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Section 6.1 Introduction

The following supplemental regulations shall pertain to the various uses listed in the Table of Uses located in Article 5. If not otherwise listed, these regulations shall be applicable in all districts in which the individual uses are allowed.

For any use which requires the issuance of a conditional use permit, the supplemental use regulations listed herein may be in addition to any other fair and reasonable conditions placed on the use by the Board of Adjustment. The conditions may impose greater restrictions on a particular use than those which are listed herein.

Section 6.2 Accessory Uses and Buildings

- (A) The maximum building height for accessory buildings in all zoning districts shall be 28 feet.
- (B) Except in residential zone R-6, no residence shall have more than two (2) accessory/utility buildings, excluding a detached garage, on a lot. Accessory buildings and detached garages shall not be placed less than ten (10) feet from either side or rear yard lot lines and shall not be placed forward of the front line of the principal structure.
- (C) Accessory buildings shall not be placed less than ten (10) feet from either side or rear yard property lines except for waterfront lots where the accessory building must be twenty-five feet (25) back from rear property line. Accessory buildings shall not be placed forward of the front line of the principal structure.
- (D) A freestanding carport shall remain open on all sides with a roof only and shall not be placed forward of the front line of the main building except for freestanding carports that are not stick built and/or are not anchored through a foundation shall be exempt from side setbacks.
- (E) In residential zoning districts, mechanical equipment permanently affixed the ground such as car lifts shall not be visible from the street. Playgrounds affixed to the ground and similar appurtenances shall not be permitted forward of the front of the house.
- (F) In residential zoning districts, the total combined square footage, as measured by the footprint of proposed detached garages and accessory buildings (not including decks/patios which do not extend two (2) inches above grade or stairs), shall be based upon the size of the lot subject to the following:
 - (1) Less than one-half (1/2) acre, the maximum combined footprint area shall be nine hundred (900) square feet.
 - (2) One-half (1/2) acre to one (1) acre, the maximum combined footprint area shall be twelve hundred (1,200) square feet.
 - (3) One (1) acre to 4.99 acres, the maximum combined footprint area shall be fifteen hundred (1,500) square feet.
 - (4) Five (5) acres or more, the maximum combined footprint area shall be limited to

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two thousand (2,000) square feet, not including a main barn structure.

Where the area of the property is less than five (5) acres, in no case may the combined footprint of the garage and the accessory building exceed the footprint of the house.

- (G) In nonresidential zoning districts, the total combined square footage, as measured by the footprint of proposed detached accessory buildings shall not exceed 50% of the square footage of the principal structure. Schools, fire departments, and government building are exempt from this requirement.
- (H) Storage Containers/Units – including shipping and intermodal containers
 - (1) Residential Sites
 - (a) One (1) storage container is permitted only as a temporary accessory use.
 - (b) A temporary storage container may be up to sixteen (16) feet long, eight (8) feet wide, and nine (9) feet tall.
 - (c) One (1) storage unit may be placed on the site for thirty (30) days or extended for an additional thirty (30) days as permitted by the Code Enforcement Officer. Storage containers are prohibited on the same lot as a single-family or duplex residence for more than sixty (60) days.
 - (d) The storage unit must be placed in a driveway, a designated parking area, or other location on the site. Unless located in a driveway or designated parking area, the storage unit must meet the location requirements and the setback requirements of Article 5, Zoning Districts.
 - (e) These standards do not apply to portable units for donating goods to a charitable organization (such as Goodwill drop off), dumpsters, or recycling facilities.
 - (I) Commercial Sites
 - (1) A portable storage unit shall not exceed forty (40) by eight (8) feet wide by nine (9) feet high.
 - (2) Shall be placed on the site meeting the setback requirements of Article 5 of the UDO and shall not be visible from the street.
 - (3) If the commercial property adjoins residential property, storage containers are not permitted.
- (J) Well pumps should not be placed forward of the front line of a dwelling except where required by the health department.
- (K) No accessory buildings may be erected on any lot without a principal building and/or use, except for lots in the R-6 zoning district and for temporary construction offices or storage buildings on lots with a valid building permit issued for construction of a principal building.

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- (L) Recycling collection points located on city property for use by city residential property owners shall be for co-mingled paper, plastic, glass, aluminum cans, and cardboard. No household trash or hazardous materials such as electronics, oil, paints, etc., will be accepted.

Section 6.3 Accessory Dwelling Unit

- (A) Only one accessory dwelling unit is permitted per lot.
- (B) Separate detached garages and separate accessory units are not permitted on the same lot. Accessory units may be created as a second story within detached garages if the height of the accessory unit and/or garage does not exceed 28 feet.
- (C) The gross floor area of an accessory dwelling unit shall not exceed 50 percent of the principal building's floor area. The building footprint of the accessory dwelling unit shall not exceed 40 percent of the living area of the principal residence. The "building footprint" shall include patios but shall not include porches.
- (D) An accessory dwelling unit shall be approved by the Brunswick County Health Department for water and sewage disposal facilities or shall be connected to the Brunswick County water and sewer system in accordance with City regulations.
- (E) One off-street parking space shall be provided for each bedroom within an accessory dwelling unit.

Section 6.4 Outdoor Storage (accessory)

The keeping, in an unroofed area, of any goods, junk, material, or merchandise in the same place for more than 24 hours.

- (A) All outdoor/open storage areas shall be fenced with a minimum of a six (6) foot fence.
- (B) Evergreen shrubs shall be planted at a minimum of three (3) feet separation around the fencing perimeter for any parcel adjoining residential property or any section of fence facing a street. Such a buffer may count towards meeting any additional required landscape buffering.
- (C) Where possible, all outdoor storage materials shall be kept in the rear of buildings and in no case shall outdoor storage materials be located in any required setback.

Section 6.5 Outdoor Storage (principal)

Automobile, boat, and recreational vehicle storage shall be allowed as a principal use pursuant to the use tables provided in Section 5.5, subject to the following conditions:

- (A) All storage areas on the site shall be secured by a fence at least eight (8) feet tall, uninterrupted except for required vehicle access points to prevent unlawful entry.

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- (B) All storage areas shall be screened so that a person six feet tall cannot see stored items when standing at ground level on all adjacent properties and the public right of way within 100 feet of the property line. This screening may be accomplished through an opaque fence or wall or landscaping with 100% evergreen plant material planted at a 3 feet minimum and 6 feet minimum at maturity at a spacing of every 5 feet.

Section 6.6 Outdoor Display

This section applies to the display of retail goods outside of an enclosed building. This section does not apply to farmers' markets or produce stands where permitted by the applicable zoning district.

- (A) No such outdoor display is permitted unless a site plan shows the location, area, and boundaries of the outdoor display.
- (B) Retail goods may be displayed on public or private sidewalks where the goods are located entirely under an awning or canopy. If no awning or canopy is present, the goods may be displayed on an area abutting and not more than 3 feet from the storefront.
- (C) Such outdoor display must be customarily incidental to a principal use in the district in which the outdoor display is permitted. Only the business or entity occupying the principal use or structure shall sell merchandise in the outdoor display areas.
- (D) Such outdoor display is permitted in any yard, subject to a minimum setback of 20 feet from an adjoining property line.
- (E) Outdoor display shall be screened from view along any property line abutting a residential zoning district by a minimum six (6) foot opaque fence and Evergreen shrubs planted at a minimum of three (3) feet separation around the fencing perimeter facing residential property.
- (F) The height of displayed merchandise shall not exceed the height of any fence or wall in the buffer or 6 feet, whichever is less.
- (G) All outdoor displays must be located on the same lot as the principal use and shall be removed and placed indoors at the close of business hours.
- (H) Areas used for such display shall be furnished with an all-weather hard surface of a material such as bituminous or Portland concrete cement.
- (I) Merchandise shall not be placed or located where it will interfere with pedestrian or building access or egress, required vehicular parking and handicapped parking, aisles, access or egress, loading space parking or access, public or private utilities, services or drainage systems, fire lanes, alarms, hydrants, standpipes, or other fire protection equipment, or emergency access or egress.
- (J) Outdoor display areas shall not be located on any parking spaces needed to comply with

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the minimum parking ratios of the principal use for which it is located. Outdoor display areas shall be considered part of the floor area of the principal use or structure for purposes of computing the minimum number of parking spaces required.

Section 6.7 Manufactured Housing

A manufactured home constructed after July 1, 1976, shall meet or exceed the construction standards promulgated by the United States Department of Housing and Urban Development in effect at the time of construction and shall satisfy the following additional criteria:

- (A) Manufactured Home, Class A (Multi-section) shall be permitted in accordance with Section 5.5 Table of Permitted/Conditional Uses.
 - (1) All manufactured homes shall have a minimum of seven hundred fifty (750) square feet of enclosed heated living area and meets the wind design load requirement for hurricane resistive manufactured homes.
 - (2) There shall not be any siding missing and any siding needing repair shall be repaired before a certificate of zoning compliance is issued.
 - (3) All structures designed for residential use including manufactured housing shall be set up in accordance with the standards set by the state department of insurance for hurricane zones. A continuous permanent solid masonry wall composed of brick, concrete, concrete block set on a concrete footing shall be installed under the perimeter of the home from the ground to the first floor. The walls shall not be pierced except for ventilation and access. The walls shall be built and maintained in a workmanlike manner. All underpinning shall be completed and approved by the Code Enforcement Officer before a release for electrical hookup will be issued.
 - (4) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed and constructed in accordance with the standards set by the State Building Code, anchored securely to the ground, and shall be entirely self-supporting.
 - (5) The wheels and axles and transporting lights shall be removed.
 - (6) All windows and doors must be in working order and must be repaired if they are cracked or broken before a certificate of occupancy is issued. All insulation located beneath the floor shall be held in place by wiring, fiberboard, etc., and must be intact and properly maintained.
 - (7) Before electricity is turned on to the unit, a Certificate of Occupancy must be issued.
 - (8) Moving hitches shall be enclosed or covered in such a way to provide an attractive appearance to the home and enclosed in a rodent proof crawl space.
 - (9) Methods by which manufactured homes (also known as mobile homes) are set up are herein incorporated below:
 - (a) The manufactured home must meet all zoning requirements for the applicable zoned area and NC Building Code requirements before a certificate of occupancy is issued.
 - (b) The manufactured home must be habitable as determined by state and local regulations.
 - (c) Requirements of the set-up contractor:

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1. Furnish to the inspection department soil test results and verify the anchor required.
 2. Furnish inspections department with instructions from the manufacturer on installation of the strap and buckle system to be used.
 3. Before the home is set, three (3) footings shall be dug for the compaction test before any footer blocks are laid.
 4. Set-up contractor is responsible for obtaining permits for manufactured home set-up unless the owner is setting up the home him/herself.
- (d) All manufactured homes shall be delivered complete and shall meet all current City ordinances prior to delivery. No structural modifications shall be allowed on site. Underpinning, steps, stoops, decks or porches shall not be considered structural modifications for the purpose of this Ordinance.

Section 6.8 Modular Homes

- (A) A modular home must be transported to the site by a conveyance, (i.e., flatbed trailer or equivalent). Modular unit(s) must be set in place by a lifting device, i.e., crane.
- (B) A modular house must meet the same engineered foundation requirements as a site built house, i.e., it must have a permanent poured concrete footer with load bearing block or brick walls and support piers. The dwelling must be permanently attached to the foundation as with any site-built house.

Section 6.9 Archery Range, indoor/outdoor

An Archery Range shall be subject to the following:

- (A) Shall require a minimum of five (5) acres.
- (B) Shall conform to the The National Field Archery Association Guidelines.
- (C) Shall have at least one NFAA/National Archery Associate certified, level IV instructor on staff.
- (D) Shall be fully insured.
- (E) Shall have a minimum general liability of two million dollars.
- (F) Shall have a minimum general aggregate of one million dollars.
- (G) Shall have current Certificate of Insurance on file with the City Clerk.

Section 6.10 Adult and Child Day Care Centers

Adult and Child daycare centers may be allowed pursuant to the use tables provided in Section

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5.5, subject to the following standards:

- (A) *Vehicle Circulation.* In addition to the requirements of Article 7, an applicant for a adult/child care center shall provide a vehicular circulation plan showing on-site queuing and circulation based upon the location and number of patrons that utilize the facility.
- (B) *Recreational Facilities.* Outdoor recreational facilities shall be located in the rear or side yard.
- (C) *Landscaping.* In addition to the landscaping requirements, one additional shade tree per 1,000 square feet of outdoor play or activity area shall be installed.
- (D) *Setbacks from Residential.* All stationary play equipment, dumpsters, garbage cans, or recycling bins, and similar equipment shall be located at least 20 feet from any abutting residential property line.
- (E) *Hours of Operation.* Child care centers adjacent to residential areas shall not operate between the hours of 7:00 pm and 6:00 am.

Section 6.11 Adult and Sexually Oriented Business

Adult and sexually oriented businesses may be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

- (A) No adult or sexually oriented business shall be permitted in any building that is:
 - (1) Located within one thousand five hundred (1,500) feet in any direction from a building used as a dwelling;
 - (2) Located within one thousand five hundred (1,500) feet in any direction from a building in which an adult business or sexually oriented business is located;
 - (3) Located within one thousand five hundred (1,500) feet in any direction from a building used as a church, synagogue, other house of worship or cemeteries;
 - (4) Located within one thousand five hundred (1,500) feet from a building used as a public school or as a state licensed day care center or nursing home facility;
 - (5) Located within one thousand five hundred (1,500) feet in any direction from any lot or parcel on which a public playground, public swimming pool, public park or museum is located;
 - (6) Located within one thousand five hundred (1,500) feet of any publicly owned or operated facility;
 - (7) When computing distances, the entire property for the adult establishment shall be considered, including any parking lots.
- (B) No more than one (1) adult or sexually oriented business establishment shall be located in the same building or structure or on the same lot.
- (C) Except for signs as permitted in this Ordinance, promotional displays and presentations shall not be visible to the public from sidewalks, walkways, or streets.

Section 6.12 Animal Shelter

Animal Shelters may be allowed pursuant to the use tables provided in Section 5.5. At a minimum, all animal shelters shall operate under the guidance and direction of the appropriate state agency(s), and are subject to the following standards:

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6.12.1 Fencing

- (A) a six (6) feet hard fence or,
- (B) a vegetative buffer a minimum of six (6) feet high and twenty-five (25) feet wide or,
- (C) if a separation between the primary animal shelter and the all property lines are is a minimum of two hundred (200) feet, no noise buffer is required.

6.12.2 Odor Control

The following are Best Management Practices from the North Carolina Department of Environmental Quality, Health and Human Services, Division of Water Resources and shall be followed.

- (A) All solids shall be bagged and disposed of through normal trash pickup provided by the City.
- (B) Effluent shall be allowed to drain naturally into a grassy area.

6.12.3 Setback

Minimum setbacks are required as follows:

- (A) Front – two hundred (200) feet
- (B) Rear – one hundred (100) feet
- (C) Side – fifty (50) feet

6.12.4 Separation of facilities

There shall be a minimum two (2) mile radius between animal shelters, measured from property line to property line.

6.12.5 Structure

Animal shelters shall be provided with an enclosed climate controlled structure to be used as the main habitat for the facility animals at the facility; however, this regulation does not exclude outdoor runs, an exercise area or separate temporary outside quarantine areas.

Section 6.13 Auction Houses

An Auction house may be allowed pursuant to the use tables provided in Section 5.5 subject to the following standards:

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(A) All open storage areas shall be fenced with a minimum of six (6) foot fence. Evergreen shrubs shall be planted at a maximum spacing of not more than five (5) feet apart or at a spacing that will provide full screening at maturity.

(B) Privacy fencing shall be placed around the perimeter of a storage area, for any parcel adjoining residential property or any section of fence facing a highway or street.

Section 6.14 Automobile dealerships, new & used

An automobile dealership may be allowed pursuant to the use tables provided in Section 5.5, provided that no car may be parked closer than 50 feet from the front property line. The display/storage of vehicles for sale shall not be subject to the Outdoor storage/Outdoor display.

Section 6.15 Automobile Lubrication Shops

An automobile lubrication shop may be allowed pursuant to the use tables provided in Section 5.5, subject to the following conditions:

(A) All work shall be conducted completely inside the building. Outside storage is prohibited and vehicles must be parked in the rear of the building.

(B) A minimum six feet (6') tall opaque fence shall be required adjacent to residential properties.

Section 6.16 Automobile/motorcycle repair shop

An automobile/motorcycle repair shop may be allowed pursuant to the use tables provided in Section 5.5, subject to the following conditions:

(A) All vehicle parking shall be in the rear.

(B) All work shall be performed completely inside an enclosed structure.

Section 6.17 Banks

Banks with a drive-through may be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

(A) Stacking lanes for drive-through windows shall be located so as to avoid conflict with the normal flow of traffic on the site.

(B) A vehicle pass-by lane shall be constructed adjacent to each window to provide for complete, unimpeded circulation throughout the site.

Section 6.18 Bed and Breakfast

The number of rooms for rent shall be between two and five with a maximum length of stay of 60 days.

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Section 6.19 Boat ramp

Boat ramps shall be subject to the City's Lake Regulations contained in Article 7 and all applicable regulations contained in the General Code. Specifically:

- (A) Motorized boat ramps shall only be allowed on Patricia Lake, North Lake, and Spring Lake.
- (B) Nonmotorized (kayak/canoe) ramps may be allowed on lakes with public access.

Section 6.20 Boat sales, repairs

A boat sales or boat repair operation may be allowed pursuant to the use tables provided in Section 5.5, provided that all service areas be totally enclosed.

Section 6.21 Bulk hazardous/flammable material storage

Bulk storage exceeding 55 gallons of any toxic substances, chemicals, or petroleum based products shall be prohibited. All toxic substances, chemicals, or petroleum based products shall have an appropriate Material Safety Data Sheet (MSDS) accessible on site. All toxic substances, chemicals, or petroleum shall be stored in accordance with the North Carolina Building Code or manufacturer's instructions, whichever is more restrictive.

Section 6.22 Car Wash

Car washes shall be permitted in accordance with the use tables in Section 5.5, subject to the following:

- (A) No storage, repair, or sales of vehicles shall be allowed on the site.
- (B) Provisions shall be made for an on-site drainage system to capture water used to wash vehicles; or provide connections to an approved sanitary sewer system.

Section 6.23 Cemeteries and Mausoleums

A cemetery or mausoleum may be allowed as an accessory use to churches and synagogues pursuant to the use tables provided in Section 5.5, subject to the following conditions:

- (A) No crematoriums shall be permitted.

Section 6.24 Electronic Gaming Operations

Electronic Gaming Operations not prohibited by NCGS 14-306.1 are allowed pursuant to Section 5.5 Table of Permitted Uses/Conditional Uses, subject to the following:

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Electronic Gaming Operations shall be regulated as to location in the following manner in addition to any other requirements of the UDO:

- (A) Electronic gaming operations shall be located a minimum of 1,000 feet measured in a straight line from entry point to entry point of:
 - (1) A place of worship or other religious institution
 - (2) A day care center, public or private school.
 - (3) A public park, playground, public library, cemetery
 - (4) A skating rink, video arcade, or motion picture theater which shows G or PG-rated movies to the general public on a regular basis.
 - (5) Electronic gaming operations, tattoo and body piercing establishments or adult and sexually oriented businesses
- (B) Hours of operation shall be limited to 8:00 a.m. through 12:00 Midnight, 7 days per week for principal use.
- (C) Where Electronic Gaming Operations is an accessory use the hours of operation shall be limited to 8:00 a.m. to 12:00 Midnight 7 days a week for the Electronic Gaming Operation terminal(s) only. Hours of operation for the principal use may be outside the operating hours for Electronic Gaming Operations.
- (D) The maximum number of machines/terminals/computers for any Electronic Gaming Operations business is 20.
- (E) Off-street parking must comply with Article 8 of the UDO.

Section 6.25 Firing Range

A firing range shall only permitted as an enclosed use indoors subject to the following:

- (A) Shall conform to NRA Guidelines, The National Institute of Building Sciences for Firing Ranges and The Department of Energy Range Design Criteria.
- (B) Shall conform to OSHA requirements.
- (C) Shall be fully insured.
- (D) Shall have a minimum general liability of two million dollars.
- (E) Shall have a minimum general aggregate of one million dollars.
- (F) Shall have current Certificate of Insurance on file with the City Clerk.

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Section 6.26 Gas Station & Convenience Store

Car washing, mechanical and electrical repairs and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors. No fuel pumps shall be located within fifteen (15) feet of any property line or street right-of-way. Incidental activities shall not include tire retreading, major body work, major mechanical work or upholstery work.

Section 6.27 Golf Course, Golf Club House/Pro Shop/Driving Range, Golf Course Restaurant, Bar, Banquet, Catering, and Meeting

May be allowed pursuant to the use tables provided in Section 5.5, subject to the following condition: Minimum buffer of twenty-five feet shall be required from any structure located adjacent to residential properties.

Section 6.28 Governmental Buildings/City Garages

Municipal buildings/city garages may be allowed pursuant to the use tables provided in Section 5.5, subject to the following conditions:

- (A) Required buffer adjacent to residential properties shall be planted in evergreen shrubs that reach a minimum of eight (8) feet in height at maturity.
- (B) Buffer plantings shall be in two (2) rows staggered every three (3) feet.

Section 6.29 Home Occupations

Home occupations may be permitted in accordance with Section 5.5 provided they meet with the following conditions and renew their permit every year:

- (A) No person other than members of the immediate family residing on the premises shall be engaged in such occupation. It must be carried on by a resident of the structure as either a sole proprietorship or a corporation that is wholly owned by the residents of the structure or a partnership where all partners are residents of the structure.
- (B) The use of the dwelling shall be clearly incidental and subordinate to its use as a residence and shall not change the character thereof or have exterior evidence of such use. No more than twenty-five (25) percent of the total livable area or five hundred (500) square feet, whichever is less, shall be used for such home occupation. There shall be no outside or window display and no mechanical or electrical equipment installed or used other than is normally used for domestic, professional or hobby purposes, or for infrequent consultation or emergency treatment. A home occupation may be conducted in an accessory building but not to exceed twenty-five (25) percent of the total floor area of the dwelling. The home occupation may be operated in twenty-five (25) percent of the home or the accessory building, but not both. A home occupation shall not require internal alterations or involve construction features not customarily found in dwellings.
- (C) No equipment, storage, or process shall be used which creates noise, glare, fumes,

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- odors, or electrical interference to the adjoining properties.
- (D) Does not create a nuisance of any kind to surrounding residents.
 - (E) Home occupation may include such things as dressmaking, hairdressing, teaching and musical instruction (limited to one (1) pupil at time), practice by an artist, or other occupations consisting of limited visitation. Home occupation does not include commercial stable or kennel, small engine repair, mortuary, garage or premises for the repair of motor vehicles, or other trades or business of a similar nature.
 - (F) No signage shall be allowed on-site. No display of goods, products, or services shall be visible from outside the building.
 - (G) No products or commodities bought for the express purpose of resale shall be sold at retail or wholesale on the premises nor shall such goods or products be stored or displayed on the premises. Online retailers whereby no products are purchased directly from the residence and where no customers visit the residence are permitted.
 - (H) A minimum of one (1) additional off-street parking space shall be provided for home occupation use. The off street parking spaces shall be maintained in addition to the space or spaces required for the residence itself. No parking areas, other than driveways, may be located in any required setback.
 - (I) All parking accommodations shall be in accordance with those outlined in the City's General Code of Ordinances.

Section 6.30 Hospital

A hospital may be allowed pursuant to the use tables provided in Section 5.5, subject to the following condition: A minimum of ten (10) acre parcel required.

Section 6.31 In-Home Adult/Daycare Center

- (A) The day care must be carried out by a resident of the structure as either a sole proprietorship or a corporation that is wholly owned by residents of the structure, or a partnership where all partners are residents of the structure.
- (B) The use of any accessory building or accessory structure for a day care is not allowed.
- (C) Any outdoor play equipment stored throughout the day and night shall not be permitted in the front yard area nor shall it be situated closer than fifteen (15) feet from any adjoining lot containing a dwelling.
- (D) No person, other than members of the family residing on the premises, shall be engaged or employed. This shall not apply to a substitute non-resident person providing care on the premises while the owner/operator is sick or otherwise unable to provide care.
- (E) No more than eight (8) persons shall be cared for at any given time.

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- (F) Must comply with all state and local standards.
- (G) The establishment shall not operate between the hours of 7:00 pm and 6:00 am.
- (H) A dedicated pick-up/drop-off location must be located on the premises.

Section 6.32 Junk/Salvage Yard

Junk/salvage yards shall be subject to the following location, size, and design requirements:

- (A) All storage areas on the site shall be secured by a fence at least eight (8) feet tall, uninterrupted except for required vehicle access points to prevent unlawful entry.
- (B) All storage areas shall be screened so that a person six feet tall cannot see stored items when standing at ground level on all adjacent properties and the public right of way within 100 feet of the property line. This screening may be accomplished through an opaque fence or wall or landscaping with 100% evergreen plant material planted at a 3 feet minimum and 6 feet minimum at maturity at a spacing of every 5 feet. The screening method shall be approved by the Board of Adjustment.
- (C) Applicants shall provide noise level documentation for equipment used outdoors on site. The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.
- (D) There shall be no storage of materials closer than fifty (50) feet to a public right-of-way or residentially zoned property, nor closer than thirty (30) feet to non-residentially zoned property.

Section 6.33 Keeping of Animals

- (A) Keeping of Domestic Animals. Except in land tract areas in zoning district R-6, no domestic animals, except household pets, shall be permitted in any zoning district. Household pets shall be under the direct care and ownership of the residence within which they reside. Household pets include a dog, cat, small bird, rodent (including a rabbit), fish, or turtle that is traditionally kept in the home for pleasure rather than for commercial purposes.
- (B) Keeping of Farm Animals. Farm animals and the keeping, releasing or raising of waterfowl is only permitted in zoning district R-6. Waterfowl includes those species of birds commonly known as swans, geese, ducks, and any other fowl that are under the jurisdiction of the US Fish and Wildlife Service.

Section 6.34 Kindergarten/Nursery School

A kindergarten/nursery school may be allowed pursuant to the use tables provided in Section 5.5, subject to the following conditions:

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- (A) Minimum parcel size shall be 140 feet by 150 feet.
- (B) Minimum buffer for any parcel adjoining residential property shall be ten (10) feet.
- (C) The buffer shall be planted in evergreen shrubs that reach a minimum of eight (8) feet in height at maturity.
- (D) Buffer plantings shall be in two rows staggered every three (3) feet.

Section 6.35 Leather Goods

Tanning is prohibited in accordance with this use.

Section 6.36 Medical and Dental Care

A medical or dental clinic may be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

- (A) *Permitted Activities.* Except for medical emergency purposes, overnight facilities for patient care are prohibited.
- (B) *Permitted Location.* A clinic may be located in a freestanding building or in a multiple tenant building.
- (C) *Maximum Building Size.* An outpatient clinic shall not exceed ten thousand (10,000) square feet, unless otherwise approved as part of a conditional use permit.

Section 6.37 Microbrewery/microdistillery

Microbreweries and microdistilleries shall be subject to the following location, size, and design requirements:

- (A) Shall not exceed 40,000 square feet of gross floor area, except that there is no size limit within the I-1 Zoning District.
- (B) Outside gathering areas shall not be located within one hundred (100) feet of a residential district.
- (C) Required parking shall be calculated based on square footage proposed for each use.
- (D) Storage of materials, including silos, products for distribution and other items requiring long-term storage shall be allowed in areas behind building, in enclosed buildings, or otherwise screened from the public right-of-way or pedestrian way.
- (E) Off-site distribution is only permitted if the truck traffic is limited to streets classified as arterial.

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- (F) Shall include one (1) or more accessory uses such as a tasting room, tap room, restaurant, retail, demonstration area, education and training facility or other use incidental to the facility and open and accessible to the public.
- (G) Shall be designed such that all newly constructed loading and unloading facilities (if applicable) are internal to the site or in service alleys or back of building.

Section 6.38 Mini storage units (indoor)

Mini storage units may be allowed pursuant to the use tables provide din Section 5.5, provided that no unit is greater than 400 square feet.

Section 6.39 Mixed Use

- (A) Allowed pursuant to the use tables provided in Section 5.5, subject to the standards outlined elsewhere in the ordinance and the standards that follow.
- (B) Non-residential uses are permitted pursuant to Section 5.5 Table of Permitted Uses, except that the following uses are prohibited: boat sales, repairs; cemeteries and mausoleums; electrical repair or contractor (open storage allowed); engine repair; farmers market; gas station & convenience stores; heating and air condition installation and repair (open storage allowed); home appliance repair (open storage allowed); manufacturing; metal working (outside storage allowed); metal working (no outside storage); plumbing repair contractor (open storage allowed); propane/acetylene wholesale/retail or distribution; rental equipment (outside storage); substations/pump/telephone stations; telecommunications towers; warehouses.
- (C) In lieu of the parking standards, the UDO Administrator may approve a shared parking arrangement in writing contingent upon operating hours. Any change to that arrangement or expansion of operating hours outside of the original arrangement will result in expiration of the approval.

Residential uses are not permitted on the ground floor.

Section 6.40 Multi-Family Residential (Including Townhouses)

- (A) In the C-1 and C-C Zoning district, multi-family residential uses are only permitted on a contiguous tract or tracts of land consisting of five (5) or more contiguous acres.
- (B) A multi-family residential use shall be located on a tract or tracts of land under single, individual, corporate, firm partnership, or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a definitively programmed series of development operations. The development shall have a unified or coordinated design of buildings and/or a coordinated organization of service areas and common open space.
- (C) Any multi-family residential use having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads. However,

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Multi-Family residential projects having up to 200 dwelling units may be allowed to provide a single approved fire apparatus access road when all buildings (including nonresidential occupancies) are equipped throughout with approved automatic sprinkler systems installed in compliance with state and local fire codes or deviations approved by the North Carolina State Fire Marshall.

- (D) The maximum allowable density for any multi-family residential use shall be twenty (20) units per acre.
- (E) Design Standards. Multi-family residential uses shall meet the all applicable design and performance standards or requirements as noted in articles 7, 8 and 9, in addition to the following:
 - (1) Any group of buildings forming a courtyard shall provide adequate access for emergency vehicles to enter such courtyard in compliance with state and local fire codes or deviations approved by the North Carolina State Fire Marshall.
 - (2) The use of features such as plazas, patios and courtyards should be used when practical. The features and spaces should enhance the development's role as an integral part of the community.
 - (3) Sidewalks and/or paths shall be constructed within the development to link the interior of the development with residential buildings within the development and to other destinations such as, but not limited to, adjoining streets, mailboxes, trash disposal areas, onsite amenity areas and the like.
 - (4) There shall be maintained at least fifteen (15) feet of separation between individual and unattached buildings.
 - (5) Swimming pools and their accessory uses may be located within the side and rear yards, but may not violate any setback requirements.
- (F) Open Space Areas.
 - (1) Open space areas shall be provided for all multi-family residential uses with twenty (20) or more dwelling units. The amount of land required to be dedicated shall be computed on the basis of the following formula:
Area to be dedicated (in acres) = (.01) x (number of dwelling units or lots).
 - (2) Open space should be provided throughout the development. Swimming pools and their accessory uses shall not constitute any part of the open space requirements. No part of the play area shall be used for any other purpose.
- (G) Clubhouses or rental/sales offices may be located within a multi-family residential use and shall meet all applicable sections of this ordinance.
- (H) Townhouses. The following standards apply only to townhouses:
 - (1) Maximum density and minimum lot size may be satisfied by individual units upon subdivision, by provision of open space, or by a combination of lot area and common open space. The density of the development shall be defined by the number of units in the townhouse development by the total acreage of the development.
 - (2) No more than six (6) units per structure.
 - (3) No unit shall be connected on more than two (2) sides by common walls.

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- (4) Minimum yard requirements shall apply to the project boundary. No individual dwelling unit lot shall be required to comply with minimum yard dimensions.
- (5) For the purposes of subdividing townhouse lots, the site plan shall include all information required on an engineering drawing.

Section 6.41 Nursing Homes

A nursing home may be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

- (A) No building shall be located closer than forty (40) feet to any lot line which abuts residential districts.
- (B) There shall be at a minimum fifty (50) feet of road frontage.
- (C) Adequate provisions shall be made for service vehicles with access to the building at a side or rear entrance, and without backing onto rights-of-way to exit the property.
- (D) All structures shall be built to a residential scale consistent with the surrounding neighborhood.

Section 6.42 Public and Private Schools, Colleges, and Universities

May be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

- (A) A minimum buffer of twenty-five (25) feet shall be required between parcels adjoining a residential parcel.
- (B) The buffer shall be planted in evergreen shrubs that reach a minimum of eight (8) feet in height at maturity.
- (C) Buffer plantings shall be in two (2) rows staggered every three (3) feet.

Section 6.43 Recreational Vehicle Park and Campsites

- (A) Design Standards
 - (1) An RV campground shall require a minimum gross land area of five (5) acres.
 - (2) A minimum of eight (8) percent of the total land area shall be set aside for an accessible common open space intended for recreational use. These open spaces shall be reasonable located for convenient access by residents and be suitable for both passive and active recreational activities.
 - (3) All public road frontages and the perimeter of the RV/campsite Park shall have a buffer strip of at least 20 feet in width, in addition to any required buffer, and shall remain free of encroachment by campsites, RV parking area(s), out buildings/structures and impervious coverage.

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- (4) RV and campsites shall not be located in Special Flood Hazard Areas. All sites shall be graded to prevent standing or ponding of water. RV and campsites shall be graded to obtain a reasonably flat area and to provide adequate drainage. This requirement is not intended to circumvent FEMA regulations.
 - (5) Each RV campground will be located at least thirty (30) feet from the edge of any publically maintained road or street.
 - (6) An individual RV site shall have, at a minimum, Twelve hundred fifty (1,250) square feet with average width of twenty five (25) feet. In no case shall an RV be able to park closer than twenty (20) feet to another RV. Consideration shall be given to overcrowding, fire hazards and sufficient light and air during the design phase of the park. No accessory structures shall be constructed on an individual RV site.
 - (7) No individual RV or campsite shall have direct vehicular access to a publically maintained road.
 - (8) A number identifying each RV and campsite shall be placed on a concrete, wood or metal post, conspicuously located at each RV and campsite location. Once the sites are given a number, it shall not be changed.
 - (9) An RV campground future additions thereto shall meet the minimum standards and requirements set forth in the International Building Codes specifically addressing the North Carolina Amendments for plumbing, sanitation, accommodations and associated parking. Accommodations/structures may contain a retail sales counter and/or coin operated machines, or a vending machine area for the RV campsite residents' use provided there is no exterior advertising.
 - (10) Structures shall:
 - (a) Be constructed in accordance with the International Building Code with North Carolina Amendments, and shall meet the building code and/or UDO requirements,
 - (b) Be safely and adequately illuminated,
 - (c) Be easily accessible to all users of the RV park and campsites,
 - (d) Be maintained in a clean and sanitary condition at all times,
 - (e) Be kept in good repair.
 - (f) In addition to the prohibition of advertising on vending structures, the sign regulations for the zoning district in which the RV Park is located shall be in accordance with Article 10 of Boiling Spring Lakes UDO.
- (B) Parking and Streets
- (1) Parking within the RV campground shall be off any internal street and only in designated parking areas.

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- (2) All access to RV sites, campsites and accessory structures shall be made using internal streets.
- (3) Internal Street Standards:
 - (a) Throughout the RV and campsite area(s), one or two-way streets shall be used, kept well maintained and clearly identified. Each campsite and RV parking area shall abut an internal street within the park.
 - (b) All internal streets shall have a minimum width of twenty (20) feet, with a minimum vertical clearance of eighteen (18) feet.
 - (c) A minimum radius of forty (40) feet, shall be maintained on any dead-end internal street for emergency vehicles and shall be approved by the Fire Chief.
 - (d) All internal streets shall have a design surface capable of supporting a minimum of seventy five thousand pounds in accordance with the International Fire Code.
 - (e) It shall be the responsibility of the RV park owner to maintain all internal streets and drainage facilities. Such streets shall be maintained in such a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water and any other associated issues which would impede or cause hazards to motor vehicles.
 - (f) All internal streets shall be subject to annual inspections by the City of Boiling Spring Lakes Code Enforcement Officer.
 - (g) Internal streets shall be designed to slow traffic.
- (4) External Access:
 - (a) An RV campground with only one point of external access shall provide at least one permanent turnaround within the RV/campsite area. External access must be approved the Boiling Spring Lakes UDO Administrator or the North Carolina Department of Transportation, if the connecting street is a state maintained road.
 - (b) Electronic vehicular access gates, entryway fences, or barricades are prohibited.
- (C) Utilities
 - (1) Water
 - (a) A safe, potable, accessible and adequate supply of water shall be required. Where a public, municipal or community water systems exist within one thousand (10,00) feet of the park, the owner shall connect to such system.
 - (b) If municipal water is not available within one thousand feet owner shall construct a municipal well and obtain permitting for a transient non-community water system.

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- (2) Sewer
 - (a) Approval by the Brunswick County Health Department shall be required for any installation, alternation or use of a sewage disposal system. Wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water using appliances not herein mentioned, shall be disposed of by an approved sewage disposal system,
 - (b) In all RV/campsite parks, adequate and safe sewage disposal facilities shall be provided. Where public, municipal or community sewer systems exist within one thousand (1,000) feet of the RV park, the owner shall connect to such system,
 - (c) Each RV site shall have a potable water and sewer connection.

- (D) RV Campground Operation
 - (1) General conditions:
 - (a) The individual to whom an operating permit for an RV campground is issued shall operate the site in compliance with this ordinance. He/she shall be responsible for maintaining the campground, its facilities and equipment in good repair and providing a clean and sanitary campground.
 - (b) The RV campground owner shall notify its visitors of all applicable provisions of this ordinance and inform them of their responsibilities under same.
 - (c) The RV campground owner shall be responsible for refuse collection. The method of garbage disposal shall be noted on the RV campground application and approved by the City of Boiling Spring Lakes. The storage, collection and disposal of refuse shall be managed as to not create health hazards, insect breeding area(s), rodent harborage, fire hazards or air pollution.
 - (d) All refuse devises shall be enclosed on three sides by masonry or wood fencing.
 - (e) Any bathing area shall require the approval of the Brunswick County Health Department. Swimming pools or bathing areas shall be installed, altered, improved and used in compliance with applicable County and State Health Services Regulations.
 - (f) Two (2) manufactured homes shall be permitted to be located within an RV campground to be used as residences of persons responsible for the operation and/or maintenance of the RV campground.
 - (g) No more than one (1) RV may be parked on any one site. RV campers shall not be permitted on parcels, lots, or spaces other than the designated for RV's.

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- (h) All RV units must be placed individually on approved campsites where all design standards and utility connections have been completed.
 - (i) Unlicensed or unregistered vehicles shall be prohibited in an RV park.
 - (j) It is expressly prohibited to transfer title of RV sites or campsites, either by sale or any other manner within an RV campground.
 - (k) The RV campground shall only be used for transient use. No RV site may be used by the same RV for more than 180 days.
- (2) Inspection
- (a) The Brunswick County Health Department, the City of Boiling Spring Lakes' Building Inspector, Code Enforcement Officer and Public Services Department are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Ordinance. It shall be the duty of the owners of the RV campground to give these agencies free access to such premises at reasonable times for inspections.

Section 6.44 Recycling Center

Recycling centers as a principal use shall be subject to the following location, size, and design requirements:

- (A) All storage areas on the site shall be secured by a fence at least eight (8) feet tall, uninterrupted except for required vehicle access points to prevent unlawful entry.
- (B) All storage areas shall be screened so that a person six feet tall cannot see stored items when standing at ground level on all adjacent properties and the public right of way within 100 feet of the property line. This screening may be accomplished through an opaque fence or wall or landscaping with 100% evergreen plant material planted at a 3 feet minimum and 6 feet minimum at maturity at a spacing of every 5 feet. The screening method shall be approved by the Board of Adjustment.
- (C) Applicants shall provide noise level documentation for equipment used outdoors on site. The permit issuing authority may require any one, or a combination of fencing, distance, hours of operation, and baffling as needed to minimize noise generated by such facilities.
- (D) There shall be no storage of materials closer than fifty (50) feet to a public right-of-way or residentially zoned property, nor closer than thirty (30) feet to non-residentially zoned property.

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Section 6.45 Religious Institutions

A religious institution may be allowed pursuant to the use tables provided in Section 5.5, subject to the following conditions:

- (A) There shall be at a minimum fifty (50) feet of road frontage.
- (B) The proposed parking facilities shall be setback at least twenty-five (25) feet from adjacent residential property.
- (C) Off-street parking areas shall be surfaced and maintained to provide a durable, dust free surface and shall provide adequate drainage facilities for disposal of all collected surface water. Surfacing materials may include pavement, gravel, wood chips, pervious paving materials, or grass.

Section 6.46 Research and Development Business

- (A) Screening and Buffering Requirements.
 - (1) Any outside storage or demonstration facility shall be screened from view by a minimum six (6) foot fence on all sides.
 - (2) It shall be the responsibility of the property owner to maintain the required screening.
- (B) Copies of all required local, state, and federal permits including a wetland delineation must be submitted with the application for a Conditional Use Permit.
- (C) A copy of an approved survey with all proposed structures, facilities, outdoor uses indicated shall be submitted with the application for a Conditional Use Permit.
- (D) Minimum lot size shall be five (5) acres.
- (E) Minimum setback from the front property line for storage buildings, equipment storage outside demonstration facilities, etc., shall be four hundred (400) feet.
- (F) An accessible, adequate, safe, and potable supply of water shall be required.
- (G) Bulk storage exceeding 55 gallons of any toxic substances, chemicals, or petroleum based products shall be prohibited. All toxic substances, chemicals, or petroleum based products shall have an appropriate Material Safety Data Sheet (MSDS) accessible on site. All toxic substances, chemicals, or petroleum shall be stored in accordance with the North Carolina Building Code or manufacturer's instructions, whichever is more restrictive.

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Section 6.47 Restaurants (Drive through/In)

May be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

- (A) A minimum buffer of twenty-five (25) feet shall be required between parcels adjoining a residential parcel.
- (B) The buffer shall be planted in evergreen shrubs that reach a minimum of eight (8) feet in height at maturity.
- (C) Buffer plantings shall be in two (2) rows staggered every three (3) feet.

Section 6.48 Satellite Dish Antennas

6.48.1 Purpose

These regulations apply to all antennas which are placed in residential districts, and their location within the rear/side yard or roof, so as not to encroach upon the aesthetic quality of the neighborhood or the safety of residents.

6.48.2 General Requirements

- (A) A building permit is not required when installing the dish antenna.
- (B) The dish antenna must be installed in compliance with the manufacturers' specifications at a minimum.
- (C) No dish antenna shall be installed so as to block the view of vehicle drivers at intersections or installed in any drainage or utility easement or public right-of-way.

6.48.3 Location In Yards

- (A) A dish antenna shall be installed in the rear yard, side yard, or roof.
- (B) The base of the dish antenna must be set back ten (10) feet from the property lines.
- (C) If the manufacturer/installer finds that the dish cannot be installed in compliance with subsection (A) and (B) due to the signal reception, a letter from the manufacturer/installer shall be provided to the building inspector who shall have the authority to permit alternate placement.

6.48.4 Maximum Height

- (A) In all residential districts the maximum height of dish antennas shall be fifteen (15) feet or the height of the principal building, whichever is less. Dish antennas mounted on the roof of a building shall not project higher than ten (10) feet.
- (B) In commercial and industrial districts, the maximum height of dish antennas installed on

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the ground shall be twenty (20) feet. Dish antennas mounted on the roof of a building shall not project higher than ten (10) feet above the maximum building height of the district or more than one-third the actual building height above the roof, whichever is less.

6.48.5 Buffering Requirements

- (A) In all residential districts dish antennas shall be surrounded on all sides with any one (1) or combination of evergreen vegetation, topography, landscaped earth berm, or architectural features such as fences or buildings so that view of the lower one-third of the dish area is restricted from all public streets and lakes and six (6) feet above ground level of abutting residential property. If evergreen vegetation is used, a species and size shall be planted which can be expected to screen the required area within two (2) years of normal growth. Any screening vegetation that dies must be replaced.
- (B) In commercial and industrial districts, dish antennas must be screened from view from abutting residential property and residential streets. The screening requirements as to materials and height shall be the same as in subsection (A) above.

6.48.6 Amateur/Ham Radio Operators

Any amateur radio operator who is properly licensed may install a monopole antenna without complying with the terms and conditions of this section. Prior to the installation of any antenna, the ham operator shall provide proof of his compliance with FCC licensing to qualify for this exemption. All antenna installations must be inspected by the UDO Administrator and Building Inspector.

Section 6.49 Self Service Ice Vending Units and Other Similar Uses

6.49.1 Standards

Where permitted, self-service ice vending units or other similar uses shall comply with the following minimum standards:

- (A) Self-service ice vending units or other similar uses shall be an accessory to an existing business or commercial entity.
- (B) Said units shall not be located on a residential street.
- (C) A self-service ice vending unit or other similar use shall be no closer than fifty (50) feet to any single family residential district.
- (D) No self-service ice vending unit or other similar use shall encroach into the minimum required setback
- (E) Architectural features of any self-service ice vending unit or other similar use shall be complementary to existing development in the immediate area. Building elevations shall be submitted with each application considered for approval.

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- (F) The foundation of each unit shall be screened by skirting, lattice or foundation plantings and landscaping, if the unit or units are stand alone and/or the primary use of the property.
- (G) Roof-mounted or other equipment on top of the unit shall be screened by a parapet wall.
- (H) Within 30 (thirty) calendar days of the closure or ceasing of operations of any self service ice vending unit or other similar use all equipment and incidentals shall be removed from the premises.
- (I) Applicants shall acquire approval from the UDO Administrator or where applicable the Brunswick County Health Department prior to the issuance of a City of Boiling Spring Lakes business license or permits by the Code Enforcement Officer.

6.49.2 Signs

Signs incorporated on machinery or equipment which advertises only the product or service dispensed by the machine or equipment shall encompass no more than 20% (twenty percent) of the frontal area of each structure/unit.

6.49.3 Landscaping

Where a self-service ice vending unit or other similar use has an approved site plan on record with the UDO Administrator, either lattice or landscaping shall be provided around the foundation of the unit. If the landscaping option is chosen, the plantings shall be at a rate of one planter or pot per three feet in all areas visible from the public right-of-way. Requirements of Section Landscape Provisions of the Unified Development Ordinance shall apply.

6.49.4 Parking

Where a self-service ice vending unit has an approved site plan on record in the City of Boiling Spring Lakes and that has adequate off-street parking, no additional parking shall be required. In no case shall the addition of said unit create nonconformity in the parking requirements of the original business.

6.49.5 Access

Ingress and egress shall be located where such will not impede pedestrian or vehicular traffic flow. An existing access or driveway shall be utilized.

6.49.6 Waste Disposal

No accessory structure shall be allowed except an enclosed dumpster which shall be located to the rear of the ice machine or in a location deemed appropriate by the UDO Administrator.

6.49.7 Maximum Building Area

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A self-service ice vending unit or other similar use shall be no more than two hundred (200) square feet in area.”

6.49.8 Loss of Legal Nonconforming Status

Legally nonconforming self-service ice vending unit or other similar use shall be either removed or replaced with a conforming machine by three (3) years from the effective date of this ordinance. It is intended that this provision shall ensure that those who hold legally nonconforming status will recoup initial investment costs and remaining useful life of such machine. It is further intended that this provision shall not deprive any owners of property rights without just compensation so as to avoid the occurrence of a taking.

It is envisioned that the time period allotted herein shall allow for amortization and depreciation of such units based upon the following factors: initial investment costs, remaining useful life, length of time of ownership of the premises, the building, maintenance expenditures, cost of removal and replacement.

Section 6.50 Solar Farm (also known as a Solar Energy System - SES):

- (A) Solar farms shall be located a minimum of a one hundred feet (100') from all property lines (inclusive of equipment and fencing).
- (B) Solar farms shall have fencing installed a minimum of six feet (6' in height) and secured to reduce/eliminate trespassing.
- (C) Height - maximum (not including power lines) of twenty-five feet (25').
- (D) Buffers - minimum requirements of this ordinance shall be applied with evergreen buffers having a minimum of three feet (3') in height at the time of project construction and reaching a minimum of eight feet (8') in height within five (5) years.
 - (1) Landscaping including vegetative buffers, security fences and gates shall be maintained for the duration of the solar farm operation, up to and including decommissioning (dismantled/removed).
 - (2) Vegetative buffer shall be installed (exception granted if an existing natural buffer meeting the requirements of this ordinance exists) surrounding the solar farm site to screen adjacent properties - with the exception of the entrance-road frontage of the lot or parcel where a buffer is not required.
- (E) Solar panels/arrays shall be constructed so as to minimize glare or reflection onto adjacent properties and roadways.
- (F) Decommissioning - The UDO Administrator, or his/her designee shall be advised, in writing within thirty (30) days, by the solar farm operator or property owners (whichever entity/party holds the zoning and building permits holder) in the event the project is sold

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or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.

- (1) At the time of applying for permits the applicant (solar farm developer or property owner) shall include a decommissioning plan with the anticipated life expectancy of the solar farm and the anticipated cost in current dollars, as well as the method (s) of insuring that funds will be available for decommissioning and restoration of the project site to its original, natural condition prior to the solar farm development.
 - (2) If the site is damaged, the solar farm operator shall have twelve (12) months to bring the project back to its operational capacity and within compliance with the UDO. If for any reason the solar farm is not generating electricity after six (6) months, the operator shall have six (6) months to complete decommissioning of the solar farm in compliance with paragraph f (1) of this section above.
 - (3) In the event of bankruptcy or similar financial default of the solar farm, the property owner of the project site shall bear the decommissioning costs.
- (G) Other Applicable Codes/Inspections – all solar farms shall be in compliance the requirements of the most current State Building and Electrical Codes, the State of North Carolina and the City of Boiling Spring Lakes.
- (1) All active solar farms shall be inspected by the UDO Administrator or his designee on an annual basis to insure compliance with applicable State Building and electrical Codes.
 - (2) Each solar farm shall be required to have the facility inspected annually for three (3) years by the UDO Administrator or his/her designee following the issuance of a Certificate of Occupancy to verify continued compliance with the Unified Development Ordinance as applicable.
 - (3) Additional inspections shall be conducted as necessary in the event of complaints and shall not replace the noted inspections outlined in this section.

Section 6.51 Substations/Pump/Telephone Stations/Water Stations

May be allowed pursuant to the use tables provided in Section 5.5, subject to the following standards:

- (A) Entire perimeter of site shall be fenced.
- (B) Chain link fencing shall be permitted provided the exterior of the fence facing any road or residential property is screened by evergreen shrubs that will mature at a minimum height of six (6) feet.
- (C) Evergreen shrubs shall be planted at a maximum spacing of not more than five (5) feet apart or at a spacing that will provide full screening at maturity.

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Section 6.52 Swimming Pools

- (A) Swimming pool fences will be in accordance with the North Carolina Building Code.
- (B) In the C-1, C-2, C-C, and O&I district, swimming pools are limited to commercial uses.
- (C) In a PRD district, a swimming pool may be allowed as a common area use.
- (D) In all residential districts, swimming pools shall be accessory to a primary residential use and shall be located in either the side or rear yard.
 - (1) The minimum setback for the side or rear is ten (10) feet.

Section 6.53 Wireless Telecommunication Facility or Complex, Freestanding and Substantial Modifications (See Section 6.72 for Colocation of Small/Micro Wireless Facility)

6.53.1. Purpose and Legislative Intent

- (A) The Telecommunications Act of 1996 affirmed the City of Boiling Spring Lakes' authority concerning the placement, construction and Modification of Wireless Telecommunications Facilities or Complexes. This ordinance provides for the safe and efficient integration of Wireless Facilities or Complexes Necessary for the provision of advanced wireless telecommunications services throughout the community and to ensure the ready availability of reliable wireless services to the public, government agencies and first responders, with the intention of furthering the public safety and general welfare.
- (B) The City of Boiling Spring Lakes (City) finds that Wireless Telecommunications Facilities (Facilities) and Complexes may pose significant concerns to the health, safety, public welfare, character and environment of the City and its inhabitants. The City also recognizes that facilitating the development of wireless service technology can be an economic development asset to the City and of significant benefit to the City and its residents. In order to assure that the placement, construction or Modification of a Facility or Complex is consistent with the City's land use policies, the City is adopting a single, comprehensive, Wireless Telecommunications Facility or Complex application and permitting process. The intent of this Section is to minimize the physical impact of Wireless Telecommunications Facilities on the community, protect the character of the community to the extent reasonably possible, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the City.

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6.53.2. General Policies and Procedures for Applications under this Section

In order to ensure that the placement, construction and Modification of a Facility or the components of a Complex do not endanger or jeopardize the City's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section, the City hereby adopts an overall policy and related procedures with respect to the submittal, review, approval and issuance of permits or Administratively granted authority for Wireless Facilities for the express purpose of achieving the following outcomes:

- (A) Requiring a Conditional Use Permit for any new Complex, Facility or any Substantial Modification of a Facility or Complex or for a Co-located Facility.
- (B) Promoting, and requiring wherever possible, the sharing and/or co-location of support structures among service providers;
- (C) Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of a Facility or Complex in such a manner as to minimize the physical and visual impact on the community, including but not limited to the use of stealth technology.
- (D) Requiring that the Facility and Complex shall be the least visually intrusive among those options available in the City given the facts and circumstances.
- (E) There shall be a pre-application meeting for all intended applications prior to the submission of an application. The pre-application meeting may be held either on site, or telephonically as deemed appropriate by the City or its designee. The purpose of the pre-application meeting will be to address i) issues that will help to expedite the review; and permitting process; and ii) certain issues or concerns the City or the Applicant may have. Costs of the City's consultant to prepare for and attend the pre-application meeting will be borne by the applicant and paid for out of a fee set forth in the City's Schedule of Fees, which shall have been paid to the City prior to any site visit or pre-application meeting.
- (F) If there has not been a prior site visit for the requested Facility or Complex within the previous six (6) months a site visit shall be conducted.
- (G) An Applicant shall submit to the City the number of completed Applications determined to be needed at the pre-application meeting. If Board action is required, applications will not be transmitted to the Board for consideration until the application is deemed Complete.
- (H) If the proposed site is within two (2) miles of another jurisdiction, written notification of the Application shall be provided to the legislative body of all such adjacent jurisdictions as applicable and/or requested.
- (I) The owner(s) of the support structure to which antennas or related equipment are to be attached must be an official Applicant of Record.

ARTICLE 6. SUPPLEMENTAL REGULATIONS

- (J) All Applicants shall closely follow the instructions for preparing an Application. Not following the instructions without permission to deviate from such shall result in the application being deemed incomplete and a tolling of the time allowed for action on an Application until a Complete Application is received.
- (K) The Applicant shall be notified in writing of any deficiencies within forty-five days of the submission of an Application as regards any deficiencies related to the completeness of the Application. Remediation of deficiencies in an Application shall be deemed an amendment of the Application that was received.
- (L) The City may deny applications not meeting the requirements stated herein or which are otherwise not complete after proper notice and a reasonable opportunity to make the Application Complete has been afforded. Applications will be deemed abandoned if left incomplete for more than ninety (90) days.
- (M) No work of any kind on a Freestanding Facility or Complex shall be started until the Application is reviewed and a Conditional Use Permit has been issued and a Zoning and Building Permit has been issued.
- (N) Other than to remediate non-compliant situations related to matters of safety or the conditions of a permit, no permits for work at a Facility or Complex shall be issued where the Facility or Complex is not in full compliance with all applicable local, State and federal laws, rules, regulations and orders. A Facility or Complex not in full compliance with this Section shall be required to be brought into full compliance before any Permit of any kind will be issued.
- (O) An Application shall be signed on behalf of the Applicant(s) by a person vested with the authority to bind and commit the Applicant attesting to the truthfulness, completeness and accuracy of the information presented
- (P) The Applicant must provide documentation to substantiate that it has the right to proceed as proposed on the site or at the Complex in the form of an executed copy of the lease with the landowner or landlord or a signed letter of agency granting authorization. If the applicant owns the site or Complex, a copy of the ownership record is required.
- (Q) Applications shall include written commitment statements to the effect that:
 - (1) the applicant's Facility or Complex shall at all times and without exception be maintained in a safe manner, and in compliance with all conditions of all permits, as well as all applicable and permissible local codes, ordinances, and regulations and all applicable City, State and Federal Laws, rules, and regulations,
 - (2) the construction of the Facility or Complex is legally permissible, including, but not limited to the fact that the Applicant is licensed to do business in the State.
- (R) Where a certification is called for in this Section, such certification shall bear the signature and seal of a Professional Engineer licensed in the State.

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- (S) A support structure and any and all accessory or associated structures shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and to harmonize with the natural surroundings. This shall include the utilization of stealth or camouflage or concealment technology as may be required by the City.
- (T) All utilities at a Complex or site shall be installed underground and in compliance with all Laws, ordinances, rules and regulations of the City, including specifically, but not limited to applicable electrical codes.
- (U) At a Facility or Complex needing vehicular access, an access road, parking and turn around space for emergency vehicles shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion. If the current access road or turn around space is deemed in disrepair or in need of remedial work to make it serviceable and safe and in compliance with any applicable regulations as determined at a site visit, the Application shall contain a commitment to remedy or restore the road or turn around space so that it is serviceable and safe and in compliance with applicable regulations.
- (V) All work at a Facility or Complex shall be done in strict compliance with all current applicable technical, safety and safety-related codes adopted by the City, State, or United States, including but not limited to the most recent edition of the TIA ANSI Code, National Electric Safety Code, the National Electrical Code and the Occupational and Safety and Health Administration (OSHA) regulations, recommended practices of the National Association of Tower Erectors and accepted and responsible workmanlike industry practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.
- (W) A holder of a permit granted under this Section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.
- (X) Unless such is proven to be technologically impracticable, the City requires the co-location of new antenna arrays on existing structures, as opposed to the construction of a new Complex or support structure or increasing the height, footprint or profile of a Facility or Complex beyond the conditions of the approved Conditional Use Permit for an existing Facility or Complex. In instances not qualifying for the Streamlined process the Applicant shall submit a comprehensive report inventorying all existing structures more than fifty feet (50') in height within one-half (1/2) mile of the location of any proposed new Facility or Complex.
- (Y) An Applicant intending to co-locate on or at an existing Facility or Complex shall be required to document the intent of the existing owner to permit its use by the Applicant.

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- (Z) Co-located equipment shall consist only of the minimum Antenna array technologically needed to provide service primarily and essentially within the City, to the extent practicable.
- (AA) DAS systems that are owned or operated by a commercial carrier and are part of a commercial wireless system, or are used for commercial purposes, are expressly included in the context of this Section, regardless of the location or whether the Facility or any of its components is located inside or outside a structure or building.
- (BB) The existence of a lease or an option to lease shall not be deemed justification for not complying with the siting priorities set forth in this Section. An Applicant may not bypass sites of higher priority solely because the site proposed is under lease or an option to lease exists. If a site other than the number 1 priority is proposed, the applicant must explain to the reasonable satisfaction of the City why co-location is technically or commercially impracticable. Build-to-Suit agreements between carriers and a proposed Tower owner shall not be a valid basis for any claim of exemption, exception or waiver from compliance with this Section.
- (CC) Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

6.53.3. Responsible Party(s)

The owner(s) of a Facility or Complex, any support structure used to accommodate wireless Facilities, and of the land upon which a Facility support structure or Complex is located, shall at all times be jointly and severally responsible for: (1) the physical and safe condition of the Facility or Complex, support structure and all components on the site related to the Facility or Complex; (2) assuring that all activities of owners, users, or lessees occurring on the site, and all components on the site related to the Facility or Complex, are at all times in compliance with all applicable laws, ordinances, rules, regulations, orders, and permits related to the Facility or Complex; and (3) assuring the proper permitting as required by this Article and other City regulations by all lessees and users of the Facility or Complex, including but not limited to any upgrades and/or Modifications of equipment. Said owner(s) shall regularly and diligently monitor activities at the site to assure that the Facility or Complex is operated in compliance with this Ordinance, other City regulations, and the Conditional Use Permit.

6.53.4. Existing Facilities and Complexes

- (A) Any legally permitted Facility, Tower or other support structure or Complex that exists on the effective date of this Section shall be allowed to continue as it presently exists, provided that i) all work was properly permitted; ii) the Facility or Complex is in compliance with all applicable local, State and federal laws, rules regulations, orders and permit conditions; and iii) a Certificate of Completion (COC) was issued for the most recent work performed;

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- (B) Any work not properly previously permitted prior to the adoption of this Section must be properly permitted within ninety (90) days of the effective date of this Section.
- (C) Any new Co-location and/or Modification of a Facility, Tower or other support structure or Complex or a Carrier's equipment located on the Tower or Facility, must be permitted under this Section and will require the entire Facility or Complex and any new Co-location or Modification to comply with all applicable laws, rules and regulations, including obtaining a valid COC.

6.53.5. Certificate of Completion

- (A) No work shall be allowed to be done at or on any Facility or Complex, excepting normal repair and maintenance work as defined in this Section, for which the owner cannot produce the COC for the most recent work, until a final inspection has been conducted and a COC has been issued. The owner of the Facility, Tower or other support structure or Complex shall pay for the actual cost of the required final inspection prior to the inspection being conducted. If the Facility or Complex does not pass the initial final inspection, the owner shall be required to pay for any subsequent inspection prior to the inspection being conducted. A passing final inspection is required prior to the issuance of a COC.
- (B) If no COC can be produced for previously done work, at the discretion of either the UDO Administrator or Code Enforcement Officer, fines and other penalties as allowed by law maybe imposed until the Facility or Complex is compliant and the required COC has been issued.

6.53.6. Exclusions

The following shall be exempt from this Section:

- (A) Any reception or transmission devises expressly exempted under the Telecommunications Act of 1996.
- (B) A Facility used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications that is less than 100' above ground.
- (C) Facilities used exclusively for providing unlicensed technologies where i) there is no charge for the use of the wireless service; ii) the Facility or Complex does not require a new Tower or increase the height or profile of the structure being attached to; and iii) the service is not intended to be useable more than one-hundred feet (100') from the Antenna(s).

6.53.7. Application Requirements for a New Tower or Support Structure or For a Substantial Modification or Co-location

- (A) All Applicants for a Conditional Use Permit for a new Wireless Facility or Complex, including for a new Tower or other support structure or that constitutes a Substantial

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Modification, shall comply with the requirements set forth in this Section. In addition to the required information set forth in this Section, all applications for the construction or installation of new Facility or Complex shall contain the information hereinafter set forth prior to the issuance of a Building Permit. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

Ownership and Management

- (1) The Name, address and phone number of the person preparing the Application;
- (2) The Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all Necessary contact information shall be provided;
- (3) The Postal address and tax map parcel number of the property;
- (4) A copy of the FCC license applicable for the intended use(s) of the Wireless Telecommunications Facilities, including all FCC licensed frequency bands;
- (5) The Applicant shall disclose in writing any agreement in existence that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs or has constructed for it;

Zoning and Planning

- (6) The Zoning District or designation in which the property is situated;
- (7) The size of the property footprint on which the structure to be built or attached is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
- (8) The location, size and height of all existing and proposed structures, enclosures and cabinets on the property on which the structure is located and that are related to the subject of the Application;
- (9) A site plan to scale, not a hand drawn sketch, showing the footprint of the Support Structure and the type, location and dimensions of access drives, landscaping and buffers, fencing and any other requirements of site plans;
- (10) Elevation drawings showing the profile or the vertical rendition of the Tower or support structure at the Facility or Complex and identifying all existing and proposed attachments, including the height above the existing grade of each attachment and the owner or operator of each, as well as all lighting;
- (11) The type and design of the Tower or support structure, the number of antenna arrays proposed to be accommodated and the basis for the calculations of the Tower's or support structure's capacity to accommodate the required number of antenna arrays for which the structure must be designed;

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- (12) Disclosure in writing of any agreement in existence prior to the submission of the Application that would limit or preclude the ability of the Applicant to share any new Telecommunication Tower that it constructs.
- (13) A certified statement of i) the total cost of construction for the work associated with the Application; and ii) the total cost of all equipment of the Applicant at the Facility. To verify the accuracy of the information, the City reserves the right to require copies of applicable invoices or other clear and convincing corroborating evidence.

Safety

- (1) the age of the Tower or support structure and Complex stated in years, including the date of the grant of the original permit;
- (2) a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or other type of support structure;
- (3) the make, model, type and manufacturer of the Tower and the structural design analysis and report, including the calculations, certified by a Professional Engineer licensed in the State and proving the Tower or support Structure's capability to safely accommodate the Facilities of the Applicant without change or Modification.
- (4) if a Substantial Co-location, change or Modification of a Facility or Complex is needed, a detailed narrative explaining what changes are needed and why they are needed;
- (5) a Complete, unredacted copy of the foundation design and report for the Tower or other structure, including a geotechnical sub-surface soils investigation report and foundation design;
- (6) if Substantially Modifying or Co-locating on an existing Tower or other support structure, a Complete, unredacted and certified TIA ANSI 222 Report regarding the physical condition of the Complex and its components done within the previous six (6) months. If such report has not been done within the previous six (6) months, one shall be done and submitted as part of the Application. No Building Permit shall be issued for any Wireless Facility or related equipment where the structure being attached to is in need of remediation to comply with the requirements of this subsection and other adopted standards of the City, unless and until all remediation work that is deemed needed has been completed or a schedule for the remediation work has been approved by the UDO Administrator;
- (7) In an instance involving a Tower with only a single array of antennas, or for the first antenna array to be attached to a Tower where the array will be thirty-three feet (33') or more above ground level and not within 100 feet of areas to which

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the public has or could reasonably have or gain access to, in lieu of a full RF emissions study, signed documentation in the form of the FCC's "Checklist to Determine whether a Facility may be Categorically Excluded" may in certain cases be allowed to be used and shall be provided to verify that the Facility and Complex with the proposed installation will be in full compliance with the current FCC's RF Emissions regulations;

- (8) In certain instances the City may deem it appropriate to have a post-construction on-site RF survey of the Facility or Complex done after the construction or Modification and activation of the Facility or Complex, such to be done under the direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance;
 - (9) If not previously submitted, a signed statement that the Applicant will expeditiously remedy any physical or RF interference with other telecommunications or wireless devices or services.
- (B) A written copy of an analysis completed by a qualified individual or organization to determine if the proposed Wireless Telecommunications Facility or Complex is in compliance with Federal Aviation Administration Regulation Part 77, and if it requires lighting, including any Facility or Complex where the application proposes to increase the height of the existing Tower or support structure.
 - (C) New Towers and other new support structures shall be prohibited in Residential Districts, Historic Districts, Renaissance Districts and areas officially deemed to be visual or scenic sensitive areas, unless the Applicant provides clear and convincing technical evidence from a carrier demonstrating that i) a new Tower as proposed is technically Necessary, ii) that the intended area cannot be served from outside the District or visually sensitive area; iii) that no existing or previously approved Facility or Complex can reasonably be used to accommodate equipment needed to provide the intended service; and iv) that not to permit a new Tower would preclude eliminating a significant gap in service.
 - (D) All Applications for a proposed Facility or Complex applicable to this Section shall contain clear and convincing evidence that the Facility or Complex is sited and designed so as to create the least visual intrusiveness reasonably possible given the facts and circumstances involved. To achieve this goal the City expressly reserves the right to require the use of Stealth or Camouflage siting techniques such as, but not limited to, DAS (Distributive Antenna System technology) or its functional equivalent and such shall be subject to approval by the Board.
 - (E) If proposing a new Tower or support structure, or a Substantial Co-location or Modification of an existing structure, the Applicant shall be required to submit clear and convincing evidence that there is no alternative solution within one-half (1/2) mile of the proposed site that would be less visually intrusive and that not to permit the proposed new Tower or support structure, or a Substantial Co-location or Modification would result in the prohibition of service or the perpetuation of a significant gap in service.

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- (F) In order to better inform the public, in the case of a new Tower, the applicant shall hold a "balloon test" prior to the initial public hearing on the application. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten (10) foot in length brightly colored balloon at the maximum height of the proposed new Tower.
- (G) At least fourteen (14) days prior to the conduct of the balloon test, a sign shall be erected so as to be clearly visible from the road nearest the proposed site and shall be removed no later than fourteen (14) days after the conduct of the balloon test. The sign shall be at least four feet (4') by eight feet (8') in size and shall be readable from the road by a person with 20/20 vision.
- (1) Such sign shall be placed off, but as near to, the public right-of-way as is possible.
 - (2) Such sign shall contain the times and date(s) of the balloon test and contact information.
 - (3) The dates, (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the City and as agreed to by the City. The Applicant shall inform the City in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four (4) consecutive hours between 10:00 am and 2:00 p.m. on the dates chosen. The primary date shall be on a week-end, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with pictures from various locations of the balloon shall be provided with the application.
 - (4) The Applicant shall notify all property owners and residents located within one-thousand five hundred feet (1,500) of the nearest property line of the subject property of the proposed construction of the Tower and Facility or Complex and of the date(s) and time(s) of the balloon test. Such notice shall be provided at least fourteen (14) days prior to the conduct of the balloon test and shall be delivered by first-class mail.
 - (5) The Wireless Telecommunications Facility or Complex shall be structurally designed to accommodate at least four (4) Antenna Arrays, with each array to be flush mounted or as close to flush-mounted as is reasonable possible.
- (H) The Applicant shall provide certified documentation in the form of a structural analysis and report, including all calculations, showing that the Facility or Complex will be constructed to meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict the more stringent shall apply.

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- (I) The Applicant shall furnish a Visual Impact Assessment, which may be required to include:
 - (1) a computer generated "Zone of Visibility Map" at a minimum of one mile radius from the proposed structure shall be provided to illustrate locations from which the proposed installation may be seen, with and without foliage; and
 - (2) To-scale pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the City as may be appropriate and required, including but not limited to state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the applicant shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed structure;
- (J) The Applicant shall provide a description in writing and a visual rendering demonstrating how it shall effectively screen from view the bottom fifteen feet (15') of the Facility or Complex and all related equipment and structures associated with the Facility or Complex.
- (K) A Zoning Permit shall not be issued for construction of a new Tower or other support structure until there is an Application for or by a specific carrier that documents that the Facility or Complex is Necessary for that carrier to serve the community and that co-location on an existing Structure is not feasible.
- (L) Co-location on an existing structure is not reasonably feasible if co-location is technically or commercially impractical or the owner of the Structure is unwilling to enter into a contract for such use at fair market value. Sufficient documentation in the form of clear and convincing evidence to support such claims shall be submitted with an Application for the first carrier in order to determine whether co-location on existing structures is reasonably feasible and to document the need for a specific stated height, and that less height will serve to prohibit or have the effect of prohibiting the provision of service.

6.53.8. Expedited Application Process for Substantial Modifications and Substantial Co-locations.

An Applicant for a Substantial Modification or Substantial Co-location, but expressly not for a new Tower or other new support structure, may request a special expedited application process in which the Application shall be acted upon within forty-five (45) days of the receipt of a Complete Application. To be granted such status and treatment, the Applicant shall pay to the City a special Expedited Treatment Fee of \$5,000 for and prior to the grant of such status and treatment in addition to all other required fees.

6.53.9. Requirements for Eligible Facility Co-locations or Modifications

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- (A) For the co-location, modification or upgrade of a wireless facility that qualifies as an Eligible Facilities request under applicable law, the following information shall be required to be contained in an application. Any technical information must be provided in such a manner, form and with such content that it is able to be verified by a third party using the information used and provided by the applicant.

Safety

- (1) the age of the Tower or other support structure in years, including the date of the grant of the original permit;
- (2) a description of the type of Tower, e.g. guyed, self-supporting lattice or monopole, or a description of another other type of support structure;
- (3) A narrative description and explanation of the specific objective(s) of the new equipment, expressly including the purpose of such (e.g. coverage and/or capacity), technical requirements, frequencies to be used and the identified boundaries of the specific geographic area of intended coverage;
- (4) Technical documentation that shows by clear and convincing technical evidence that the Need for the requested height is Necessary to provide the type and coverage of the service primarily and essentially within the City using generally accepted industry methods.
- (5) Certified documentation in the form of a structural analysis and report, including all supporting calculations, showing that the Facility, as designed, will meet all local, state and federal structural requirements for loads, including wind and ice loads and including, but not limited to, the North Carolina Building Code and all applicable ANSI (American National Standards Institute) TIA 222 guidelines. In the event of a conflict, the more stringent shall apply.
- (6) A copy of the installed foundation design, including a geotechnical sub-surface soils investigation report and foundation design recommendation for the Tower or other structure;
- (7) Certified documentation, including photographs, regarding the physical situation and physical condition of all equipment and facilities at the site in the form of a report based on an on-site inspection, done pursuant to and in compliance with the latest version of TIA/ANSI 222. The inspection must be done by a qualified individual experienced in performing such inspections and the report must be signed by an individual with authority to order any needed remediation or resolution of issues.
- (8) A copy of the FCC licenses for each frequency band applicable for the intended use of the Wireless Telecommunications transmission and/or receive equipment;
- (9) A list of all frequencies, to be used at the Facility;

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- (10) The maximum transmission power capability at which each type of radio is designed to operate;
- (11) The number, type and model of the Antenna(s) proposed, along with a copy of the manufacturer's specification sheet(s), i.e. cut sheet(s), for the antennas;
- (12) A statement from the owner of the Facility certifying that the Facility and all attachments thereto are currently in compliance with the conditions of the approved Conditional Use Permit or Administrative Authorization and setting forth any non-compliant situation.

Ownership and Management

- (1) The Name, address and phone number of the person preparing the Application;
- (2) The Name, address, and phone number of the property owner and the Applicant, including the legal name of the Applicant. If the owner of the structure is different than the applicant, the name and all Necessary contact information shall be provided;
- (3) The Postal address and tax map parcel number of the property;
- (4) A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities.

Construction

- (1) The total cost of construction and the value of all new and/or replacement components and equipment.
- (B) In certain instances the City may deem it appropriate to have an on-site RF survey of the facility done after the construction or Modification and activation of the Facility, such to be done under the direction of the City or its designee, and an un-redacted copy of the survey results provided, along with all calculations, prior to issuance of a Certificate of Compliance.
- (C) Attachments to Existing Structures Other Than Towers
- (1) Attachments to Buildings: To preserve and protect the nature and character of the area and create the least visually intrusive impact reasonably possible under the facts and circumstances, any attachment to a building or other structure with a facade, the antennas shall be mounted on the facade without increasing the height of the building or other structure, unless it can be proven that such will prohibit or have the effect of prohibiting the provision of service, and all such attachments and exposed cabling shall use camouflage or stealth techniques to match as closely as possible the color and texture of the structure.

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- (2) Attachments to Water Tanks: If attaching to a water tank, in order to maintain the current profile and height, mounting on the top of the tank or the use of a corral shall only be permitted if the Applicant can prove that to locate elsewhere less visually on the tank will prohibit or have the effect of prohibiting the provision of service.
- (3) Profile: So as to be the least visually intrusive reasonably possible given the facts and circumstances involved, and thereby have the least adverse visual effect, all antennas attached to a Tower or other structure shall be flush mounted or as near to flush mounted as is possible so as to create the smallest profile reasonably possible under the facts and circumstances, unless it can be proven that such would prohibit or serve to prohibit the provision of service or be technologically impracticable.

6.53.10. Location of New Wireless Telecommunications Facility Towers and Substantial Modifications

- (A) No tower or other new support structure more than 10' taller than existing surrounding structures shall be permitted in any existing or planned (i.e. platted) residential neighborhood, nor within one-half mile of such unless considered a collocation in accordance with Section 6.72. Applicants shall locate, site and erect all Facilities and associated equipment in accordance with the following priorities, in the following order:
 - (1) On existing structures without increasing the height or size of the profile of the Tower or structure.
 - (2) On existing structures without increasing the height of the structure by more than is Technically Needed.
 - (3) On properties in areas zoned for Business use.
 - (4) On properties in areas zoned for Rural use.
 - (5) On properties in areas zoned for Residential use without increasing the height of the support structure and only if Camouflaged or stealthed to the the UDO Administrator.
- (B) If the applicant proposes and commits to locate on City-owned property or structures, the City expressly reserves the right to waive the Application Fee that would otherwise be paid to the City.
- (C) If the proposed site is not proposed for the highest priority listed above, then a detailed narrative and technical explanation shall be provided as regards why a site from all higher priority designations was not selected.
- (D) Notwithstanding anything else to the contrary, the City may approve any site located within an area in the above list of priorities, provided that the City finds that the proposed site is in the best interest of the health, safety and welfare of the City and its

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inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood. The City may also direct that the proposed location be changed to another location that is more in keeping with the goals of this Section and the public interest as determined by the Board and that serves the intent of the Applicant.

- (E) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the City may disapprove an Application for any of the following reasons:
- (1) Conflict with safety and safety-related codes and requirements, including but not limited to setback and Fall Zone requirements;
 - (2) Non-Compliance with zoning or land use regulations;
 - (3) The placement and location of Facilities which would create an unacceptable risk, or the reasonable possibility of such, to any person or entity for physical or financial damage, or of trespass on private property;
 - (4) The placement and location of a Facility or Complex would result in a conflict with, compromise in or change in the nature or character of the adjacent and surrounding area, and expressly including but not limited to loss in value as measured from the end of the calendar year prior to the Application having been filed;
 - (5) Conflicts with the provisions of this Section;
 - (6) Failure to submit a Complete Application as required under this Section within sixty (60) days after proper notice and opportunity to make the Application Complete shall be deemed to have been abandoned and require no action.
- (F) Notwithstanding anything to the contrary in this Section, for good cause shown such as the ability to utilize a shorter, smaller or less intrusive Facility or Complex elsewhere and still accomplish the primary service objective, if relocation could result in a less intrusive Facility or Complex, singly or in combination with other locations, the City may require the relocation of a proposed site, including allowing for the fact that relocating the site chosen by the Applicant may require the use of more than one (1) site to provide substantially the same service.

6.53.11. Type and Height of Towers

- (A) All new Towers shall be of the monopole type. No new Towers of a lattice or guyed type shall be permitted, unless relief is otherwise expressly granted.
- (B) The maximum permitted total height of a new tower or other proposed support structure, shall be one hundred feet (100') above pre-construction ground level, unless it can be shown by clear and convincing technical evidence from a carrier who has committed to use the tower that such height would prohibit or have the effect of

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prohibiting the provision of service in the intended service area within the City. The maximum permitted height is permissive or discretionary and is expressly not as-of-right.

- (C) As opposed to fewer but taller Facilities, the policy decision has been made that more Facilities of a shorter and less intrusive height is in the public interest. Spacing or the distance between Facilities shall be such that the service may be provided without exceeding the maximum permitted height.
- (D) If proposed to be taller than the maximum permitted height, the Applicant for a new Tower or support structure shall submit clear and convincing technical evidence by a carrier or wireless service provider that has committed to use the Tower or other support structure justifying the total height requested and the basis therefore, as well as a copy of a lease or a commitment to use the Facility. If the Applicant chooses to provide evidence in the form of propagation studies, such must include all modeling information and support data used to produce the studies at the requested height and a minimum of ten feet (10') lower to enable verification of the Need for the requested height.
- (E) The City reserves the right to require a drive test to be conducted under the supervision of the City or its delegate i) as evidence of ;or ii) to verify the technical Need for what is requested.
- (F) At no time shall a Tower or other support structure be of a height that requires lighting by the FAA.
- (G) Towers shall be structurally designed to support a minimum of four (4) carriers using functionally equivalent equipment to that used by the first carrier attaching to a Tower or other support structure so that the height can be increased if Needed.

6.53.12. Visibility and Aesthetics

- (A) No Tower or support structure that is not a building and is constructed after the effective date of this Section shall be tall enough to require lighting by the FAA.
- (B) Stealth: All new Facilities, including but not limited to Towers, shall utilize Stealth or Camouflage siting techniques that are acceptable to the City, unless such can be shown to be either Commercially Impracticable or Technologically Impracticable.
- (C) Finish/Color: Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Section.
- (D) Lighting: Notwithstanding the prohibition of lighting, in the event lighting is subsequently required by the FAA, the Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations. For any Facility or Complex for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting

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shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 20 degrees vertical for a distance of at least 1 mile in a level terrain situation. Such device shall be compliant with or not expressly in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA.

- (E) Retrofitting: In the event a Tower or other support structure that is lighted as of the effective date of this Section is modified, at the time of the Modification, the City may require that the Tower be retrofitted so as to comply with the lighting requirements of this Section or be reduced to a height that does not require lighting.
- (F) Flush Mounting: Except for omni-directional whip antennas, all new or replacement antennas, shall be flush-mounted or as close to flush-mounted on the support structure as is functionally possible, unless it can be demonstrated by clear and convincing technical evidence that such has the effect of prohibiting the provision of service to the intended service area, alone or in combination with another site(s), or unless the Applicant can prove that it is technologically impracticable.
- (G) Placement on Building: If attached to a building, all antennas shall be mounted on the face of the building and camouflaged so as to match the color and, if possible, the texture of the building, or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.

6.53.13. Security

All Facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

- (A) All Facilities, including Antennas, Towers and other supporting structures, such as guy anchor points and guy wires, shall be made inaccessible to unauthorized individuals and shall be constructed or shielded in such a manner that they cannot be climbed or collided with and shall expressly include removing the climbing steps for the first ten feet (10') from the ground on a monopole; and
- (B) Transmitters and Telecommunications control points shall be installed so that they are readily accessible only to persons authorized to operate or service them.

6.53.14. Signage

Facilities shall contain a sign no larger than four (4) square feet and no smaller than two (2) square feet in order to provide adequate warning to persons in the immediate area of the presence of RF radiation. A sign of the same size is also to be installed bearing the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and must be visible from the access point of the Facility or Complex and must identify the equipment owner of the shelter or cabinet. On Tower sites, an FCC registration sign, as applicable, is also to be present. The

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signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

6.53.15. Setback and Fall Zone

- (A) All proposed Towers and any other proposed Wireless support structures shall be set back from abutting parcels, recorded rights-of-way and roads and streets by the greater of the following distances: i) a distance equal to the height of the proposed Tower or support structure plus ten percent (110%) of the height of the Tower or other structure, otherwise known as the Fall Zone; or ii) the existing setback requirement of the underlying zoning district, whichever is greater. Any Accessory structure shall be located within the fenced compound area as approved in the Conditional Use Permit and so as to comply with the applicable minimum setback requirements for the property on which it is situated. The Fall Zone or setback shall be measured from the nearest portion of the tower to the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile, as well as any property boundary lines. Further, the nearest portion of any private access road leading to a Facility shall be no less than ten (10) feet from the nearest property line.
- (B) There shall be no development of habitable buildings within the Setback area or Fall Zone.

6.53.16. Retention of Expert Assistance Cost to be Borne by Applicant

- (A) To prevent the taxpayers from having to bear the cost related to the issue of permitting and regulating a commercially used Wireless Telecommunications Facilities, an Applicant shall pay to the City fees as set forth in the City's Fee Schedule. The fees are intended to cover all reasonable costs of the expert assistance needed by the City in connection with the review of any Application, including both the technical review and non technical review, and the permitting, inspection, construction or Modification requested, any Application pre-approval evaluation requested by the Applicant and any lease negotiations. The payment of the Expert Assistance fees to the City shall precede any work being done that is related to the intended Application or lease, including a pre-application meeting or site visit.
- (B) The City may hire any consultant of its choice to assist the City in reviewing and evaluating Applications and negotiating leases, provided the consultant has at least five (5) years experience working exclusively for the public sector regulating Towers and Wireless Facilities and negotiating leases and has never had a recommendation successfully legally challenged.
- (C) The total amount of the funds needed for expert assistance as set forth in the City's Fee schedule may vary with the scope and complexity of the Application, the completeness of the Application and other information as may be needed to Complete the necessary technical and non-technical reviews, analysis and inspection of any construction or Modification or the amount of time spent responding to an Applicant's arguments as regards its Application or the requirements of this Section.

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- (D) The City will maintain an accounting record for the expenditure of all such funds.
- (E) Pursuant to N.C. 160A-400.52(f), if an Application is Amended, or a waiver or relief is requested from any local regulations, at any time prior to the grant of the Certificate of Completion required under this Ordinance, the City reserves the right to require additional payment for the review and analysis equal to, but not exceeding, the cost created for the City by the Applicant or its Application. Such amount shall be paid to the City prior to the issuance of the Conditional Use Permit or Administrative Authorization or the Certificate of Completion, whichever is procedurally needed next.

6.53.17. Action on an Application

- (A) The City will undertake or have undertaken a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities and applicable law, and shall act within the time required by applicable law.
- (B) The City may refer any Application or part thereof to any advisory committee or consultant for a non-binding recommendation.
- (C) An Applicant shall not be permitted to refuse to provide information needed to establish the substantial written record required under federal law and applicable case law. Refusal for more than sixty days without agreement by the Board shall result in denial of the Application or the Application shall be deemed abandoned.
- (D) Approval Notification: If the Board of Adjustment approves the Conditional Use Permit or Administrative Authority for the Facility or Complex, then the Applicant shall be notified of approval of its Application, including any conditions, within 30 calendar days of the City's action. The Conditional use Permit or Administrative Authorization shall be issued within thirty (30) days after such approval.
- (E) Denial Notification: The Applicant shall be notified of a denial of its Application at by the UDO Administrator for which notice shall contain the reason or reasons for the denial.

6.53.18. Transfer or Assignment

The extent and parameters of a Conditional Use Permit or Administrative Authorization for a Facility or Complex shall be as follows:

- (A) Such Conditional Use Permit or Administrative Authorization shall not be assigned, transferred or conveyed without the express prior written notification to the City, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.
- (B) A transfer, assignment or other conveyance of the Conditional Use Permit or Administrative Authorization shall require the written commitment of the proposed new holder of the Conditional Use Permit or Administrative Authorization to abide by all applicable laws, rules and regulations, including but not limited to this Ordinance.

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6.53.19. Removal and Performance Security

- (A) Removal and Performance: The Applicant and the owner of record of any proposed new Tower or other support structure or Complex shall, at its sole cost and expense, be required to execute and file with the City a bond or other form of security that is acceptable to the City as to the type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower or other support structure and with such sureties as are deemed adequate by the City to assure the faithful performance of the terms and conditions of this Section and conditions of any Conditional Use Permit issued pursuant to this Section. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Special Use Permit. The amount of the Bond is, in part, determined by the current cost of demolition, removal and site restoration multiplied by the compounding or cumulative effect of a three percent (3%) annual cost escalator over a thirty (30) year projected useful life of the structure.
- (B) Performance: The owner of any equipment attached to a support structure or located in a Complex shall be required to execute and file with the City a performance bond or other form of performance security that is acceptable to the City as to the type of security and the form and manner of execution, in the amount of \$25,000.

6.53.20. Reservation of Authority to Inspect Wireless Telecommunications Facilities

- (A) In order to verify that the holder of a Conditional Use Permit for a Facility or Complex and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, places, constructs and maintains such facility in accordance with all applicable technical, safety, fire, building codes, zoning codes, laws, ordinances and regulations and conditions of any permit granted under this Ordinance, the City or its designee shall have the right to inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, Modification and maintenance of such facilities, including, but not limited to, Towers, Antennas, buildings and equipment and connections contained therein, or other structures constructed or located on the permitted site.
- (B) Refusal to allow or grant access to the City's representative upon reasonable notice shall be deemed a violation of this ordinance.

6.53.21. Liability Insurance

- (A) A holder of a Conditional Use Permit for a Wireless Telecommunications Support Structure shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Conditional Use Permit in amounts as set forth below:
- (1) Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$3,000,000 aggregate; and

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- (2) Automobile Coverage: \$1,000,000.00 per occurrence/ \$3,000,000 aggregate; and
 - (3) A \$3,000,000 Umbrella coverage; and
 - (4) Workers Compensation and Disability: Statutory amounts.
- (B) For a Facility or Complex located on City property, the Commercial General Liability insurance policy shall specifically name the City and its officers, Boards, employees, committee members, attorneys, agents and consultants as additional insureds.
 - (C) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with an AM Best's rating of at least A.
 - (D) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
 - (E) Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
 - (F) Before construction of a permitted Wireless Telecommunications Facility or Complex is initiated, but in no case later than fifteen (15) days prior to the grant of the Building Permit, the holder of the Conditional Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.
 - (G) A Certificate of Insurance that states that it is for informational purposes only and does not confer rights upon the City shall not be deemed to comply with this Section.

6.53.22. Indemnification

- (A) Any application for Wireless Telecommunication Facilities that is proposed to be located on City property shall contain a signed statement fully and completely indemnifying the City. Such provision shall require the applicant, to the extent permitted by applicable law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City and its officers, Boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising there from, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, Modification , location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility or Complex, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the City, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

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- (B) Notwithstanding the requirements noted in subsection A of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a Conditional Use Permit for a Wireless Telecommunications Facility or Complex.

6.53.23. Fines

- (A) In the event of a violation of this Section, or any Conditional Use Permit or Administrative Authorization issued pursuant to this Section, the City may impose and collect, and the holder of the Conditional Use Permit or Administrative Authorization for a Wireless Telecommunications Facility or Complex shall pay to the City, fines or penalties as set allowed by State law or as otherwise established by the City.
- (B) Notwithstanding anything in this Section, the holder of the Conditional Use Permit or Administrative Authorization for a Facility or Complex may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Section or any section of this Ordinance. An attempt to do so shall subject the holder of the Conditional Use Permit to termination and revocation of the Conditional Use Permit in addition to the payment of fines. The City may also seek injunctive relief to prevent the continued violation of this Section without limiting other remedies available to the City.

6.53.24. Default and/or Revocation

If a support structure, Facility or Complex is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit or Administrative Authorization, then the City shall notify the holder of the Conditional Use Permit or Administrative Authorization in writing of such violation. A Permit or Administrative Authorization holder found to be in violation may be considered in default and subject to fines as permitted under applicable State law, and if a violation is not corrected to the satisfaction of the City in a reasonable period of time the Conditional Use Permit or Administrative Authorization shall be subject to revocation.

6.53.25. Moving or Removal of Collocated Facilities and Equipment

- (A) If attached to an existing tower or other support structure, unless the Board deems doing so to be in the public interest, it shall be impermissible for a wireless service provider's or carrier's equipment to be relocated from one structure to another without clear and convincing evidence that not to do so would, for technical reasons, prohibit or serve to prohibit the provision of service in the service area served by the existing wireless facility.
- (B) If the lease for the existing attachment and use expires and is not renewed, thereby forcing the facility to be moved, such move shall be allowed upon i) the provision of clear and convincing evidence satisfactory to the Board of the need to move or relocate the facility; and ii) clear and convincing evidence satisfactory to the Board of the lack of impact on the neighborhood or area of intended new location. Cancellation or

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abandonment of a lease by a lessee or refusal to agree to terms of a lease that are not Commercially Impracticable shall not be deemed a permissible reason for relocating.

- (C) The owner of any Facility or Complex shall be required to provide a minimum of thirty (30) days written notice to the City Clerk prior to abandoning any Facility or Complex.
- (D) Under the following circumstances, the City may determine that the health, safety, and welfare interests of the City warrant and require the removal of Facilities.
 - (1) a Facility or Complex that has been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety (90) consecutive days or a cumulative total of one hundred-eighty (180) non-consecutive days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall be completed within 90 days of abandonment;
 - (2) A Support Structure or Facility or Complex falls into such a state of disrepair that it creates a health or safety hazard or is deemed an attractive nuisance or a visual blight;
 - (3) A Support Structure or Facility or Complex has been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or Administrative Authorization, and the Conditional Permit or Administrative Authorization may be revoked.
 - (4) If the City makes such a determination as noted in subsections (2) or (3) of this section, then the City shall notify the holder of the Permit or Administrative Authorization for the Facility or Complex that said Facility or Complex is to be removed.
 - (5) The holder of the Conditional Use Permit or Administrative Authorization, or its successors or assigns, shall dismantle and remove such Facility or Complex and all associated structures and equipment from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability. Restoration shall be completed within ninety (90) days of receipt of written notice from the City. However, if the owner of the property upon which the Facility or Complex is located wishes to retain any access roadway to the Facility or Complex, the owner may do so with the approval of the City.
 - (6) If a Facility or Complex has not been removed, or substantial progress has not been made to remove the Facility or Complex, within ninety (90) days after the permit holder has received notice, then the City may order officials or representatives of the City to remove the Facility or Complex at the sole expense of the owner or Conditional Use Permit holder.
 - (7) If the City removes, or causes Facilities to be removed, and the owner of the Facility or Complex does not claim and remove it from the site to a lawful

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location within ten (10) days, then the City may take steps to declare the Facility or Complex abandoned, and sell them and their components.

- (8) Notwithstanding anything in this Section to the contrary, the City may approve a temporary use permit/agreement for the Facility or Complex for no more than ninety (90) days duration, during which time a suitable plan for removal, conversion, or re-location of the affected Facility or Complex shall be developed by the holder of the Conditional Use Permit, subject to the approval of the City, and an agreement to such plan shall be executed by the holder of the Conditional Use Permit or Administrative Authorization and the City. If such a plan is not developed, approved and executed within the ninety (90) day time period, then the City may take possession of and dispose of the affected Facility or Complex in the manner provided in this Section and utilize the bond in Section (BB).

6.53.26. RF Emissions

- (A) To assure the protection of the public health and safety the City expressly reserves the right to require that an Applicant, a user of a Facility or Complex or the owner of the Facility or Complex verify compliance with the FCC's regulations regarding RF emissions as may be deemed appropriate from time to time, and that all users of the Facility or Complex cooperate with the party responsible for such verification. Failure to cooperate shall be deemed a violation of this Section and subject the non-cooperating party to all fines, penalties and other remedies at law or tort.
- (B) With respect to Support Structures other than Towers, if any section or portion of the structure attached to or to be attached to, or area within 100' of such, is not in compliance with the FCC's regulations regarding RF radiation, that section or portion must be barricaded with a suitable barrier to discourage approaching into the area in excess of the FCC's regulations, and be marked off with brightly colored plastic chain or striped warning tape, as appropriate, as well as placing RF Radiation signs as needed and appropriate to warn individuals of the potential danger. As deemed warranted by the City at any time, the right of the City is expressly reserved to do itself, or order done, an on-site RF emissions survey.

6.53.27. Relief

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Section shall apply for a variance as outlined in Article 4.

6.53.28. Adherence to State and/or Federal Rules and Regulations

- (A) To the extent that the holder of a Conditional Use Permit or administrative authorization for a Wireless Telecommunications Facility or Complex has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this

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requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

- (B) To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Conditional Use Permit or Administrative Authorization for Wireless Telecommunications Facilities, then the holder of such a Conditional Use Permit or Administrative Authorization shall conform the permitted Facility or Complex to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

6.53.29. Conflict with Other Laws

Where this Section differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or federal government, this Section shall apply.

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Section 6.54 Wireless Telecommunication Facility, Colocation of Small/Micro Wireless Facility

The following standards shall apply for all collocated small and micro wireless facilities permitted in accordance Section 5.5.

- (A) Zoning Permits issued by the UDO Administrator are required for small/micro wireless facilities meeting the definitions in Appendix A if the facilities (i) meet the height requirement below and are located (ii) in City-owned rights-of-way. The UDO Administrator shall determine an application for a collocated small/micro wireless facility within 45 days and issue a decision on the application within 45 days following the determination that an application is complete. For the application to be considered complete, it must include true and accurate information.
- (B) Application fees are \$100 per facility for the first five small wireless facilities addressed in an application, plus \$50.00 for each additional small wireless facility addressed in a consolidated application. The City may require a technical consulting fee for each application, not to exceed five hundred dollars (\$500.00), to offset the actual, direct and reasonable administrative costs incurred for review, processing and decision on the application.
- (C) Height – Collocation of Small Wireless and Micro Wireless Facilities:

New, modified or replacement utility pole City utility pole (Height in Feet)	Height of small wireless facility above utility pole, wireless support structure or City utility pole	Total Height (in feet)
50 above ground level where utilities are above ground. Where utilities are below ground, new modified or replacement utility poles, City utility poles and wireless support structures may be no taller than 40 feet.	10 feet	60

- (D) Height – Collocation, Not Including Small Wireless and Micro Wireless Facilities:
 - (1) In the event that an existing structure (other than a wireless communication tower) is proposed as a mount for a wireless communication facility, the height

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of the original structure shall not be increased by more than fifteen (15) feet above the highest point of a flat or mansard roof or fifteen (15) feet above the height at the midpoint between the peak and the eaves of other roof styles, unless the facility is completely camouflaged (for example, a facility within a flag pole, steeple or chimney).

- (2) Any increase in height shall be in scale and proportionality to the structure as originally configured.
 - (3) A provider may locate a wireless communication facility on a building that is legally non-conforming with respect to height, provided that the provisions of this section are met.
 - (4) A collocated or combined WTF shall not increase the height of an existing wireless support structure by the greater of more than ten percent (10%) or the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet.
- (E) The City may deny an application only on the basis that it does not meet any of the following: (i) the City's applicable codes; (ii) local code provisions or regulations that concern public safety, objective design standards for decorative utility poles, City utility poles, or reasonable and nondiscriminatory stealth and concealment requirements, including screening or landscaping for ground-mounted equipment; and (iii) public safety and reasonable spacing requirements concerning the location of ground-mounted equipment in a right-of-way.
- (F) The application must include a sworn, notarized attestation that the small wireless facilities shall be collocated on the utility pole, City utility pole, or wireless support structure and that the small wireless facilities shall be activated for use by a wireless services provider to provide service no later than one year from the permit issuance date.
- (G) If located within City or NCDOT ROW, the application must include written authorization for encroachment.
- (H) Applicants may file a consolidated application for no more than 25 separate facilities and receive a permit for the collocation of all the small wireless facilities meeting the requirements of this section. The City may remove small wireless facility collocations from a consolidated application and treat separately small wireless facility collocations (i) for which incomplete information has been provided or (ii) that are denied. The City may issue a separate permit for each collocation that is approved.
- (I) Application Exceptions:
- (1) No application, permit or fee is required under for routine maintenance; the replacement of small wireless facilities with small wireless facilities; installation, placement, maintenance or replacement of micro wireless facilities that are suspended between existing utility poles or City utility poles; or communication

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services providers authorized to occupy City rights-of-way who are paying taxes under N.C. Gen. Stat. §§ 105-164.4 (a) (4c) or (6).

- (2) This exception does not apply to work permits, make ready permits, applications for collocation on or replacement of City-owned poles, pole attachment fees or any applicable Rights-of-Way, Utilities, Encroachment Permits.
- (J) Schedule:
- (1) Collocation of the small wireless facility shall commence within six months of approval and shall be activated for use no later than one year from the permit issuance date, unless the City and the wireless provider agree to extend this period or a delay is caused by a lack of commercial power at the site.
- (K) Setbacks are not required for qualifying small wireless and micro wireless facility collocations approved under this section. All other collocations shall be subject to the setbacks of the underlying zoning district.
- (L) Existing decorative street poles can only be replaced by decorative street poles.
- (M) Except as provided in the definitions of Small Wireless Facilities and Micro Wireless Facilities, equipment compounds are not permitted.
- (N) For all applications, the applicant shall provide a statement as to all the potential visual and aesthetic impacts of the proposed facility on all adjacent residential zoning districts.
- (O) Abandonment:
- (1) Wireless services providers are required to remove an abandoned wireless facility within 180 days of abandonment. Should the wireless services provider fail to timely remove the abandoned wireless facility, the City may cause such wireless facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider. For purposes of this subsection, a wireless facility shall be deemed abandoned at the earlier of the date that the wireless services provider indicates that it is abandoning such facility or the date that is 180 days after the date that such wireless facility ceases to transmit a signal, unless the wireless services provider gives the City reasonable evidence that it is diligently working to place such wireless facility back in service.
 - (2) This section applies to rights-of-way controlled by the N.C. Dept. of Transportation.

Section 6.55 Youth Centers

The applicant shall be required to submit documentation proving that the management of the establishment shall be a true non-profit community, charitable, or religious organization, and that the center will have as its sole purpose the positive development of adolescents and teenagers. The applicant shall further submit a written plan describing in detail the proposed

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activities of adolescents and teenage persons frequenting the center. The plan shall further describe in detail the adult supervision, the hours of operation, and structured activities that are to be conducted on the premises. If the Board of Adjustment finds that the plan as submitted proposes controlled and properly supervised activities intended solely for adolescents and teenager persons, that adult supervision will be provided during all hours of operation on a consistent and regular basis, that the management will in fact be a non-profit community, charitable, or religious organization, and the other requirements of the ordinance are found to exist, then the Board of Adjustment is authorized to issue a conditional use permit, subject to the following conditions:

- (A) Hours of operation shall be limited to 7:00 am to 10:00 pm Monday through Saturday.
- (B) Hours of operation shall be limited to 12:00 pm to 8:00 pm on Sunday.

Section 6.56 Food Trucks

Mobile food trucks shall be a permitted use in the Recreation, C-1 and C-C Zoning Districts, in accordance with Section 5.5, and subject to the following standards. Mobile food trucks shall also be permitted in the Residential Zoning Districts only on sites undergoing construction, in accordance with Section 5.5, and subject to the following standards.

- (A) **Zoning Permit.** All mobile food truck vendors shall obtain a zoning permit. Zoning permits shall be issued as annual, or temporary. Annual zoning permits for mobile food trucks shall expire twelve (12) months from date of issue. Temporary zoning permits for mobile food trucks may be issued for event purposes, and shall be valid for a maximum of five (5) days from date of issue. All zoning permit applications are to be submitted with signed approval of the property owner for each location at which the mobile food truck will operate. The applicant must also submit a NC Department of Agriculture Permit and a permit from the regulatory authority that inspects the commissary from which a mobile food truck is to operate, as required, as well as a copy of the vehicle or trailer registration. Permit holders operating from a different county are responsible for informing the Brunswick County Health Department. All permits must be made visible and signed property owner approvals must be made available for inspection, upon request.
- (B) **Place of Operation.** Mobile food trucks may operate on an individual property for a maximum of 120 days per 12-month period. Mobile food trucks and all related equipment shall be removed from the site following the permitted hours of operation.
- (C) **Hours of Operation.** Mobile food trucks may operate between the hours of 6AM and 10PM, unless the food truck is located within 150 feet of a property with a single- or two-family residential dwelling. When located within 150 feet of this residential dwelling, the hours of operation shall be between 8AM and 8PM. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.
- (D) **Mobile Food Truck Location.** Mobile food trucks must be located at least 100 feet from

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the front door of any restaurant and outdoor dining area and at least 50 feet from any permitted mobile food vending cart location. Additionally, mobile food trucks must be parked at least 15 feet away from any fire hydrant, and 5 feet away from any driveway, sidewalk, utility box or vault, handicapped ramp, building entrance or exit, or emergency call box. These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered point, or in the case of a restaurant measured from the closest point of the restaurants main entrance. If a zoning permit is issued and a restaurant subsequently opens within 100 feet (measured from the restaurants main entrance) of the approved mobile food truck location, the mobile food truck may continue to operate until the permit expires.

- (E) Parking. Mobile food trucks may not occupy any required parking stall for the primary use while the primary use is open to the public. Mobile food trucks and the primary use may share parking spaces when having separate hours of operation. Parking stalls that are overflow or extra according to the regulations in the UDO may be used to park a mobile food truck; however, parking stalls leased to another business or adjacent use may not be used unless the mobile food truck is operating under separate hours of operation.
 - (1) Mobile food trucks may not park in handicapped accessible parking spaces, nor can they park in access or drive aisles. The approved location for parking the trucks, as shown on the zoning permit, must be physically marked. The mobile food truck parking space can be marked with paint, tape, cones, or other easily identifiable material.
- (F) Prohibitions. Mobile food trucks may not use audio amplification or freestanding signage. All equipment associated with the food trucks must be located within three (3) feet of the food truck. The mobile food truck operator is responsible for disposing of all trash associated with the operation of the food truck. City trash receptacles may not be used to dispose trash or waste. All areas within five (5) feet of the mobile food truck must be kept clean. Grease and liquid waste may not be disposed in tree pits, storm drains, the sanitary sewer system or public streets. Mobile food trucks are all subject to the City-wide noise ordinance.
- (G) Maximum Number of Mobile Food Trucks per Property.
 - (1) Maximum of two (2) mobile food trucks on lots of one-half acres or less.
 - (2) Maximum of three (3) mobile food trucks on lots between one-half acre and 1 acre.
 - (3) Maximum of four (4) mobile food trucks on lots greater than 1 acre.
 - (4) Temporary outdoor seating associated with a mobile food truck is only permitted on lots at least two acres in size or greater.

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- (H) City-Initiated Events. Annual zoning permits for mobile food trucks are not valid in the Recreation District during city-initiated events, unless specifically authorized. Temporary zoning permits for mobile food trucks shall be required for all city-initiated events in the Recreation District. Temporary zoning permit fees for mobile food trucks operating in the Recreation District during city-initiated events may be waived.
- (I) Construction Sites. In all zoning districts, mobile food trucks shall be permitted on sites undergoing construction in accordance with approved zoning and building permits, and shall comply with all other applicable provisions of this section. Mobile food trucks shall vend only to person(s) lawfully authorized to be working on the construction site, and not to the general public. Mobile food trucks shall be parked in an appropriate location on site, as authorized by the licensed general contractor, consistent with safe construction site practices, and shall not park in the right-of-way. No more than one (1) mobile food truck shall be permitted on a construction site at that time.
- (J) The UDO Administrator may waive any of these requirements as deemed necessary.

Section 6.57 Temporary Housing Units

Temporary housing units shall be permitted in all residential zoning districts, and for established non-residential uses as an accessory use in accordance with Section 5.5, and subject to the following standards.

- (A) Temporary Housing Units shall not be placed on any lot where active repair and reconstruction of the primary structure is not taking place.
- (B) A Temporary Occupancy Permit must be issued by the Building Inspector for all temporary housing units at the time of placement onto the lot, or when a Building Permit is applied for, in the case of repair and reconstruction of the primary structure.
- (C) The Temporary Occupancy Permit shall be issued for a period of time not to exceed twelve (12) months while repair and reconstruction of the primary structure is taking place and may be renewed for an additional six (6) month period, provided significant progress has been made in the repair and reconstruction of the primary structure. Permit extensions may be granted by the UDO Administrator upon submittal of a Temporary Occupancy Permit Extension Application, provided all application requirements have been met, and at least seventy-five (75) percent of the repair and reconstruction work has been completed on the primary structure. Maximum extension shall not exceed six (6) months.
- (D) The Temporary Occupancy Permit Application shall indicate the location of the temporary housing unit and include a description of the proposed utility connections. In the case of recreational vehicles/travel trailers being used as temporary housing units, the Temporary Occupancy Permit Application shall also include proof of license, registration, and capacity for highway use.

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- (E) A maximum of one (1) temporary housing unit (or two (2) in the case of a two-family dwelling) shall be permitted provided:
- (1) The primary structure located on the lot upon which the temporary housing unit will be placed has been destroyed, or significantly damaged as a result of emergency, or natural disaster, or is being replaced, or repaired, or reconstructed as part of a government housing project.
 - (2) The temporary housing unit is properly connected to an approved water source, authorized wastewater system, and a permitted electrical service hook-up.
 - (3) Setback requirements may be waived during the duration that the temporary housing unit is permitted, such that the placement of the temporary housing unit will allow for unobstructed repair and reconstruction on the site, provided the temporary housing unit does not extend into any public right-of-way, easement, or adjacent property.
- (F) Temporary housing units must be removed from the lot within thirty (30) days following completion of repair and reconstruction on the primary structure, or within thirty (30) days following expiration of the Temporary Occupancy Permit.
- (G) For purposes of this section:
- (1) A recreational vehicle/travel trailer means a vehicle which is:
 - a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light duty truck;
 - d. Is fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.
 - (2) Manufactured homes being used as temporary housing units shall meet or exceed the standards specified in Section 6.7, meet all FEMA standards for such uses and applicable requirements of Article 11: Flood Damage Prevention Ordinance, and are developed pursuant to a contract or agreement with FEMA, or consist of housing units provided or approved by FEMA.
- (H) A maximum of two (2) temporary storage containers, including shipping and intermodal containers, up to sixteen (16) feet long, eight (8) feet wide, and nine (9) feet tall, shall be permitted on a lot where a home has been destroyed, or significantly damaged, through no fault of the owner, by an emergency or natural disaster.

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(1) Temporary storage containers permitted in accordance with this section shall be removed from the lot within thirty (30) days of expiration of the Temporary Occupancy Permit, or within thirty (30) days of completion of repair and renovation of the primary structure.

(2) Setback requirements for temporary storage containers permitted in accordance with this section may be waived during the duration that the temporary housing unit is permitted, such that the placement of the temporary storage containers will allow for unobstructed repair and reconstruction of the primary structure and the temporary storage containers do not extend into any public right-of-way, easement, or adjacent property.

- (I) Non-residential uses may be allowed one temporary accessory unit to accommodate the existing use of their lot in the event their existing structure has been significantly damaged, through no fault of the owner, by an emergency or natural disaster. Such temporary non-residential accessory unit shall provide the required sanitation facilities necessary to meet building and health code requirements. In no case shall any temporary non-residential unit be used for dwelling purposes.
- (J) UDO Administrator may waive certain requirements of this section as deemed necessary.