobile food vending vehicles, commonly called "food trucks." The intent of these provisions is to establish rules related to the location and operation of food trucks on private and public property within the town, while considering their potential effects on public streets, public properties, nearby residential properties, and other food service establishments. These provisions are not intended to apply to peddlers and solicitors who are otherwise regulated under Chapter 20, Licenses and Business Regulations, of the Cary Town Code.

(1) *Developed Sites in Non-Residential Zoning Districts, Mixed Use Overlay Districts and Non-Residential Portions of Planned Development Districts, and HMXD, MXD, COM, OFC/INS and OFC/IND Sub-districts of the Town Center District*

(a) Permits Required

1. An accessory use permit per Section 3.5 shall be obtained by the property owner for any lot proposed to accommodate one (1) or more food truck businesses. A copy of the accessory use permit shall be kept in the food truck.
2. The accessory use permit application shall include a list of potential food truck businesses expected to operate on the lot, and a copy of the following for each business:
 - a. NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes; and
 - b. Wake County Environmental Services Vending Permit and a means for the disposal of grease within an approved grease disposal facility.

Said certificate and permit shall be clearly displayed on the food truck.

3. The accessory use permit shall be valid for up to one (1) calendar year and may be amended during the period of validity to remove or add specific food truck business(es) authorized to operate on the lot.
4. The Accessory Use Permit shall designate the specific locations on a given site where a food truck may operate.

(b) Locational Standards

Food trucks shall be located on developed lots in accordance with the following standards:

1. Food trucks must be located in an area that is not actively used by an existing, approved principal use on a developed lot.
2. Food trucks may not encroach upon open space, landscaping, fire lanes, vehicular access ways or pedestrian walkways, and shall not obstruct or disturb existing buffers or required setbacks from buffers or streetscapes,
3. Food trucks shall be located a minimum of one hundred (100) feet from the main entrance of any eating establishment or similar food service business, any outdoor dining area, and any other food truck location, as measured in a straight line. This one hundred (100) foot separation requirement shall not apply to a food truck located on the same lot as an eating establishment or similar food service business, outdoor dining area, or other food truck, so long as all other requirements of this Ordinance are met. No more than three (3) food trucks may be located on single lot.
4. Food trucks may not be located within one hundred fifty (150) feet of a lot with a dwelling unit as measured in a straight line from the location of the food truck to the nearest property boundary.
5. In the event that one (1) or more permanent restaurant or other food service establishments or residences locate within the minimum separation requirement after an accessory use permit for a food truck location has been issued, the food truck may continue to operate under the terms of its Accessory Use Permit until said permit expires.
6. Food trucks shall be located a minimum of five (5) feet from any fire hydrant, sidewalk, utility box, handicap ramp and building entrance.
7. Food trucks may not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the food truck.

(c) General Operational Standards

1. Food trucks may only operate between the hours of 6:00 a.m. to midnight.
2. Food trucks must be removed from all permitted locations during the hours when they are not permitted to be in operation, and may not be stored, parked, or left overnight on any public street or sidewalk.
3. One sandwich board sign shall be allowed.
4. Amplified music is not permitted.
5. Outdoor seating areas for dining associated with a food truck, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, are not permitted.

(d) Health and Sanitation Standards

1. All food preparation, storage, and sales or distribution by a food truck operator shall be in compliance with all applicable County, State and Federal Health Department sanitary regulations. In accordance with such laws, the food truck shall return daily to a commissary for proper servicing.

2. The operator shall keep all areas within five (5) feet of the food truck and any associated customer or dining area clean of grease, trash, paper, cups or cans associated with the food truck.
3. Each food truck operator is responsible for the proper disposal of solid waste associated with the operation of the food truck and any outdoor dining areas. Public trash receptacles are not to be used for this purpose.
4. Operators shall remove all waste and trash prior to leaving their approved location or as needed to maintain the health and safety of the public.
5. No waste or grease may be disposed in storm drains, the sanitary sewer system or onto the sidewalks, streets, or other public spaces.
6. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the food truck operator shall be required to cease operation immediately. The owner of the food truck business shall be liable for the violation.

(2) Other Zoning Districts

In all zoning districts other than those listed in Section 5.3.4(P)(1) above, food trucks may be allowed only on commonly-owned property within a residential development serving residents and guests at a neighborhood activity or function. Requirements of Section 5.3.4(P)(1) shall apply.

(3) Public Property

Food trucks may not be operated on public property such as parks or plazas, parking lots, public street rights-of-way, or public sidewalks except as specifically authorized by the Town and as part of an official public event sponsored or co-sponsored by the Town of Cary.

(4) Component of Temporary Event

In accordance with Sec. 5.4, Temporary Uses and Structures, food trucks may be placed on private property in conjunction with a public or private event. If food trucks are included as part of the event, the temporary use permit for the event itself, if required in Table 5.4-1, shall also identify the inclusion of food trucks and shall serve as the accessory use permit for the site for the duration of the event. Such food trucks shall only be operated during the hours of the event, which time does not include the time before and after the event where the operator is preparing to set up or remove the food truck.

(5) Construction Sites

In all zoning districts, food trucks may be allowed on construction sites in accordance with the following:

- (a) The site is undergoing construction in accordance with an approved and valid development plan and building permit.
- (b) Such trucks may vend to person(s) lawfully authorized to be on the construction site, and not to the general public.

- (c) Food trucks shall be parked in an appropriate location based on the location of active construction activity, as authorized by the general contractor consistent with safe construction site management practices.
- (d) A copy of the following shall be clearly displayed on each food truck:
 - 1. NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes; and
 - 2. Wake County Environmental Services Vending Permit and a means for the disposal of grease within an approved grease disposal facility.
- (e) General operational standards specified in Section 5.3.4(P)(1)(c) shall apply.
- (f) Health and sanitation standards specified in Section 5.3.4(P)(1)(d) shall apply.

(Q) Cluster Box Unit - Mailbox

- (1) The local post manager will work with builders and developers to determine the best mode for mail delivery for the area, prior to extending or establishing delivery service. If central mail delivery service is the option chosen by the postal manager in the form of Cluster Box Units (CBU), then the arrangement and location of the CBU(s) shall be in accordance with the Town's Standard Specifications and Details Manual.
- (2) Parking for Cluster Box Units shall be provided as required in Table 7.8-2.
- (3) Evergreen shrubs shall be provided in the vicinity of each CBU to promote high quality appearance and good design. The number, location and height of such landscape material shall be appropriate to the specific location, based on available planting area, topography, and safety considerations, as determined by the Planning Director or designee. The maximum height of any such shrubs located in the public right-of-way or within a sight triangle shall not exceed thirty (30) inches.

(R) Electronic Gaming Machines

Four (4) or fewer electronic gaming machines shall be permitted as an accessory use to any legal conforming principal use other than an Electronic Gaming Operation.

(S) Photovoltaic Systems

- (1) Photovoltaic systems are permitted accessory uses in all residential and non-residential zoning districts.
- (2) Photovoltaic systems will not be included in the measurement of building height.
- (3) Components of a photovoltaic system that are not mounted on the roof shall be located to the rear of the principal building. No component of a photovoltaic system shall be located within five (5) feet of any property line or in any required buffer.

(Ord. No. 04-001, 1-8-04; Ord. No. 04-003, 4-15-04; Ord. No. 04-007, 7-15-04; Ord. No. 06-009, 4-27-06; Ord. No. 2008-LDO-01, 9-25-08; Ord. No. 2010-LDO-01, 1-14-10; Ord. No. 2010-LDO-02, 1-28-10; Ord. No. 2011-LDO-01, 1-11-11; Ord. No. 2011-LDO-02, 4-14-11; Ord. No. 2011-LDO-04, 11-17-11; Ord. No. 12-LDO-01, 2-23-12; Ord. No. 2012-LDO-04, 5-24-12; Ord. No. 2012-LDO-06, 8-9-12; Ord. No. 2012-LDO-07, 8-23-12; Ord. No. 2012-LDO-08, 10-11-12; Ord. No. 2013-LDO-04, 9-26-13; Ord. No. 2014-LDO-03, 8-14-14;

Ord. No. 2015-LDO-001, 4-21-15; Ord. No. 2015-LDO-003, 7-23-15; Ord. No. 2015-LDO-006, 12-10-15; Ord. No. 2016-LDO-02, 12-8-16; Ord. No. 2017-LDO-01, 1-24-17; Ord. No. 2017-LDO-02, 3-30-17; Ord. No. 2020-LDO-01, 5-7-20; Ord. No. 2021-LDO-01, 6-24-21; Ord. No. 2022-LDO-01, 1-13-22; Ord. No. 2022-LDO-02, 4-28-22; Ord. No. 2025-CODE-01, 4-10-25; Ord. No. 2025-CODE-02, 5-22-25)

5.4 TEMPORARY USES AND STRUCTURES

5.4.1 Purpose

This section allows for the establishment of certain temporary uses of limited duration, provided that such uses do not negatively affect adjacent properties or Town facilities, and provided that such uses are discontinued upon the expiration of a set time period. Temporary uses do not involve the construction or alteration or any permanent building or structure.

5.4.2 Table of Allowed Temporary Uses and Structures

Table 5.4-1 summarizes the temporary uses and structures that are allowed within the Town and any general or specific regulations that apply. Temporary uses or structures not listed in Table 5.4-1 are not allowed under this Ordinance.

| TABLE 5.4-1: TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES | | |
|--|-------------------------------------|---|
| Temporary Activity | Maximum Allowable Time Frame | Specific Regulations |
| TEMPORARY STRUCTURES | | |
| Expansion or Replacement of Existing Facilities (including temporary offices for construction and/or security personnel) not to include temporary classroom facilities for schools | (A) | Temporary Use Permit Required; see Section 5.4.6(A) |
| Temporary Classroom Trailers | N/A | No Temporary Use Permit Required; Development Plan Required; see Section 5.2.2(C) |
| Portable Medical Equipment | (F) | Temporary Use Permit Required; see Section 5.4.4 and 5.4.5; Applicant shall coordinate with all necessary Town Departments (e.g., Police and Fire), and comply with any conditions required by those departments. |
| Real Estate Sales Office/ Model Sales Home | (A) | Temporary Use Permit Required; see Section 5.4.6(B) |
| TEMPORARY SALES | | |
| Sale/Display of Goods and Products | (B) | Temporary Use Permit Required; see Section 5.4.6(C) |
| Garage and/or Yard Sales | (E) | Temporary Use Permit Not Required |
| Temporary Not-For-Profit Car Wash | (E) | Temporary Use Permit Not Required |

| TABLE 5.4-1: TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES | | |
|---|---|--|
| Temporary Activity | Maximum Allowable Time Frame | Specific Regulations |
| EVENTS | | |
| Town-Recognized Event | N/A | Temporary Use Permit Required; No fee required; Includes only those events listed in the Town Clerk's Office |
| Not-For-Profit Event with 100 People or More in Attendance | (D) | Temporary Use Permit Required; see Section 5.4.4; Applicant shall coordinate with all necessary Town Departments (e.g., Police and Fire), and comply with any conditions required by those departments |
| Special Event with 100 People or More in Attendance | (D) | Temporary Use Permit Required; see Section 5.4.4; Applicant shall coordinate with all necessary Town Departments (e.g., Police and Fire), and comply with any conditions required by those departments |
| Athletic Event at a Sports Facility | N/A | Temporary Use Permit Not Required |
| Block Parties | (D) | Temporary Use Permit Not Required |
| Other Public Events with 99 People or Fewer in Attendance | (E) | Temporary Use Permit Not Required |
| Private Event | N/A | Temporary Use Permit Not Required |
| (A) | Such structures may be in place for no more than one (1) to three (3) years. | |
| (B) | Such sales are limited to a maximum of ninety (90) days per calendar year with no more than three (3) occurrences per lot or parcel per year. | |
| (C) | [Reserved] | |
| (D) | Such events are limited to seven (7) total days per calendar year. | |
| (E) | Such events are limited to two (2) events per calendar year per lot or parcel and/or no more than four (4) total days per calendar year. | |
| (F) | Such portable equipment shall be limited to one (1) twenty-four (24) hour period per week for no more than one (1) calendar year. Depending on individual circumstances and for good cause shown, either time period may be increased or altered. | |

5.4.3 [Reserved]**5.4.4 Temporary Use Permits**

All temporary uses and structures that are required to obtain a temporary use permit by Table 5.4-1 shall obtain such permit pursuant to the procedures set forth in Section 3.7 of this Ordinance. A temporary use permit shall be reviewed, approved, or revoked only in accordance with the regulations of Section 3.7 of this Ordinance. Temporary uses must meet the requirements of the North Carolina State Building Code.

5.4.5 General Requirements for All Temporary Uses and Structures

All temporary uses or structures shall meet the following general requirements, unless otherwise specified in this Ordinance:

- (A) The temporary use complies with all applicable general and specific regulations of this section and Section 3.7, unless otherwise expressly stated, and with all requirements of this Ordinance and applicable Town specifications.
- (B) Permanent alterations to the site are prohibited.
- (C) Signage shall comply with applicable provisions of Chapter 9.
- (D) The temporary use or structure will not violate any applicable conditions of approval that applies to a principal use on the site.
- (E) If the property is undeveloped, it contains sufficient land area to allow the temporary use or structure to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing protected resources, including required buffers.
- (F) If the property is developed, the temporary use must be located in an area that is not actively used by an existing approved principal use, and which would support the proposed temporary use without encroaching or disturbing existing buffers or required setbacks from buffers or streetscapes, open space, landscaping, traffic movements, pedestrian circulation, or parking space availability.
- (G) Tents and other temporary structures will be located so as to not interfere with the normal operations of any permanent use located on the property.

- (H) Off-street parking is provided in accordance with the requirements set forth in Section 7.8 of this ordinance.
- (I) All inspections and permits required by applicable construction codes have been made and approved by the Inspections and Permits Department.
- (J) Applications for temporary structures to be located in or near the one percent (1%) annual chance floodplain will be required to submit a plan to the Stormwater Manager for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:
 - (1) The name, address, and phone number of the individual responsible for the removal of the temporary structures.
 - (2) The time frame prior to the event at which a structure will be removed;
 - (3) A copy of the contract or other suitable instrument with a trucking company to insure availability of removal equipment when needed; and
 - (4) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

5.4.6 Specific Regulations for Certain Temporary Uses and Structures

(A) Expansion or Replacement of Existing Facilities

(1) *Purpose and Scope*

Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy, except for minor unpacking and connection to utilities, and designed for removal to and installation at other sites, may be placed on a property to serve as the following:

- (a) Expansion space for existing churches, health care facilities, and government offices, provided that plans for the permanent expansion of the existing facilities have been submitted to and approved by the Town.
- (b) Temporary offices for construction and security personnel during the construction of a development for which the Town has issued a grading permit or building permit pursuant to Chapter 5 of this Ordinance.
- (c) Temporary quarters for recreational facilities that are being provided in conjunction with a new residential development, provided that the Town has approved a development plan for the development.
- (d) Temporary quarters for a non-residential use when the permanent building has been destroyed by a fire or other physical catastrophe, provided that a building permit for the permanent facility is obtained within ninety (90) days after approval of the temporary quarters. The Planning Director may approve a written request for an extension of an additional ninety (90) days for good cause shown. Failure to obtain a building permit within the time frame allowed will revoke approval for the temporary quarters.

- (e) One (1) temporary office per site to include, but not be limited to, the following uses: hiring, membership solicitation, apartment office/leasing, and other general office uses provided that the Town has approved a development plan for the development. The number of modular buildings housing such uses shall be limited to one (1), in addition to those already allowed by this section. Such modular buildings shall not be placed on the property prior to the issuance of a building permit.

(2) *Standards and Requirements for Approval*

In addition to meeting the general standards of Section 5.4.5, all temporary structures approved pursuant to this section shall meet the following standards and requirements:

(a) Location

Temporary structures allowed under Section 5.4.6(A) may be located anywhere on site, except within the following areas:

1. Existing vegetated buffers or within the buffer setbacks.
2. Areas designated for future vegetated buffers whether or not vegetation currently exists.
3. Other areas designated on the development plan for open space, vehicular use, or ingress/egress.

(b) Other Requirements

1. The temporary structure shall be factory-fabricated and transportable.
2. Underskirting shall be installed around all temporary structures requiring development plan approval.
3. In addition to any other off-street parking required on the site, off-street parking shall be provided in accordance with the requirements set forth in Section 7.8 of this Ordinance.
4. All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained from the Inspections and Permits Department prior to installation of the temporary structure.
5. For those temporary structures requiring development plan approval, the temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.
6. Foundation plantings installed in accordance with Section 7.2.9(B) of this Ordinance shall be required for temporary structures intended for use as temporary recreation facilities.
7. A sketch plan containing sufficient information to show compliance with the above standards shall be submitted to and approved by the Planning Department prior to installation of the temporary structure.

(3) Duration

Temporary structures under this section may remain on the site for no more than twelve (12) months. This period may be renewed for two (2) twelve (12)-month periods, for good cause shown, upon approval of a written request, submitted to the Planning Director thirty (30) days prior to the expiration of the permit. In no event, however, shall such extensions allow the temporary structure to remain on the site for more than three (3) years.

(B) Real Estate Sales Office and Model Sales Home**(1) General Requirements**

One (1) temporary real estate sales office or model sales home may be allowed as incidental to a new residential or non-residential development provided that:

- (a)** The use is located on a single-unit residential lot or within a multi-family development that was approved by the Town as part of a residential development, or within a non-residential area of an approved planned unit development.
- (b)** Reserved.
- (c)** The temporary use is aesthetically compatible with the character of the community and the surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.
- (d)** The temporary use complies with the minimum yard and setback requirements of the zoning district in which it is located.
- (e)** Parking spaces shall be provided on the lot in a number sufficient to meet the requirements set forth for offices in Section 7.8 of this Ordinance. Such parking spaces may be located on an adjacent vacant residential lot within the development.
- (f)** For single-unit residential developments, at least three hundred (300) square feet of evergreen plantings shall be provided around the base of the temporary use; one (1) upper-story tree shall be provided per forty (40) feet of street frontage of the lot on which the structure is located; and one (1) ornamental tree shall be provided per twenty (20) feet of street frontage, pursuant to the general landscaping requirements of Chapter 7.
- (g)** A development plan containing sufficient information to show compliance with the above standards shall be submitted to and approved by the Planning Department prior to installation of the sales office.
- (h)** The temporary use shall connect to both Town utilities if they are within four hundred fifty (450) linear feet to the property.
- (i)** If the utilities are not within four hundred fifty (450) linear feet, private water and/or septic systems may be allowed by the Director of Water Resources.
- (j)** Upon termination of the temporary real estate sales office or model sales home, the structure will be converted into, or removed and replaced with, a permanent residential use.

(2) Duration**(a) Temporary Real Estate Sales Offices**

Temporary real estate sales offices may be approved for a period of up to one (1) year. This period may be renewed for two (2) additional twelve (12)-month periods, but not exceeding a total of three (3) years, for good cause shown, upon approval of a written request for such an extension by the Planning Director, filed thirty (30) days prior to the expiration date of the existing approval. All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.

(b) Model Sales Homes

Model sales homes may be approved for a period of up to three (3) years. This period may be renewed for additional six (6)-month periods, for good cause shown, upon approval of a written request for such an extension by the planning director. There is no time limit on the use of model units for rental housing.

(c) Associated Parking Area

Associated parking area shall be removed within sixty (60) days of termination of use of the temporary real estate office or conversion of a model sales home to a permanent residential use.

(C) Sale/Display of Goods Other Than Agricultural Products**(1) Applicability**

Merchants may display and/or sell goods in the Town on a temporary basis without establishing a permanent place of business, subject to the standards and requirements set forth in this section. Receipt of Peddler's Permit from the Police Department does not exempt a merchant from the need to obtain a temporary use permit for such sales.

(2) Location

(a) The outdoor display and/or sale of goods consistent with the provisions in Section 5.3.4(D) is considered as an accessory use and does not need to obtain a temporary use permit.

(b) The proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within two hundred (200) feet of an occupied residential dwelling unit.

(c) Commercial Sales

A temporary display or sale of goods for commercial purposes shall take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed out-parcel of such a site.

(d) Non-Commercial Sales

A temporary sale of goods for public or institutional purposes may take place on a developed site where the principal use is retail sales, or on an immediately adjacent developed out-parcel of such a site. Upon approval of the Planning Director, such sales may take place on public property, including: public parks owned or maintained by the Town, public street rights-of-way, any other property owned by the Town, a special district, or other political subdivision of the State of North Carolina.

(3) Similar Products, Goods, and Services

A temporary display or sale of products, goods and/or services for commercial purposes shall be limited in scope to similar or complimentary products, goods, and/or services to those offered by the existing principal use located upon the same site. The temporary sale of non-agricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.

(4) Submittal Requirements

The operator of the temporary sale of products, goods and/or services shall provide the Planning Department with the following:

- (a)** Written permission from the property owner.
- (b)** A sketch plan showing:
 - 1. The location of any tent or temporary structure to be used.
 - 2. The location of pedestrian, vehicular, and emergency ingress and egress over the entire property, including pedestrian access to streets, driveways, and parking areas, and obstructions of vehicular rights-of-way.
 - 3. The location and number of available off-street parking spaces to serve the temporary sale of goods.
 - 4. [RESERVED]
 - 5. Electrical power connections, if applicable.

(5) Hours of Operation

The hours of operation of the temporary sale of products shall be from no earlier than 7:30 am to no later than 10:00 pm, or the same as the hours of operation of the principal use, whichever is more restrictive.

(6) Duration; Sales per Year

- (a)** The temporary sale of non-agricultural products shall be allowed on an individual parcel or site for no more than ninety (90) total days per calendar year.

- (b) The number of temporary sales of products per site per calendar year shall not exceed three (3). For the purposes of this section, "site" shall mean the entire parcel, including out-parcels, whether it is a single tenant, multi-tenant, or shopping center use.

(7) Requirements

The Planning Director shall issue a temporary use permit for the temporary display and/or sale of products if the proposed use satisfies the following requirements:

- (a) The property contains an area that is not actively used which would support the proposed temporary sale of products without encroaching into or disturbing existing buffers, open space, landscaping, or traffic movements.
- (b) Tents and other temporary structures will be located so as not to interfere with the normal operations of any permanent use located on the property.
- (c) All tents and other temporary structures shall match the predominant color of the principle structure on the premises or be of a neutral or earth tone color.
- (d) The temporary use will not occupy any existing parking required for the principal use.
- (e) The temporary sale of products will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic.
- (f) All inspections and permits required by applicable construction codes have been made and approved by the Planning Department.

(D) Sale of Agricultural Products Grown Off-Site

(1) Agricultural Products Defined

For the purposes of this section, agricultural products are defined as products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, firewood, and pine straw; bees and beekeeping products; seafood; and dairy products. For the purposes of this section, processed or prepared food products of any kind shall not be considered as agricultural products.

(2) Approval Criteria

- (a) The temporary sale of agricultural products grown off-site may be allowed subject to issuance of a temporary use permit pursuant to Chapter 5 of this Ordinance. Temporary sales of agricultural products shall meet all requirements for temporary sale of non-agricultural goods set forth in Section 5.4.5(C) above; however, the temporary sale of agricultural products for commercial purposes may occur from a vacant lot, a lot containing a detached dwelling provided that such residential lot contains at least three (3) acres and has a minimum of 250 feet of road frontage on a major thoroughfare, or a developed site where the principal use is non-residential.

- (b) The temporary sale of agricultural products grown off-site is exempt from the requirement for similar products, goods, or services to those offered by an existing principal use as required under the provisions for the temporary sale of non-agricultural products.
- (c) The temporary sale of agricultural products grown off-site may be accomplished from a vehicle, trailer, or shipping container, provided such vehicle, trailer, or container is located in accordance with the provisions of Section 5.4.6(C) of this Ordinance.
- (d) The temporary sale of agricultural products grown off-site shall be allowed on an individual parcel or site for no more than one hundred eighty (180) total days per calendar year.
- (e) The number of temporary sales of agricultural products per site per calendar year shall not exceed three (3).

(E) Sale of Fireworks

(1) *Approval Criteria*

The temporary sale of fireworks may be allowed subject to issuance of a temporary use permit pursuant to Chapter 3 of this Ordinance. Temporary sales of fireworks or other pyrotechnics shall meet all requirements for temporary sale of non-agricultural goods set forth in Section 5.4.6(C) above; however, the temporary sale of fireworks or pyrotechnics are exempt from the similar product provisions which apply to the sale of other non-agricultural products.

(F) Temporary Structures In or Near the Flood Hazard Area

Prior to the issuance of any development permits for a temporary structure in the Flood Hazard Area, all applicants must submit to the Stormwater Manager, for review and written approval, a plan for the removal of such structure(s) in the event of a hurricane or flash flood notification. The plan shall include the following information:

- (1) The name, address and phone number of the individual responsible for the removal of the temporary structures.
- (2) The time frame prior to the event at which a structure will be removed;
- (3) A copy of the contract or other suitable instrument with a trucking company to insure availability of removal equipment when needed; and
- (4) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be moved.

5.4.7 Events

(A) Purpose and Intent

The purpose for this section is to establish permit requirements, allowable time frames, and submittal requirements for four (4) recognized types of events.

These provisions are intended to address potential significant negative impacts to public or private properties from events or event-related activities, not to prevent such activities from occurring or to unduly restrict private events.

(B) Types of Events

(1) *Town-Recognized Event*

A Town-recognized event is one that is in part or wholly sponsored by the Town, recognized by the Town, or proclaimed as a Town-recognized event by the Town Council. Such events shall include only those events listed on the Town-recognized Event List as maintained by the Town Clerk. The Town-recognized Event List may be amended as needed by the Town Council.

(2) *Not-For-Profit Event*

A not-for-profit event is any event that is requested by, or held for, a recognized non-profit organization or other charitable organization, with at least fifty-one (51) percent of the revenue derived from the event intended for a not-for-profit entity or for its programs.

(3) *Special Event*

Special events are any organized event, specifically including, but not limited to: a temporary sales event accessory to a principal use, or a circus, carnival, cultural event, fair, celebration, communal camping, ground-breaking, grand opening, religious service, musical or other show, which reasonably may be expected to attract one hundred (100) or more persons, but which do not meet the criteria of a Town-recognized event or a not-for-profit event.

(4) *Private Event*

Private events are any organized event which is not open to members of the general public, typically has a duration of less than twelve (12) hours, and which is not expected to have significant negative impacts on surrounding properties. Examples of such events include, but are not limited to wedding ceremonies, funerals, private parties or other similar gatherings.

(C) Permit Required

- (1) No special event or not-for-profit event, as specified above shall be permitted unless a temporary use permit has first been obtained in accordance with this section and the procedures of Section 3.7, unless otherwise specified in this section.
- (2) Any application to hold a special event or not-for-profit event shall be made in advance of the event.

- (3) A permit to hold a special event or not-for-profit event issued to one (1) person or organization shall permit any person to engage in any lawful activity in connection with the holding of the permitted assembly.

(D) No Permit Required

- (1) The following types of events do not need to obtain temporary use permits, but may be subject to the maximum allowable time frames and specific regulations as listed in Table 5.4-1 above:
 - (a) Athletic events held at approved sports facilities.
 - (b) Temporary not-for-profit car washes held on developed sites.
 - (c) Garage and/or yard sales.
 - (d) Block parties occurring entirely upon the grounds of a private residence or common area of a multi-family residential development.
 - (e) Other events with ninety-nine (99) people or fewer in attendance.
 - (f) Private events.
- (2) Events that occur or take place entirely within the boundaries of a parcel or parcels that possess development plan approval for such activities (e.g., assembly halls, convention centers, amphitheaters, or event centers).
- (3) Events taking place on county-owned park property.

(E) Term of Approval/Permit

Table 5.4-1 lists the maximum allowable time frame for all allowable events. The Planning Director may extend the consecutive-day limit or the annual limit upon approval of a written request for such an extension, for good cause shown.

(F) Additional Planning Requirements

In addition to meeting the general standards of Section 5.4.5, all not-for-profit and special events shall also meet the planning requirements set forth below. The Planning Director shall be responsible for determining the adequacy of submitted plans.

- (1) An adequate plan for security and safety shall be implemented on and around the site of the event, including sufficient staffing, provision for pedestrian safety, restroom facilities (if necessary), and traffic routing.
- (2) An adequate plan for public health, safety, and welfare on, around, and outside the site of the event shall be implemented, including a showing that the event will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the Town and will not likely cause unreasonable or unwarranted disruption to vehicular or pedestrian traffic.

(G) Submittal Requirements

All applications for special and not-for-profit events shall include such information and supporting materials as are required by the Planning Director, including, but not necessarily limited to, the following:

- (1) A description of the proposed event, including the event's starting date and time, the event's ending date and time, the date and time preparatory activities will commence, and the date and time of completed post-event clean-up.
- (2) The location of the property(ies) upon which the proposed event will take place.
- (3) A security plan, if requested.
- (4) A parking plan.
- (5) A Traffic Management Plan as described in Section 8.1.1.
- (6) Evidence of the non-profit status of an applicant or event beneficiary if not-for-profit event status is being requested, as well as a signed affidavit from the event sponsor indicating that at least fifty-one (51) percent of the revenue generated by the event is intended for a recognized 501(c)(3) or 426(c)(3) organization.
- (7) A statement as to whether the applicant has requested the Town Manager to apply the provisions of Chapter 6, Article II of the Code of Ordinances during the event. If the applicant desires to have the provisions of Chapter 6, Article II apply, the applicant shall also provide evidence that all reasonable attempts will be made to notify the public that animals will not be permitted within the boundaries of the event. Public notification shall include notice in all advertisements and the posting of notices on the property immediately before and during the event. All such notices shall state that animals are prohibited and shall refer to Chapter 6, Article II of the Cary Code of Ordinances.
- (8) A statement as to whether the applicant has requested the Town Manager to apply the provisions of Section 24-18(e) of the Code of Ordinances during the event prohibiting the sale, use, and possession of fireworks type items that might otherwise be permitted pursuant to G.S. 14-414 ("non-exploding fireworks"). If the applicant desires to have the provisions of Section 24-18(e) apply, the applicant shall also provide evidence that all reasonable attempts will be made by the applicant to notify the public that non-exploding fireworks will not be permitted within the boundaries of the event. Public notification shall include notice in all advertisements and the posting of notices on the property immediately before and during the event. All such notices shall state that all pyrotechnics and fireworks including non-exploding fireworks like smoke bombs, sparklers, and party poppers are prohibited and shall refer to Section 24-18(e) of the Cary Code of Ordinances.

(Ord. No. 05-001, 1-13-05; Ord. No. 06-009, 4-27-06; Ord. No. 2007-04, 3-22-07; Ord. No. 2007-21, 12-13-07; Ord. No. 2008-LDO-01, 9-25-08; Ord. No. 2011-LDO-01, 1-11-11; Ord. No. 2011-LDO-02, 4-14-11; Ord. No. 2012-LDO-06, 8-9-12; Ord. No. 2014-LDO-03, 8-14-14; Ord. No. 2015-LDO-001, 4-21-15; Ord. No. 2016-LDO-01, 7-25-16; Ord. No. 2016-LDO-02, 12-8-16; Ord. No. 2017-ACT-01, 10-26-17; Ord. No. 2019-LDO-03, 10-10-19; Ord. No. 2021-LDO-01, 6-24-21; Ord. No. 2022-LDO-02, 4-28-22)

