ARTICLE 5. USE REGULATIONS

5.1. Use tables.
5.2. Use categories.
5.3. Specific use standards.
5.4. Accessory uses and structures.
5.5. Temporary uses.

5.1. Use tables.

A. **Types of use.** All of the use categories listed in the use table are defined and described in Section 5.2 immediately following the use table.

1. **Uses permitted by right.** A "P" indicates that a use is allowed by right in the respective district. Such uses are subject to all other applicable regulations of this UDO.
2. **Permitted uses subject to supplemental standards.** A "P*" indicates a use that will be permitted, provided that the use meets an additional list of additional standards contained in Section 5.3, Specific use standards. Such uses are subject to all other applicable regulations of this UDO.
3. **Special uses.** An "S" indicates that a use is allowed only if reviewed and approved as a special use permit in accordance with Section 3.14. Special uses are subject to all other applicable regulations of this UDO.
4. **Conditional uses.** The term conditional uses applies only to those uses permitted as part of a conditional use zoning district adopted in accordance with Section 3.13 or for existing conditional zoning districts established prior to the adoption of the UDO.

B. **Uses not allowed.** A blank cell in the use table indicates that a use or use category is not allowed in the respective district.

C. **Uses not listed.** The Planning Director shall determine whether or not an unlisted use is part of an existing use category defined in or is substantially similar to an already defined use, using the criteria in Section 5.2, Use categories.

USE		RESIDENTIAL DISTRICTS								NONRESIDENTIAL DISTRICTS								
P = Permitted by right		P* = Permitted subject to standards								S = Special use permit required								
Use Category	**Specific Use**	**R-40**	**R-20**	**R-15**	**R-12**	**R-9**	**RMH**	**MF-1**	**MF-2**	**NO**	**NC**	**CBD**	**OI**	**CR**	**SB**	**I-1**	**I-2**	**Notes**
RESIDENTIAL																		
Household Living (see 5.2D.1)	Single-Family Detached	P*	P*	P*	P*	P*			P*									6.1 & 6.8
	Residential Cluster	P*	P*	P*	P*	P*		P*	P*									6.3
	Two-Family Dwelling							P*	P*									6.2
	Townhouse							P*	P*		P*	P*	P*	P*				6.5
	Condominium							P*	P*		P*	P*	P*	P*				6.5
	Multifamily (triplex and higher, including apartment)							P*	P*									6.2
	Upper-Story Residential									P*	P*	P*		P				5.3A.5
	Manufactured Home (Class A Unit Only)	P*																6.7.B
	Manufactured Home Park or Subdivision						P*											6.6
	Single-Family Residential Subdivision	P*	P*	P*	P*	P*												
	Modular Home	P*	P*	P*	P*	P*	P*			P*								6.8
	Security or Caretaker's Quarters														P	P	P	
Group Living (see 5.2D.2)	Family Care Home	P*	P*	P*	P*	P*		P*	P*	P*								5.3A.1
	Group Care Home	P*	P*	P*	P*	P*		P*	P*	P*								5.3A.1
	Intermediate Care Home	P*	P*	P*	P*	P*		P*	P*	P*								5.3A.2

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PUBLIC, CIVIC AND INSTITUTIONAL																		
Community Service (see 5.2E.1)	Community Center	S	S	S	S	S	S	S	S		S	S	S	S	S			
	Library, Museum, Art Gallery, Art Center										P	P	P	P	P			
	Other Community Service										S	S	S	S	S			
	Civil, Service Fraternal Clubs, Lodges and Similar Uses	S									S	S	S	S	S			
Day Care (see 5.2E.2)	Adult Day Care									P*	P*		P*	P*	P*			5.3B.3
	Child Day Care (up to 3 as home occupation)	P*	P*	P*	P*	P*	P*	P*	P*	P*								5.3B.3
	Family Child Day Care (up to 8 in-home)	P*	P*	P*	P*	P*	P*											5.3B.3
	Day Care Center									P*	P*		P*	P*	P*			5.3B.3
Educational Facilities (see 5.2E.3)	Business School, College or University Satellite in Single Building										P*	P*	P	P	P			5.3B.1
	College/University												P	P	P			
	School, Public/Private	S	S	S	S	S		S	S				S					5.3B.6
	Trade/Vocational										S	S	S	S	S	S	S	5.3B.8
Government Facilities (see 5.2E.4)	Ambulance Service, Rescue Squad, Police or Fire Station	S	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	
	Government, Utility Facility with Outdoor Storage														S		S	
	Government Office										S	S	S	S	S			
	Prison, Jail, Detention Facility															S	S	
Health Care (see 5.2E.5)	Continuing Care, Retirement Facility							S	S				S					5.3B.9
	Hospice							P	P				P	P				
	Hospital											S	S	S				
	Medical Clinic											P	P	P	P			
	Mental Health Facility												P	P				

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Institutions (see 5.2E.6)	Group Care Facility												P	P				
	Handicapped Institution												P	P				
	Intermediate Care Institution												P	P				
	Other																	
Parks and Open Space (see 5.2E.7)	Cemetery	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*			5.3B.2
	Public Park, Swimming Pool, Tennis Court, Golf Course	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Passenger Terminal (see 5.2E.8)	Bus Passenger Terminal														S	S	S	
	Taxicab or Limousine Operations or Facility														S	S	P	
Religious Institution (see 5.2E.9)		P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*			5.3B.5
Utilities (see 5.2E.10)	Broadcast Tower															S	S	
	Minor Utility, Elevated Water Storage Tank	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	5.3B4
	Telecommunication Facility	S												S	S	P*	P*	5.3B.7
	Other Major Utility	S													S	S	S	
COMMERCIAL, OFFICE, RETAIL																		
Entertainment (see 5.2F.1)	Bar, Nightclub, Tavern													S	S	P*	P*	5.3C.2
	Golf Course or Country Club, Private	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
	Gym, Spa, Indoor Tennis Court or Pool, Private									P*	P*	P	P	P	P	P	P	5.3C.6
	Horse Stables and Related Facilities	S														P	P	
	Indoor Entertainment Facility													P*	P*	P*	P*	5.3C.6
	Outdoor Athletic or Entertainment Facility, Private														S	S		
	Sexually Oriented Business														S			5.3C.10
	Theater											S		P	P			
	Theater, Drive-In														S	S	S	
	Water Slide, Golf Driving Range, Miniature Golf, Batting Cage or Similar Use														S	S		

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Office (see 5.2F.2)	Bank, Financial Institution									P*	P*	P	P	P	P	P	P	5.3C.1
	Medical Office, Individual									P	P	P	P	P	P	P	P	
	Other Office									P	P	P	P	P	P	P	P	
Overnight Accommodation (see 5.2F.3)	Bed and Breakfast	S	S	S	S	S	S	S	S	S	S	S	S	S	S			
	Extended Stay Facility														S	S	S	5.3C.5
	Hotel/Motel													S	S	S		
Parking, Commercial (see 5.2F.4)												S	S	S	S	S	S	
Restaurants (see 5.2F.5)	Restaurant, Drive-In or Outdoor Curb Service														P	P	P	
	Restaurant, Indoor with Seating Only										P*	P	P	P	P	P		5.3C.8
	Restaurant with Seating and Drive-Through Window												P	P	P	P		
	Restaurant, Take-Out Only (Drive-Through or Walk Up)										P*	P	P	P	P	P		5.3C.9

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Retail Sales and Service (see 5.2F.6)	Convenience Store without Fuel Sales										P*	P*		P	P	P	P	5.3C.4
	Convenience Store with Fuel Sales													P	P	P	P	
	Open Air Market											S			P	P	P	
	Personal Service-Oriented Use (excludes commercial greenhouses or any use with outdoor operations)										P*	P*		P*	P*	P	P	
	Banks or Financial Institution									P*	P*	P	P	P	P	P	P	5.3C.1
	Repair Oriented Use (no outdoor operations)										P*	P	P*	P	P	P	P	5.3C.7
	Sales Oriented Use (no outdoor operations)										P	P		P	P	P		
	Sales Oriented Use with Outdoor Operations														P		P	
	Veterinarian/ Kennel, Indoor									P*	P*	P*	P*	P	P	P	P	5.3C.15
	Veterinarian/ Kennel with Outdoor Operations														P*		P*	5.3C.16
Self-Service Storage (see 5.2F.7)															S	P	P	
Vehicle Sales and Service (see 5.2F.8)	Car Wash														P*	P*	P*	5.3C.3
	Vehicle General Repair														P*		P	5.3C.11
	Vehicle Sales, Rental														P*		P	5.3C.12
	Vehicle Service, Limited													P*	P*	P*	P	5.3C.13
	Vehicle Towing, Storage														P*		P*	5.3C.14
INDUSTRIAL AND MANUFACTURING																		
Aviation Service (see 5.2G.1)																	S	
Light Industrial Service (see 5.2G.2)	Flex Space														P*	P*	P*	5.3D.1
	Industrial Use, Indoor														P*	P*	P	5.3D.2
	Industrial Use with Outdoor Operation																P	
Manufacturing and Production (see 5.2G.3)	Indoor or Outdoor																P*	5.3D.3
	Indoor Only																P*	5.3D.3

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Resource Extraction (see 5.2G.4)																	S	
Warehouse and Freight Movement (see 5.2G.5)	Storage (including Outdoor)														P*		P*	5.3D.6
	Truck Terminal																P	
Waste Related Service (see 5.2G.6)	Recycling Collection (Outside)																P*	5.3D.4
	Recyclable Materials Collection Center														P*		P*	5.3D.5
	Junk and or Salvage Yard																S	
	Sanitary Landfill																S	
	Other Waste Related Service																S	
Wholesale Sales (see 5.2G.7)															P*	P*	P	5.3D.7
OTHER																		
Agriculture (see 5.2H.1)	Agriculture or Silviculture	P*	P*															5.3.E.1
	Greenhouse, Nursery (Commercial)															P	P	

(Ord. No. 3396, § 4, 4-3-06; Ord. No. 3417, § 2, 7-5-06)

5.2. Use categories.

A. **Basis for classification.** Use categories classify land uses and activities into use categories based on common functional, product or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

B. **Principal uses.** Principal uses are assigned to the category that most closely describes the nature of the principal use. The "characteristics" subsection of each use category describes the common characteristics of each principal use.

1. **The developments with multiple principal uses.** When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore and bakery, for example, would be classified in the retail sales and service category because all of the development's principal uses are in that category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable category and each use is subject to all applicable regulations for that

category. If a principal use is not listed for a given district, it may not be developed in that district, whether as part of a proposed mixed-use project or a stand-alone project.

2. **Accessory uses.** Accessory uses are allowed by-right in conjunction with a principal use unless otherwise stated in this UDO. Also, unless otherwise stated, accessory uses are subject to the same regulations as the principal use. Common accessory uses are listed as examples in the use category descriptions.

3. **Use of examples.** The "examples" subsection of each use category lists common examples of uses included in the respective use category. The names of these sample uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself "wholesale warehouse" but that sells mostly to consumers, is included in the retail sales and service category rather than the wholesale sales category. This is because the actual activity on the site matches the description of the retail sales and service category.

C. **Similar use interpretation criteria.** The following considerations shall be used in making similar use interpretations:

1. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category;
2. The relative amount of site area or floor space and equipment devoted to the activity;
3. Relative amounts of sales from each activity;
4. The customer type for each activity;
5. The relative number of employees in each activity;
6. Hours of operation;
7. Building and site arrangement;
8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the use; and
10. How the use advertises itself.

D. **Residential use categories.**

1. **Household living.**

a. **Characteristics.** Household living is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis.

b. **Accessory uses.** Accessory uses commonly associated with household living are recreational activities, raising of pets, hobbies and parking of the occupants' vehicles. Home occupations are accessory uses that are subject to additional regulations set forth in Section 5.4.

c. **Examples.** Uses include living in single-family, attached; single-family detached; condominiums; townhouses on separately platted or

combined lots; mixed use dwellings; zero lot line dwelling; two-family dwellings; triplexes and multifamily dwellings; retirement center apartments; some continuing care facilities; manufactured housing, modular housing and other structures with self-contained dwelling units.

d. **Exceptions.** Lodging in a dwelling unit or where units are rented on a less than monthly basis is classified in the overnight accommodations category.

2. **Group living.**

a. **Characteristics.** Group living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of household living. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see overnight accommodations and community service categories). Generally, group living structures have a common eating area for residents. The residents may receive care, training or treatment, as long as the care givers also reside at the site.

b. **Accessory uses.** Accessory uses commonly associated with group living are recreational facilities, dining facilities and parking of vehicles for occupants and staff.

c. **Examples.** Examples of group living include boarding house or rooming house; family care home; group care home; immediate care home; dormitories; and monasteries and convents.

d. **Exceptions.**

(1) Lodging where tenancy may be arranged for periods of less than 30 days is classified in the overnight accommodations category.

(2) Lodging where the residents meet the definition of household and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as household living.

(3) Continuing care facilities where individual units meet the definition of a dwelling unit in Article 11, Definitions, are classified as household living.

(4) Prisons, jails and other incarceration facilities are classified as government facilities.

(5) Post-incarceration facilities are classified as institutions.

E. **Public, civic and institutional use categories.**

1. **Community service.**

a. **Characteristics.** Community Services are uses of a public, nonprofit or charitable nature generally providing a local service to people of the community. Generally, they provide the service on-site or have

employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide special counseling, education, or training of a public, nonprofit or charitable nature.

b. **Accessory uses.** Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas and athletic facilities.

c. **Examples.** Examples include libraries, museums, art galleries, art centers, senior centers; community centers, youth club facilities, social service facilities, civil, service, fraternal clubs, lodges and similar uses.

2. **Day care.**

a. **Characteristics.** Day care uses provide care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.

b. **Accessory uses.** Accessory uses include offices, recreation areas and parking.

c. **Examples.** Examples include preschools, child care centers (outside home), nursery schools, latch-key programs and adult day care programs.

d. **Exceptions.** Day care does not include public or private schools or facilities operated in connection with an employment use, shopping center, religious institution or other principal use, where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

3. **Educational facilities.**

a. **Characteristics.** This category includes public and private schools at the primary, elementary, middle, junior high or high school level that provide state-mandated basic education. This category also includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks.

b. **Accessory uses.** Accessory uses at schools include play areas, cafeterias, recreational and sport facilities, auditoriums and before- or after-school day care. Accessory uses at colleges include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities and support commercial.

c. **Examples.** Examples include public, private and charter daytime schools; business, trade and vocational schools; universities; liberal arts colleges; and community colleges.

d. **Exceptions.** Preschools are classified as day care uses.

4. **Government facilities.**

a. **Characteristics.** Government facilities includes offices, storage, maintenance and other facilities for the operation of federal, state or local government.

b. **Accessory uses.** Accessory uses include storage, maintenance and fueling facilities, satellite offices and parking areas.

c. **Examples.** Examples include Town hall; public/community buildings; government offices; municipal service facilities; maintenance and utility facilities; fire stations, police stations and emergency medical and ambulance stations; prisons and jails; post offices and federal, state or local offices.

d. **Exceptions.**

(1) Passenger terminals for airports and regional bus service are classified as passenger terminals.

(2) State, county or city parks are classified as parks and open space.

(3) Water and wastewater facilities, gas, electric and other infrastructure services, whether public or private, are classified as utilities.

(4) Waste and recycling services are classified as waste related services.

5. **Health care facilities.**

a. **Characteristics.** Health care facilities include uses providing medical or surgical care to patients and offering overnight care.

b. **Accessory uses.** Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities and housing facilities for staff or trainees.

c. **Examples.** Examples include medical centers, hospices, continuing care facilities, mental health facilities, and hospitals.

d. **Exceptions.**

(1) Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the institutional category.

(2) Medical clinics that provide care where patients are not kept overnight are classified as office.

6. **Institutions.**

a. **Characteristics.** Institutions provide a variety of facilities including housing and care for the disabled and housing related to treatment programs.

b. **Accessory uses.** Accessory uses include school facilities, meeting rooms, parking and staff residences (household living).

c. **Examples.** Examples include; some group homes for the physically disabled, mentally retarded, or emotionally disturbed; some residential programs for drug and alcohol treatment and alternative or post-incarceration facilities.

d. **Exceptions.**

(1) Continuing care facilities where individual units meet the definition of a dwelling unit in Article 11, Definitions, are classified as household living.

(2) Continuing care facilities where individual units do not meet the definition of a dwelling unit are classified as health care.

7. **Parks and open areas.**

a. **Characteristics.** Parks and open areas are uses of land focusing on natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures.

b. **Accessory uses.** Accessory uses may include clubhouses, maintenance facilities, concessions, caretaker's quarters and parking.

c. **Examples.** Examples include public parks; publicly-owned golf courses; cemeteries; public squares; plazas; public swimming pools; public tennis courts; recreational trails, botanical gardens and nature preserves.

d. **Exceptions.** Privately-owned golf courses are classified as entertainment uses.

8. **Passenger terminal.**

a. **Characteristics.** Passenger terminal includes facilities for the landing and takeoff of airplanes and helicopters, including loading and unloading areas. Aviation facilities may be improved or unimproved. Passenger terminal also includes passenger terminals for bus service and taxicab or limousine operations or facilities.

b. **Accessory uses.** Accessory uses include freight handling areas, concessions, offices, parking and maintenance and fueling facilities.

c. **Examples.** Examples include airports, bus passenger terminals, taxicab and limousine operations and facilities and helicopter landing facilities.

d. **Exceptions.**

(1) Bus passenger stations for local service such as mass transit stops and park-and-ride facilities are classified as minor utilities.

(2) Private helicopter landing facilities that are accessory to another use.

9. **Religious institutions.**

a. **Characteristics.** Religious institutions primarily provide meeting areas for religious activities.

b. **Accessory uses.** Accessory uses include Sunday school facilities, day care during services where parents are on the premises, parking, caretaker's housing and group living facilities such as convents.

c. **Examples.** Examples include churches, temples, synagogues and mosques.

d. **Exceptions.**

(1) Preschools are classified as day care uses.

(2) Day care provided when parents are not on the premises is classified as day care.

(3) Schools providing a K—12 curriculum similar to public schools are classified as schools.

10. **Utilities.**

a. **Characteristics.** Major utilities are infrastructure services providing Town-wide service. Minor utilities are infrastructure services that need to be located in or near the area where the service is provided. Utility uses generally do not regularly have employees at the site. Services may be publicly or privately provided.

b. **Accessory uses.** Accessory uses may include parking and control, monitoring, data or transmission equipment.

c. **Examples.**

(1) Examples of major utilities include water towers; radio and television broadcast towers; telecommunication towers; water plants; wastewater plants and electrical substations.

(2) Examples of minor utilities include water and sewage pump stations; stormwater retention and detention facilities; public transportation facilities and telephone exchanges.

d. **Exceptions.**

(1) Maintenance yards and buildings, or other facilities with outdoor storage are classified as government.

(2) Utility offices are classified as offices.

F. **Commercial use categories.**

1. **Entertainment.**

a. **Characteristics.** Entertainment uses are generally commercial uses, varying in size, providing daily or regularly scheduled entertainment-oriented activities.

b. **Accessory uses.** Accessory uses may include restaurants, bars, concessions, parking and maintenance facilities.

c. **Examples.** Examples include athletic facilities; commercial amusements; private entertainment facilities; horse stables; privately-owned golf courses, golf driving ranges; miniature golf facilities; private country club; privately-owned tennis facilities; skateboard park; water slide; privately-owned active sports facilities such as ballfields and basketball courts; bar, night club and tavern; indoor entertainment activities such as bowling alleys, game arcades, pool halls, dance halls, indoor firing ranges, theaters; membership clubs.

d. **Exceptions.**

(1) Banquet halls that are part of hotels or restaurants are accessory to those uses.

(2) Publicly-owned golf courses are classified as parks and open areas.

(3) Civic, service, fraternal clubs, lodges and similar uses are considered public, civil, and institutional use categories.

2. **Office.**

a. **Characteristics.** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services. No wholesale or external retail sales activity is included.

b. **Accessory uses.** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.

c. **Examples.** Examples include professional services such as lawyers, accountants, engineers or architects; banks; financial institutions such as lenders or brokerage houses; insurance agents or real estate agents; administrative offices; data processing; sales offices; radio and television stations/studios; and individual medical and dental offices.

d. **Exceptions.**

(1) Offices that are part of and located with a principal use in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a principal use in another category, are considered part of the other category.

(2) Contractors and others who perform services off-site are included in the office category if equipment and materials are not stored outside and fabrication, services or similar work is not carried on at the site.

(3) Medical and dental clinics and labs are classified as health care.

3. **Overnight accommodations.**

a. **Characteristics.** Dwelling units arranged for short term stays of less than 30 days for rent or lease.

b. **Accessory uses.** Accessory uses may include pools and other recreational facilities, limited storage, food preparation and dining facilities, laundry facilities, meeting rooms, off-street parking and offices.

c. **Examples.** Examples include bed and breakfast establishments; hotels, motels, inns, and extended stay facilities.

4. **Parking, commercial.**

a. **Characteristics.** Commercial parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility.

b. **Accessory uses.** Small structures intended to shield parking attendants from the weather.

c. **Examples.** Examples include short- and long-term fee parking facilities and mixed parking lots (partially accessory to a specific use, partially for rent to others).

d. **Exceptions.**

(1) Parking facilities that are accessory to a principal use, but that charge the public to park for occasional events nearby, are not considered commercial parking facilities.

(2) Parking facilities that are accessory to a principal use are not considered commercial parking uses, even if the operator leases the facility to the principal use or charges a fee to the individuals who park in the facility.

(3) Public transit park-and-ride facilities are classified as utilities.

(4) Sales or servicing of vehicles is classified as vehicle sales and service.

5. **Restaurants.**

a. **Characteristics.** Establishments that sell food for on- or off-premise consumption.

b. **Accessory uses.** Accessory uses may include decks and patios for outdoor seating, drive-thru facilities, customer and employee parking areas, and valet parking facilities.

c. **Examples.** Includes restaurants, drive-ins, drive-throughs, fast food establishments, yogurt or ice cream shops and pizza delivery facilities.

d. **Exceptions.** Nightclubs, taverns and bars are classified as entertainment uses.

6. **Retail sales and service.**

a. **Characteristics.** Retail sales and service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services, or provide product repair or services for consumer and business goods.

b. **Accessory uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale and parking.

c. **Examples.** Examples include uses from the three following groups:

(1) **Sales-oriented.** Stores selling, leasing or renting, consumer, home and business goods including alcohol, appliances, art, art supplies, bicycles, books, building/ lumber sales, clothing, dry goods, electronic equipment, fabric, farm supplies, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, manufactured home sales, marine and fishing equipment, monument, optical, pets, pet food, pharmaceuticals, plants, printed material, stationary and medical and dental supply stores, trailer equipment, videos; and food sales.

(2) **Personal service-oriented.** Banks; commercial greenhouse; classes in acting, art, dance, music, photography; drive-in sales; dry cleaner/laundry; emergency medical care offices; funeral home; household equipment rental; photographic studios; photocopy and blueprint services; hair, tanning and personal care services; health clubs and gyms; office equipment rental; personal service shops, travel agencies; animal hospital/care facility, and animal grooming.

(3) **Repair-oriented.** Repair of TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances and office equipment; photo or laundry drop-off; tailor; locksmith and upholsterer.

d. **Exceptions.**

(1) Restaurants are classified as restaurants.

(2) Laundry and dry-cleaning plants are considered light industrial services.

(3) Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as wholesale sales.

(4) Rental, repair and service of consumer motor vehicles, motorcycles and light and medium trucks is classified as vehicle sales and service.

(5) Taxicab and limousine operations or facilities are classified as passenger terminals.

7. **Self-service storage.**

a. **Characteristics.** Self-service storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.

b. **Accessory uses.**

(1) Accessory uses may include living quarters for a resident Manager or security and leasing offices and outside storage of boats and campers.

(2) Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the self-service storage use.

(3) The rental of trucks or equipment is also not considered accessory to a self-service storage use.

c. **Examples.** Examples include facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.

d. **Exceptions.** A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the warehouse and freight movement category.

8. **Vehicle sales and service.**

a. **Characteristics.** Vehicle sales and service uses provide direct services to motor vehicles. They also may include firms that rent or service passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles.

b. **Accessory uses.** Accessory uses may include offices, sales of parts and vehicle storage.

c. **Examples.** Examples include automobile rental; automobile sales; car washes; quick lubrication services; vehicle repair, transmission or muffler shop; towing service; auto body shop; alignment shop; auto upholstery shop; auto detailing; and tire sales and mounting.

d. **Exceptions.**

(1) Refueling facilities for vehicles that belong to a specific use (fleet vehicles) are considered accessory uses if they are located on the site of the principal use.

(2) Convenience stores with fuel sales are classified as retail sales and service.

G. **Industrial use categories.**

1. **Aviation service.**

a. **Characteristics.** Aviation service firms are engaged in storage, repair or servicing of airplanes, helicopters and related aviation equipment, charter aviation services, flying-related education, and warehousing related to air shipping.

b. **Accessory uses.** Accessory activities may include offices, parking, warehousing and storage.

c. **Examples.** Examples include airplane landing strips, sales, service and repair, fixed base operators, flying schools and air shipment warehouses.

d. **Exceptions.**

(1) Car rental agencies associated with commercial air travel are classified as passenger terminals.

(2) Warehousing not associated with air shipping is classified as warehousing and freight movement.

2. **Light industrial service.**

a. **Characteristics.** Light industrial service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site. The uses may have indoor or outdoor operations.

b. **Accessory uses.** Accessory activities may include offices, parking and storage.

c. **Examples.** Examples include welding shops; sheet metal fabrication shop; machine shops; tool repair; electric motor repair; farm equipment repair and storage; repair of scientific or professional instruments; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; janitorial and building maintenance services; fuel oil distributors; research and development; testing and development laboratories; sign shop; laundry, dry-cleaning and carpet cleaning plants and photo-finishing laboratories.

d. **Exceptions.** Contractors and others who perform services off-site are included in the office category, if major equipment and materials are not stored on-site and fabrication or similar work is not carried on at the site.

3. **Manufacturing and production.**

a. **Characteristics.** Manufacturing and production firms are involved in the manufacturing, processing, fabrication, packaging or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

b. **Accessory uses.** Accessory activities may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets and caretaker's quarters.

c. **Examples.** Examples include processing of food and related products, including apparel; catering establishments; concrete batching and products and asphalt mixing; electric machines; food processing plants; instruments and components; light manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; production or fabrication of metals or metal products including enameling and galvanizing; office equipment and supplies; manufacture or assembly of equipment, instruments, including musical instruments, appliances, precision items and other electrical items; production of artwork and toys and sign making.

d. **Exceptions.**

(1) Manufacturing of goods to be sold primarily on-site and to the general public are classified as retail sales and service.

(2) Manufacture and production of goods from composting organic material is classified as waste related service.

4. **Resource extraction.**

a. **Characteristics.** Resource extraction uses include those uses that rely on mining, quarrying or other similar activity to extract resources from the ground.

b. **Accessory uses.** Accessory uses include offices for mining personnel, parking and storage.

c. **Examples.** Examples include mines, borrow pits, and quarries.

5. **Warehouse and freight movement.**

a. **Characteristics.** Warehouse and freight movement firms are involved in the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

b. **Accessory uses.** Accessory uses may include offices, truck fleet parking and maintenance areas.

c. **Examples.** Examples include separate warehouses used by retail stores such as building and lumber materials; storage furniture and appliance stores; household moving and general freight storage; cold storage plants; truck terminals; storage garage warehouses, indoor only, including frozen food lockers; storage tanks; parcel services; and the stockpiling of gravel or other aggregate materials.

d. **Exceptions.**

(1) Uses that involve the transfer or storage of solid or liquid wastes are classified as waste related service.

(2) Mini-warehouses are classified as self-service storage uses.

(3) Flex space is classified as light industrial service.

6. **Waste related service.**

   a. **Characteristics.** Waste related services are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material.

   b. **Accessory uses.** Accessory uses may include recycling of materials, offices and repackaging and transshipment of by-products.

   c. **Examples.** Examples include waste transfer or composting and large recycling facilities and salvage/junk yards; reclamation landfill; and sanitary landfill.

   d. **Exceptions.** Disposal of dirt, concrete, asphalt and similar non-decomposable materials is considered fill.

7. **Wholesale sales.**

   a. **Characteristics.** Wholesale sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer.

   b. **Accessory uses.** Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services and repackaging of goods.

   c. **Examples.** Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware.

   d. **Exceptions.**

      (1) Firms that engage primarily in sales to the general public or on a membership basis are classified as retail sales and service.

      (2) Firms that are primarily storing goods with little on-site business activity are classified as warehouse and freight movement.

H. **Other use categories.**

1. **Agriculture.**

   a. **Characteristics.** Agriculture includes activities that primarily involve raising, producing or keeping plants or animals. Also includes direct sales of such products at wholesale.

   b. **Accessory uses.** Accessory uses include dwellings for proprietors and employees of the use and animal training.

c. **Examples.** Examples include breeding or raising of fowl or other animals; barn/ stable for private animal livestock; catfish farm; riding academies; crop production; farming; pasturage; truck gardening and wholesale plant nurseries or greenhouses.

d. **Exceptions.**

(1) Processing of animal or plant products are classified as manufacturing and production.

(2) Plant nurseries or greenhouses that are oriented to retail sales are classified as retail sales and service.

(Ord. No. 3396, § 5, 4-3-06)

5.3. Specific use standards.

A. **Residential uses.**

1. **Family or group care home.** Family care, group care and disabled or handicapped homes are permitted in accordance with the use table in Section 5.1 and the following standards:

a. No more than one family care home may be located within one-half mile of another family care home, group care home, child care home or nursing care home; measured by a straight line from the nearest property lines. A family care home shall be certified as a licensed family care home by the North Carolina Department of Human Resources and the Wake County Department of Social Services.

b. Group care homes shall not be located closer than one-half mile to any other existing group care home, family care home, child care home or nursing care home; measured by a straight line from the nearest property lines.

c. No more than one family care home may be located within one-half-mile of another family care home, group care home, child care home, nursing care home or disabled/handicapped home; measured by a straight line from the nearest property lines. A family care home shall be certified as a licensed family care home by the North Carolina Department of Human Resources and the Wake County Department of Social Services.

d. Family or group care homes shall be separated by a 15-foot wide buffer with 50 percent screening to height of six feet from any abutting property located in a residential district. The Planning Director may allow deviations from the landscape standards provided the requirements of Section 7.1 are satisfied.

e. Disabled/handicapped homes shall not be located closer than one-half mile to any other existing disabled/handicapped home, group care home, family care home, child care home or nursing care home; measured by a straight line from the nearest property lines.

f. One off street parking space shall be provided for every two beds in a group care home or facility plus one space for each staff person per

shift. Parking improvements shall be constructed in accordance with all applicable parking standards of Section 7.4. The Planning Director may allow deviations from these parking standards provided the requirements of Section 7.4 are satisfied.

g. Family or group care homes shall be separated by a 15-foot wide buffer with 50 percent screening from any abutting property located in a residential district. The Planning Director may allow deviations from the landscape standards provided the requirements of Section 7.1 are satisfied.

h. A residence used for a family or group care home shall maintain a residential appearance which is compatible with the surrounding neighborhood and no exterior alterations are permissible without prior approval from the Town of Garner.

i. No family or group care home shall be established, constructed, or expanded except in accordance with applicable sections of this UDO and North Carolina State Buildings Code.

j. Group care homes with a significant juvenile population shall be required to have the rear yard area enclosed by a fence at least six feet in height.

k. No family or group care home shall be established or maintained without trained supervisory personnel on site.

2. **Intermediate care home.**

a. The intermediate group home shall be located no less than one-half-mile from any existing group living use. Such distance shall be measured from lot line to lot line;

b. No intermediate group home shall be established, constructed, or expanded except in accordance with applicable sections of this UDO and North Carolina State Building Code.

3. **Manufactured home.** An individual manufactured home may be allowed in the R-40 districts. In the R-40, and the home must be a class A manufactured home, as defined in Section 6.8. A manufactured home located on an individual lot outside the RMH or R-40 districts shall only be sited following approval of a manufactured home floating zone (-MH) through the rezoning procedures in Section 3.12.

4. **Residential uses in the CBD.** Residential uses located within the Central Business District shall conform to the following standards:

a. New single residential development is not allowed;

b. Duplex, triplex and multifamily developments is not allowed within the CBD;

c. Multifamily development of the downtown structures between Purvis Street and Griffin Street shall be limited to the occupancy of the second floor and shall require conformance to the North Carolina State Building Code for all units prior to occupancy;

d. Townhouse or condominium uses are allowed within the CBD and shall meet the development standards of Section 6.5.

5. **Upper-story residential.** Upper-story residential development is permitted provided it is part of a larger project, the residential component does not exceed 50 percent of the land area of the project, and a site plan for the project is reviewed in accordance with Section 3.6.

B. **Public, civic and institutional uses.**

1. **Business school, college or university.** Business schools, colleges or universities in the NC, NO or CBD district are permitted, provided that:

a. Only a single building is used for the school, college or university; and

b. All activities are conducted in a completely enclosed building.

2. **Cemetery.** Cemeteries are permitted in accordance with the use table in Section 5.1 and the following standards:

a. When a cemetery abuts or is across a street, alley, or easement from private property zoned in a residential district classification, a 20-foot buffer shall be provided and the following conditions shall be observed:

(1) No burials shall be permitted in the buffer;

(2) The buffer shall be landscaped with grass and trees, shrubs, or other ornamental horticultural materials; and

(3) The buffer shall be maintained in a neat and orderly condition at all times.

b. Warehouses, storage or maintenance buildings, mausoleums, crematories, or columbaria shall be located not less than 150 feet from the nearest private residential property line.

3. **Day care.** Day care (up to three children as a home occupation) is permitted in accordance with the use table in Section 5.1. The following standards apply to child day care and adult day care uses:

a. **Adult day care.** Commercial adult day care is licensed by the North Carolina Department of Health and Human Services.

b. **Child day care.** Up to three children cared for in a residence, and subject to the requirements for a home occupation.

Commentary: The State of North Carolina requires a license for the care of three or more children.

c. **Family child day care.** Up to eight children in a residence, and subject to a license from the North Carolina Department of Health and Human Services.

(1) At least 100 square feet of outdoor play area shall be provided for each child. The outdoor play area shall be enclosed by a fence having a minimum height of four feet, which shall be maintained in good condition.

(2) An off-street drop-off and loading area shall be provided.

(3) Family child day care shall only be permitted to operate between the hours of 6:00 a.m. and 10:00 p.m.

(4) A 15-foot landscape buffer with a 50 percent screen to a height of six feet adjacent to any property zoned or used residentially shall be provided.

d. **Day care center.** Any day care not defined in paragraphs a through c above.

(1) At least 100 square feet of outdoor play area shall be provided for each child. The outdoor play area shall be located at least 50 feet from the lot line of any residential property, and enclosed by a fence having a minimum height of four feet, which shall be maintained in good condition.

(2) An off-street drop-off and loading area shall be provided.

4. **Minor utilities.**

a. Utilities are permitted in accordance with the use table in Section 5.1 and the following standards:

b. Electric power, telephone, cable televisions, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

c. Neighborhood utility facilities located within a public right-of-way with the permission of the owner (state or Town) of the right-of-way.

d. Wells, pumping stations, or other similar facilities that are owned or operated by the City of Raleigh as part of the public water and sewer system.

e. However, uses listed in paragraphs a and b above shall be subject to any notification, review and plan submission requirements approved by the Board of Aldermen.

f. On-site water or wastewater treatment facilities that are authorized pursuant to an approved permit for a development project; provided such facilities are designed and constructed to primarily serve said development.

5. **Religious institutions.**

a. **[Religious institutions in residential districts.]** Religious institutions are permitted in residential districts in accordance with the use table in Section 5.1 and the following standards:

(1) A minimum setback of 40 feet from all exterior lot lines is required; and

(2) The minimum distance between any exterior lot lines and the perimeter of a parking area shall be 25 feet where such boundaries adjoin a residential zoning district.

(3) A religious institution in or adjacent to any residential district shall have its principal vehicular entrance and exit on an arterial street, or on a collector street within 150 feet of its intersection with an arterial.

(4) The principal building and accessory uses must be on a contiguous site or sites separated only by a public street if approved by the permit issuing authority.

(5) After the effective date of this UDO, a religious institution shall not be established in a residential structure in any residential district.

b. **Religious institutions in the CBD.**

(1) Religious institutions shall not be a permissible use within existing commercial buildings in downtown Garner located along Main Street between Purvis Street and Griffin Street and zoned CBD.

(2) Existing religious institutions located in commercial buildings within the area defined above shall be permitted to continue after the effective date of this ordinance; however, once an existing religious institution located in a commercial building in the area defined above ceases operation, a new or different religious institution shall not be permitted to occupy the vacated location.

6. **Schools in residential districts.**

a. Public or private schools are permitted in accordance with the use table in Section 5.1 and the following standards:

b. A minimum setback of 40 feet from all exterior lot lines is required; and

c. The minimum distance between any exterior lot lines and the perimeter of a parking area shall be 25 feet where such boundaries adjoin a residential zoning district.

d. A school in or adjacent to any residential district shall have its principal vehicular entrance and exit on an arterial street, or on a collector street within 150 feet of its intersection with an arterial.

e. The principal building and accessory uses must be on a contiguous site.

7. **Telecommunication facility.** Towers and antennas greater than 35 feet in height are permitted in accordance with the use table in Section 5.1 and the following standards:

a. The Board of Aldermen encourages the co-location of antennas on existing towers in the Towns planning jurisdiction where possible in order to reduce the amount of visual clutter that new towers create in the community.

b. The applicant shall attend a pre-application meeting with the Planning Department. The applicant shall provide information regarding the proposed facility's service area requirements, co-location opportunities and review a checklist of information required for the formal application. Additional information necessary to review the impact of the proposed facility on surrounding properties may be required by the Planning Director at the time of pre-application meeting.

c. The application shall comply with the criteria of Section 3.14 where applicable of the ordinance and meet the following standards.

(1) The applicant shall certify to the Board of Aldermen that output levels from the tower and or associated antenna does not exceed the current federally approved levels for exposure to electromagnetic force (EMF).

(2) The applicant shall provide competent evidence to the Board of Aldermen that all reasonable efforts have been made to co-locate on an existing tower, building, or structure or that no existing tower, building or structure will technically satisfy the applicant's needs.

(3) The applicant shall certify to the Board of Aldermen that a new tower location will be constructed for co-location of future users and that radio, television or similar reception for adjoining properties will not be disturbed or diminished.

(4) Advertising copy or any logo which constitutes a sign is prohibited on any tower and antenna or satellite dish antenna in any zoning district.

(5) The proposed tower location must be in conformity with the centennial long range plan, the transportation plan and other plans officially adopted by the Board of Aldermen and applicable zoning overlay districts (I-40, U.S. 70/401, and Timber Drive). Towers shall not be allowed in the Lake Benson Conservation Overlay District.

(6) To assure that the proposed tower will be in conformity with the adopted plans and policies of the Town, the Board of Aldermen may require a specific type of tower construction. Monopole towers shall be required for sites that fall within the I-40, U.S. 70/401 and Timber Drive Overlay Districts. The Board may require specific tower construction types in other areas of the Town, based on site specific needs and characteristics of the surrounding neighborhood.

(7) A setback radius (a circle whose center is the tower base) shall be required as follows for all towers that are permissible in districts except where stricter standards are required in the R-40 district (see subsection (15) below).

(a) From all sides of a tower there shall be a minimum setback of 500 feet measured in straight line to any portion of a property line of a residentially developed lot.

(b) Where any side of a tower site adjoins undeveloped property zoned residential, the required setback distance from the tower to any property line shall be equal to at least 100 percent of the tower height. The Board of Aldermen may allow this setback requirement to be reduced to a minimum of 60 percent of the tower height based on competent evidence provided by the applicant clearly showing that the structural integrity of the tower is designed to collapse within the reduced setback distance and that affected owners of record adjacent to the reduced setback distance provide written documentation that they do not object to such setback reduction.

(c) Where any side of a tower site adjoins property zoned nonresidential, the required setback distance from the tower to any property line shall be equal to at least 60 percent of the tower height.

(d) The Board of Aldermen may require that a tower setback radius area not contain any buildings, structures or land uses if the Board concludes that such buildings, structures or land uses could be impacted by the structural failure of the tower.

(8) Landscape screening and buffering. A landscape buffer shall be required between a tower and all adjacent land uses with the exception of manufacturing, airport, armory and crematorium uses. See Sections 7.1.K, Buffers for specific buffer and screening standards. In addition, the following standards shall apply:

(a) The required landscape buffer shall be required between the base of a tower and any street right-of-way from which the tower is visible.

(b) The Planning Director has the discretion to require that the landscape buffer be provided adjacent to the fencing surrounding the tower base rather than at the property line, when the site conditions are such that tower base location will create a more effective visual screen from the adjacent property line or street right-of-way.

(9) The Board of Aldermen may require the applicant to apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than the red and white marking pattern, when such marking pattern is determined to be aesthetically blighting due to the location of surrounding land uses or the visibility of the tower.

(10) When tower lighting is proposed, the applicant shall certify to the permitting authority, as part of the conditional or special use permit application, that the lighting planned for the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA), as amended.

(11) The exterior appearance of all buildings associated with a telecommunications tower located adjacent to any residential zoning district may be required by the Board of Aldermen to resemble a residential dwelling, including a pitched roof(s), and frame or brick veneer construction.

(12) The exterior appearance of all buildings associated with a telecommunications tower located in a residential or non residential zoning district, which is visible from a public right-of-way, may be required by the Board of Aldermen to have architectural enhancements, such as, siding, split face block or brick veneer on all facades visible from the public right-of-way.

(13) A tower that has been abandoned or has not been actively used for a period of six consecutive months shall be removed by the tower user that currently owns or leases the facility upon notice from the Town of Garner, unless the Board of Aldermen grants a time extension at the owner's request, for a period not to exceed one year from the date of official notice.

(14) The tower shall be a tapered monopole construction unless otherwise approved by the Board of Aldermen. The tower shall not exceed a height of 200 feet (measured from the finish grade elevation to the top of the tower). However, the Board of Aldermen may require a tower be of a certain height, not to exceed the maximum permitted, if it finds that such a requirement is necessary to support the design for co-location of additional users or is needed to address the impact of the tower on adjacent properties and uses.

(15) In addition to meeting the standards listed above towers located in R-40 zoning districts shall comply with the requirements outlined below.

(a) There shall be a minimum setback from all sides of a tower equal to 2.5 times the tower height measured in a straight line to an existing residence, excluding the applicant's residence.

(b) Towers located in R-40 districts greater than 75 feet in height shall not be located closer than 2,500 feet to another tower greater than 75 feet in height. This separation provision applies only to communication towers which transmit or receive telephone, telecommunication, radio or TV signals and does not include amateur or ham radio towers and antennas.

(c) Associated buildings used in connection with a tower located in R-40 districts may not be used as an employment center for any worker. This provision does not prohibit periodic maintenance and monitoring of equipment and instruments.

(d) The applicant shall apply stealth technologies for towers located in R-40 districts where practical. However, all antennas on towers in R-40 districts shall employ a type of stealth application that visually screens antennas from any off-site location in a manner approved by the Board of Aldermen.

(e) Tower locations in R-40 districts are subject to applicable standards of the Town's landscape ordinance and shall comply with the following specific landscaping/buffer standards:

i. The base of the tower, including associated structures, fences, etc. shall be surrounded by a forested area 75 feet wide buffer with planted vegetation necessary to achieve a 100 percent screen at eight feet in height. Existing mature forest areas may be used to reduce the buffer width requirement if the screening standard can be met and is approved by the permit-issuing authority.

ii. Landscape berms may be allowed in lieu of the required landscaped forest area provided the landscape berm is appropriate for the tower location and it achieves the required screening standards outlined above.

iii. The Planning Director has the discretion to require that the required Buffer be provided adjacent to the fencing surrounding the tower base rather than at the property line, when the site conditions are such that tower base location will create a more effective visual screen from the adjacent property line or street right-of-way.

8. **Trade/vocational educational facilities.** Trade/vocational educational facilities are permitted, provided that all activities are conducted in a completely enclosed building.

9. **Continuing care retirement facilities.** Continuing care retirement facilities shall meet the following provisions:

a. The number of persons who may housed in non-independent rooms or apartments (not including hospital or clinic beds) does not exceed the number of persons housed in independent dwelling units by a ratio of 3:1.

b. The continuing care retirement facility do not exceed a density of ten units per acre, not including the number of persons occupying hospital or clinic beds.

c. The number of hospital or clinic beds shall not be more than 50 percent of the total number of permitted dwelling units.

d. Retail stores and personal service establishments located within the continuing care retirement facility are permissible only when:
   (1) Such uses exclusively serve the residents of the facility;
   (2) There is no exterior evidence of such uses outside of the building they are located in and have no outdoor entrance for customers separate from the main entrance of the activity or administrative building; and
   (3) The floor area devoted to such uses shall not exceed 50 percent of the floor area of the building where the uses area located.

e. The facility is located on a minor or major thoroughfare.

f. The total number of persons residing in the continuing care retirement facility does not exceed 500.

g. A minimum of 25 percent of the tract must be retained on site as permanent open space.

C. **Commercial, office and retail uses.**

1. **Bank, financial institution.** A bank, credit union, or other financial institution located in the NO or NC districts shall provide only indoor transactions, which shall be further limited to the hours between 6:00 a.m. and 10:00 p.m. No external automated teller machine, drive-through windows, or night drop windows shall be permitted.

2. **Bar, nightclub, tavern.** A bar, nightclub or tavern shall not be permitted within 500 feet of any residential use or residential district.

3. **Car wash.** A car wash shall be permitted in accordance with the use table in Section 5.1 and the following standards:
   a. No outdoor storage is permitted;
   b. Any bay doors shall not be oriented toward the public right-of-way unless appropriately screened as determined by the permit-issuing authority;
   c. All washing operations shall be conducted within a completely enclosed building; and
   d. No car wash facility, including any areas for vehicular use, shall be located within 500 feet of any existing residential zoning district.
   e. No vehicles shall be stored overnight.

4. **Convenience store without fuel sales.** A convenience store in the NC and CBD districts may not exceed 5,000 square feet in gross floor area.

5. **Extended stay facility.** Extended stay facilities are permitted in accordance with the use table in Section 5.1 and the following standards:
   a. All guest rooms shall take access from an interior hallway. No guest rooms shall be accessible without passing through a secured area.
   b. Staff or management shall be on duty 24-hours per day, seven days per week;

c. Each guest room shall have a minimum of 280 square feet;

d. No outside storage or permanent parking of equipment or vehicles shall be permitted; and

e. No buildings constructed under this section may be converted to or used as apartments or condominiums.

f. No extended stay facility shall be located on a site within 500 feet of any residential district or use.

6. **Gym, spa, indoor tennis court or pool, private.** A private gym, spa, indoor tennis court or pool in the NC and NO districts may not exceed 5,000 square feet in gross floor area.

7. **Repair oriented use.** A repair-oriented use in the NC district may not exceed 5,000 square feet in gross floor area. No outdoor storage at a repair-oriented use shall be permitted.

8. **Restaurant, indoor with seating only.** An indoor restaurant in the NC district may not exceed 5,000 square feet in gross floor area.

9. **Restaurant, take-out only.** A take-out restaurant in the NC district may not exceed 5,000 square feet in gross floor area.

10. **Sexually oriented business (adult uses).** Adult uses are permitted in accordance with the use table in Section 5.1 and the following standards:

    a. No adult cabaret or adult establishment shall be located closer than a distance of 1,000 feet from a church, school, park, residential zoning district or other adult cabaret or adult establishment. The 1,000 foot distance shall be measured from the closest point on the perimeter of the lot on which the described establishment is located to the nearest point on the lot on which the church, school, park, residentially zoned district, adult cabaret or adult establishment is located.

    b. Except as permitted in Section 7.5, Sign regulations, no signs, logos, promotional materials or other distinctive decorations or markings shall be placed on the exterior of the establishment or shall be visible to the public from streets or highways, pedestrian sidewalks or walkways.

11. **Vehicle general repair.** Outdoor storage is restricted to the rear of a building and must be 100 percent screened from all street views. No vehicles shall be stored for more than 30 days.

12. **Vehicle sales, rental.** Outdoor storage is restricted to the rear of a building and must be 100 percent screened from all street views. Sales areas where vehicles for sale are parked may be permitted, subject to any restrictions for parking area in the SB district.

13. **Vehicle service, limited.** No outdoor storage is permitted in the CR and I-1 districts and no vehicles shall be stored overnight. Outdoor storage in

the SB district is limited to the rear of the building with 100 percent screening from all views in a manner acceptable to the permit issuing authority.

14. **Vehicle towing, storage.**
    a. No vehicle towing or storage facility shall be located within 500 feet of any residential use or district.
    b. All overnight storage of vehicles shall be completely screened from view from the public right-of-way and adjacent properties by a six-foot fence or other methods that achieve the screening objective that are acceptable to permit-issuing authority.
15. **Veterinarian/kennel, indoor.**
    a. No veterinarian or kennel in the NC, NO or CBD districts shall exceed 5,000 square feet.
    b. All activity associated with the operation shall take place within a completely enclosed building.
16. **Veterinarian/kennel with outdoor operations.** No veterinarian or kennel with outdoor operations shall be located within 500 feet of any residential use or district.

D. **Industrial and manufacturing uses.**

1. **Flex space.** Flex space is permitted in accordance with the use table in Section 5.1 and the following standards:
    a. Changes in products, services, and square footage of the permitted uses within a flex-space structure do not require approval of the Town.
    b. Any portion of the gross floor area in each flex space structure may be commercial space provided sufficient off-street parking is available on-site.
    c. One parking space shall be provided for each 400 square feet of floor area used as flex space.
2. **Industrial use, indoor.** No outdoor storage is permitted in the I-1 district. Outdoor storage in the SB district is limited to the rear of the building with 100 percent screening from all views in a manner acceptable to the permit issuing authority.
3. **Manufacturing and production.** Manufacturing and production facilities are permitted in accordance with the use table in Section 5.3 and the following standards:
    a. No vibration shall be produced which is transmitted through the ground (and is discernible without the aid of instruments) at or at any point beyond the lot line.
    b. All noise shall be muffled so as to not be objectionable due to intermittence, beat frequency or shrillness.

c. Visible emissions of air pollutants of any kind at ground level, past the lot line of the lot on which the source of emissions is located, are prohibited.

d. No person shall cause or permit any materials to be handled, transported or stored in such a manner which allows or may allow particulate matter to become airborne.

e. No direct glare from high temperature processes such as combustion or welding, which is visible at the lot line, shall be permitted.

f. There shall be no emission or transmission of heat or heated air so as to be discernible from the lot line.

g. Any condition or operation which results in the creation of odors of such intensity or character as to unreasonably interfere with the comfort of the public shall be removed, stopped or modified so as to remove the odor.

4. **Recycling collection (outside).** Recycling collection points are permitted in accordance with the use table in Section 5.1 and the following standards:

a. Recycling collection points shall be limited to one operation per principle use (i.e., one per shopping center, or office complex or building).

b. Recycling collection points shall present an appropriate appearance in the community. This objective may be accomplished by the use of containers which are uniform in size, color and shape, or by the use of sufficient measures to screen recycling collection points from external views in a manner approved by the Planning Director.

c. Materials collected at recycling collection points shall be limited to aluminum, plastic, glass, or paper materials which may be recycled for re-manufacture or reuse.

d. Recyclable materials shall be stored within a weather-tight container or a durable material container approved by the Planning Director. An individual container shall not exceed a height of eight feet. The use of containers with self-closing doors is strongly encouraged.

e. Outside recycling collection points should be located on a site so as to avoid direct street view such as side or rear areas of existing building. The location of a recycling collection point shall be situated on a site so as not to create unsafe or hazardous traffic movements on or off the site.

f. Processing equipment shall not be a part of a recycling collection point.

g. The area immediately surrounding recycling collection points shall be kept clean and in a good state of repair at all times. The Planning Director shall have the authority to order, at the owner's expense, painting, repair, alteration, screening or removal of containers or

receptacles and the cleaning of recycling collection point areas which constitute by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, a public nuisance or hazard to public health, safety or welfare. Failure to comply with the provisions of this section shall result in enforcement action according to the requirements of Article 10, Enforcement.

h. The setback requirements that apply to the principal use of property where a recycling collection point is located shall also apply to individual recycling collection containers.

i. Signage for recycling collection points shall be subject to the sign regulations set forth in Section 7.5. The use of the recycling symbol as the only signage for recycling collections points is required.

j. A minimum of five parking spaces per recycling collection point or one parking space for each receptacle, whichever is greater, shall be required.

k. In order to establish a recycling collection point, an applicant shall submit information to the Planning Director outlining the general operation of the use and a site plan depicting the location of all containers on the site. The submitted information must be of sufficient detail; to enable the Planning Director to determine if the standards of this UDO and other applicable requirements have been met. A recycling collection point shall not be established and operated until the Planning Director has issued written approval of the request.

5. **Recyclable material collection centers.** Recyclable material collection centers are permitted in accordance with the use table in Section 5.1 and the following standards:

a. Collectible recyclable materials shall be limited to aluminum, copper, plastic, glass or paper.

b. Storage of collectible recyclable materials may be located inside or outside of an enclosed building. If located outside of an enclosed building, recyclable materials shall be stored within a trailer that is drawn by motor power and bears a valid and current state license. Or, such material located outside an enclosed building may be stored within weather tight metal containers which do not exceed a height of eight feet.

c. Recyclable material collection centers outside of an enclosed building should be located on a site to avoid direct street view, such as but not limited to being located in the rear of existing building(s). Direct street view of outside collection centers is permissible only when a 100 percent screen on all sides of the receptacle is completed by the developer according to the standards outlined below prior to the start of collection operations. Plans detailing how an outside collection

center is to be screened shall be submitted as part of the site or conditional use permit application and be approved by the permit issuing authority prior to the start of collection operations.

d. Where an outside collection receptacle is a trailer, screening shall be accomplished by solid fencing sufficient to screen tires of all trailer wheels and shall be located a maximum of six feet from the designated trailer location closest to street view. A minimum of 50 percent of the solid fence shall be softened with vegetation consisting of a combination of shrubs and trees and shall extend 15 feet on either end of said fencing.

e. Where an outside collection receptacle is a weather tight metal container, a 100 percent solid screen shall be provided on all sides with a direct street view. Screening shall be accomplished by solid fencing to a minimum height of eight feet; located a maximum of four feet from the container. A minimum of 50 percent of the fence shall be softened with vegetation consisting of a combination of shrubs and trees.

f. Processing equipment, such as but not limited to crushers, sorting equipment shall not be part of an outside collection operation.

g. Collection containers shall be located a minimum of 50 feet from any property line adjoining a residence or residential district. A type A buffer/screen shall be required along such property lines.

h. Recyclable material collection center sites shall be kept clean and free of materials, rubbish or debris. The exterior of outside collection containers shall be kept clean and kept in a good state of repair at all times. The Planning Director shall have the authority to order painting, repair, alteration, or removal of receptacles and the cleaning of collection sites which constitutes by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, a public nuisance or hazard to public health, safety or welfare.

i. All applicable setback requirements of Article 6 shall apply to situations where all collection and storage operations are conducted inside a completely enclosed building.

j. In situations where collection and storage operations occur outside of an enclosed building the following setbacks shall apply:

Standard	
Front setback	50 feet
Interior side	25 feet
Corner side	50 feet
Rear side	25 feet (50 feet if site abuts a street)

Note: Greater setback may be required if site adjoins a residence or residential district.

k. A minimum of five parking spaces per recyclable material collection center site or two parking spaces for each receptacle, whichever is greater, shall be required.

l. Signage for collection centers shall be subject to the sign regulations set forth in Section 7.5.

m. A recyclable material collection center with outside operations shall be located on a lot which abuts U.S. 401, U.S. 70, N.C. 50, or Mechanical Boulevard.

6. **Storage.**

a. All outdoor storage areas shall be screened from view from any public right-of-way or adjacent property with a six-foot opaque fence, wall; or other methods that achieve the screening objective that are acceptable to the permit-issuing authority.

7. **Wholesale sales.** No outdoor storage is permitted in the I-1 district. Outdoor storage in the SB district is limited to the rear of the building with 100 percent screening from all views in a manner acceptable to the permit issuing authority.

E. **Other uses.**

1. **Agriculture and silviculture.**

a. **Agriculture.** Structures for keeping and raising of livestock and poultry shall be separated from residentially-zoned property by 500 feet.

b. **Silviculture.** Forest management, tree farm and timber areas are permitted subject to the following standards:

(1) No clearing of timber, trees or understory vegetation will be permitted in the perimeter and street buffers as established in Section 7.1.K., except for any road/driveway necessary to serve the property;

(2) No site plan approval shall be issued within two years of the harvesting of timber; and

(3) No clearing of timbers, trees or understory vegetation will occur within 20 feet of the property line of an adjoining property devoted to a residential use.

(Ord. No. 3396, §§ 6—10, 4-3-06)

5.4. Accessory uses and structures.

A. **General.**

1. Whenever a use is conducted in conjunction with another principal use, and the first use:

a. Constitutes only an incidental or insubstantial part of the total activity on a lot; or

b. Is commonly associated with the principal use and integrally related to it,

2. Then the first use may be regarded as accessory and may be carried on under the umbrella of the permit issued for the principal use.

B. **Accessory buildings and uses in residential districts.**

1. The following standards shall apply to all accessory buildings in residential districts:

a. The maximum height of a garage shall not exceed the height of the principal structure.

b. The maximum height of an accessory building other than a garage shall be 20 feet.

c. The minimum setback from a side lot line is ten feet;

d. The minimum setback from a rear lot line is five feet;

e. If an easement exists along such a lot line, the minimum setback will be coincident with the easement line if it is greater than the applicable minimum stated above;

f. The floor area of the total number of accessory buildings shall not exceed one-half of the heated square footage of the principal building served, except in the R-40 district;

Commentary: Floor area for accessory building cannot exceed one-half of the heated space of the principle building, plus any existing accessory building(s).

g. Residential accessory buildings, on lots of record prior to March 1984, may encroach into designated conservation buffers provided that: (1) such buildings not exceed one-quarter of the area of the principal building served; (2) such accessory building shall not be located in any designated floodway; (3) placement of an accessory building in a flood fringe area shall meet all applicable construction requirements; and (4) including the accessory building, the area of the lot covered by impervious surfaces shall not exceed 25 percent.

2. The following are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth in paragraph 1., above:

a. Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot to carry on administrative or artistic activities, so long as such activities do not fall within the definition of a home occupation.

b. Hobbies or recreational activities of a noncommercial nature.

c. The renting out of one or two rooms within a single-family residence (which one or two rooms do not themselves constitute a separate dwelling unit) to persons who are not part of the family that resides in the single-family dwelling.

3. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:
   a. Storage or parking of any vehicle or trailer overnight or for a longer period of time, if said vehicle or trailer is licensed or regularly used for commercial or industrial purposes, and meets any of the following criteria:
      (1) A vehicle for which a commercial driver's license is required by state law; or
      (2) A vehicle or trailer having in excess of two axles; or
      (3) Any trailer bearing commercial signage, logo, or actually carrying commercial or industrial equipment or materials, or
      (4) A vehicle or trailer having a height in excess of 90 inches stored or parked in any required front yard.
   b. However, nothing in the UDO shall prohibit the overnight parking or storage of pickup trucks or of trailers used exclusively for noncommercial or non-industrial purposes.
   c. Automotive repair, including engine, body or other repair or repainting of any vehicle owned by a person not residing at that address, notwithstanding whether compensation was paid for said service.
   d. Skateboard ramps, except as follows:
      (1) Ramps that do not exceed four feet in height off a horizontal plane at the highest point of ground where the structure is immediately erected; and
      (2) That meet all side and rear yard setback requirements.

C. **Junked or abandoned vehicles.** The following activities shall not be regarded as accessory to any principal use and are prohibited in all districts, except as a principal use expressly allowed in the use table in Section 5.1:
   1. Storage outside a substantially enclosed building of any junked or abandoned motor vehicle that also constitutes a nuisance for more than 30 days. (A building is substantially enclosed if the length of the additional wall necessary to fully enclose it would not exceed 25 percent of the length of the existing walls.) Abandoned and junked motor vehicles are defined as follows:
      a. An abandoned motor vehicle is a self-propelled, land operated vehicle (e.g., truck, car, tractor, etc.) that:
         (1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
         (2) Is left on property owned or operated by the Town for longer than 24 hours; or
         (3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or
         (4) Is left on any public street or highway for longer than seven days.

b. A junked motor vehicle is an abandoned motor vehicle that also:
   (1) Is partially dismantled or wrecked; or
   (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
   (3) Is more than five years old and worth less than $100.00; or
   (4) Does not display a current license plate.

D. **Automatic one bay (non-wand) car wash facility.** A one bay automatic (non-wand) car wash facility that is completely enclosed except for openings necessary to allow entry and exit of vehicles is permissible in CR and SB districts only, provided:

1. The facility serves as an accessory use to the principal use of a convenience store only.
2. The car wash building or structure cannot exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.
3. The car wash accessory building shall have the same architectural character as the onsite principal building and shall house car wash related storage and/or rest rooms only. The doors of the car wash building shall be architecturally compatible with the car wash building. The doors of the car wash accessory building shall be closed when the facility is not in operation.
4. The car wash building and storage of auxiliary equipment related to the car wash facility shall be located behind the rear building line of the principle use building.
5. The orientation of a one bay automatic car wash structure shall be sited so as to discourage direct street view of the facility. Direct street access of a one bay automatic car wash structure and related auxiliary equipment is permissible only when appropriate landscaped areas such as, but not limited to, planter islands or other landscaped features are used to provide a 50 percent screen of the facility and related equipment from street view.
6. All one bay (non-wand) automatic car wash structures shall meet the applicable setback standards of Article 6. The use shall be subject to the noise standards.
7. In addition to meeting the screening standards outlined above, the provisions of Section 7.1, regarding buffer/screen requirements shall apply to a one bay automatic car wash facility and all landscape plans for such uses must be reviewed by the Planning Commission and approved by the permit issuing authority.
8. The property on which an accessory automatic non-wand car wash is located shall abut the major thoroughfares, U.S. 401 and U.S. 70 and N.C. 50, as designated on the adopted greater Capital Area Metropolitan Planning Organization Transportation Plan.

9. All car wash facilities shall be equipped with a water recycling system that meets all applicable standards and regulations of the Town, City of Raleigh, Wake County and state or connect to the Town of Garner Sewer System upon the approval of the Town Engineer.

E. **Automatic car wash facility.** An automatic (non-wand) car wash facility that is completely enclosed except for openings necessary to allow entry and exit of vehicles is permissible as an accessory use to the principle use of an automobile service center, in the CR and SB districts provided the following standards are met:

1. The number of car wash bays shall be limited to a maximum of two, provided the number of car wash bays does not exceed more than one-third of the total number of bays contained in the entire building.

2. The car wash bays shall be architecturally integrated into the overall building to as to present a unified building design in a manner that utilizes the same building materials and colors as the other portions of the building.

3. Hours of operation for the automatic car wash shall be limited to between 6:00 a.m. and 11:00 p.m. each day.

4. Appearance and landscaping.

5. The orientation of the automatic car wash bays shall be sited so as to discourage direct street views of the facility where practical.

6. Automobile service centers with automatic car wash bays as an accessory use located within the Timber Drive or U.S. 70/401 overlay districts shall be subject to the landscape standards of those overlay districts.

7. Automobile service centers with automatic car wash bays as an accessory use not located within a special overlay district shall provide a 100 percent screen of the facility and related equipment from street views to a minimum height of four feet within two years of initial planting.

8. All car wash facilities shall be equipped with a water recycling system that meets all applicable standards and regulations of the Town, City of Raleigh, Wake County, and state or connect to the Town of Garner Sewer System upon the approval of the Town Engineer.

F. **Home occupations in residential zoning districts.**

1. **Defined.** A commercial activity in any residential district that:

   a. Is conducted by a person on the same lot where such person resides; and

   b. Is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use, but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

2. **Uses not permitted.** A use may not be regarded as having an insignificant adverse impact on the surrounding neighborhood if:
   a. The home occupation changes the outside appearance of the dwelling;
   b. Goods, stock in trade, or other commodities are displayed;
   c. It results in the outside storage or display of anything;
   d. Any on-premises retail sales occur;
   e. More than one person not a resident on the premises is employed in connection with the occupation;
   f. It generates traffic, parking, sewerage, or water use in excess of what is normal in the residential neighborhood;
   g. It results in the off-street or on-street parking of more than two vehicles at any one time not owned by members of the occupant household;
   h. Creates a hazard to persons or property;
   i. Is a nuisance;
   j. It creates objectionable traffic, noise, fumes, odor, dust or electrical interference; or
   k. More than 25 percent of the total gross floor area of the residential building plus other buildings used for the occupation, or more than 500 square feet of gross floor area, whichever is less, is used for home occupation purposes.
3. **Home occupation standards.**
   a. The residential character of the lot and dwelling shall be maintained. Neither the interior nor the exterior of the dwelling shall be structurally altered so as to require compliance with nonresidential construction codes to accommodate the home occupation. A sign up to four square feet in area and four feet in height may be allowed as noted in Section 7.5.F., provided a sign permit is obtained.
   b. No additional buildings or structures shall be added on the property to accommodate the home occupation.
   c. No outdoor storage or separate entrance shall be permitted.
   d. Instruction in music, dancing and similar subjects shall be limited to two students at a time.
   e. Any activities involving outside visitors or clients shall be limited to the hours between 8:00 a.m. and 8:00 p.m.
4. **Exclusions to home occupations.** The following are expressly prohibited as home occupations:
   a. Animal hospitals, stables, or kennels;
   b. Barber, beauty and other personal service shops;
   c. Dance studios, schools;

d. Mortuaries;

e. Private clubs;

f. Repair shops;

g. Restaurants;

h. Automobile paint or repair shops; or

i. Doctor, dentist, veterinarian or other medically related office.

G. **Home occupations in the Neighborhood Office zoning district.**

1. **Defined.** A commercial activity in a single family dwelling located in the Neighborhood Office district that:

   a. Is conducted by a person on the same lot where such person resides; and

   b. Is not so insubstantial or incidental or is not so commonly associated with the residential use as to be regarded as an accessory use, but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

2. **Uses not permitted.** A home occupation use is not allowed if:

   a. The home occupation changes the outside appearance of the dwelling;

   b. Goods, stock in trade, or other commodities are displayed;

   c. It results in the outside storage or display of anything;

   d. Any on-premises retail sales occur;

   e. More than six people not a resident on the premises are employed in connection with the occupation;

   f. It generates traffic, parking, sewerage, or water use in excess of what is normal in the residential neighborhood;

   g. It results in any on-street parking of vehicles;

   h. Creates a hazard to persons or property;

   i. Is a nuisance;

   j. It creates objectionable traffic, noise, fumes, odor, dust or electrical interference; or

   k. More than 50 percent of the total gross floor area of the residential building plus other buildings used for the occupation, or more than 700 square feet of gross floor area, whichever is less, is used for home occupation purposes.

3. **Home occupation standards.**

   a. The residential character of the lot and dwelling shall be maintained. The dwelling must comply with all applicable NC Building Codes necessary to accommodate the home occupation.

   b. A sign up to four square feet in area and four feet in height may be allowed as noted in Section 7.5.F provided a sign permit is obtained.

c. No additional buildings or structures shall be added on the property to accommodate the home occupation.

d. No outdoor storage or separate entrance shall be permitted.

e. Instruction in music, dancing and similar subjects shall be limited to two students at a time.

f. All activities involving the home occupation limited to the hours between 7:30 a.m. and 8:00 p.m.

g. Off-street parking shall be provided in the amount of one parking space per employee in addition to required parking for the residential use of the dwelling. All parking must be designed to meet the requirements of Sections 7.1 and 7.4 of the UDO.

h. Commercial vehicles as defined in Section 5.4.3(a) are prohibited as part of the home occupation.

4. **Exclusions to home occupations.** The following are expressly prohibited as home occupations:

a. Animal hospitals, stables, or kennels;

b. Dance studios, schools;

c. Mortuaries;

d. Private clubs;

e. Repair shops;

f. Restaurants;

g. Automobile paint or repair shops; or

h. Doctor, dentist, veterinarian or other medically related office.

H. **Fences and walls.** Fences and walls are permitted in any yard or along the edge of any yard and to such heights as follows, provided the vision necessary for safe vehicular and pedestrian movement on driveways and streets is not impeded:

1. **All residential, OI, NC and CR districts.** Open and solid fences to four feet in front and corner side yards; solid fences to six feet in side and rear yards; open fences to any structurally-sound height in side and rear yards; solid rear and side yard fences to eight feet as a special exception if granted by the Board of Adjustment.

2. **Service Business (SB) districts.** Solid fences to four feet in front yards; solid fences to ten feet in side and rear yards; open fences to any structurally-sound height in any yard.

3. **Industrial districts (I-1, I-2).** Solid and open fences to any structurally-sound height.

4. **Salvage operations.** Solid fences not less than eight feet in height must be provided to enclose any salvage, scrap or reclamation operation.

5. **Swimming pools.** Swimming pools shall be completely isolated from adjacent properties and from streets by a fence or wall having a minimum height of four feet, and a maximum height as provided above, constructed so as to prevent the passage of small children.

6. **Water impoundment ponds or other water feature.**

   a. Where a water impoundment pond or other water feature is located more than 100 feet from the property line of any adjacent residential use or zoning district and provides an aquatic shelf acceptable to the Town Engineer, no fence shall be required.

   b. Where no such shelf is proposed, or the site is located closer than 100 feet to the property line of any residential use or zoning district, the pond or water feature shall be fenced and landscaped in a fashion acceptable to the Town Engineer and Planning Director.

I. **Towers and antennas or satellite dishes 35 feet tall or less.**

1. Towers and antennas or satellite dishes 35 feet tall or less, mounted on the ground are considered accessory uses and structures in all zones provided they meet the following criteria:

   a. Towers and antennas or satellite dish antennas shall not be located in a public right-of-way or public easement.

   b. Towers and antennas or satellite dish antennas shall be prohibited in front and corner-side street yards in all residential districts.

   c. Towers and antennas or satellite dish antennas shall meet the applicable rear or interior side yard setback requirement in all residential zoning districts.

   d. Satellite dish antennas in all residential zoning districts shall not exceed a height of 20 feet and 12 feet in diameter and shall be limited to one device per lot. A satellite dish that exceeds four feet in diameter shall be constructed of black mesh material.

   e. Towers and antennas or satellite dish antennas shall meet the applicable yard setback requirement in all nonresidential districts.

   f. In addition, the following criteria must be met:

      (1) The owner of a tower and antenna or satellite dish shall certify that radio, television or similar reception for adjoining properties will not be disturbed or diminished.

      (2) Advertising copy or any logo which constitutes a sign are prohibited on any tower and antenna or satellite dish antenna in any zoning district.

      (3) A satellite dish antenna located in a residential zoning district shall be screened from all street views. The screen shall be made of plant materials enclosed fences or walls, earthen beams or any combination thereof which is immediately adjacent to the dish antenna. Such screening shall be a height of six feet above ground elevation.

J. **Towers and antennas or satellite dishes, 20 feet tall or less.**

1. Towers and antennas or satellite dishes, 20 feet tall or less, mounted on the roof of a building or structure are considered accessory uses in all zones provided they meet the following criteria:
   a. The applicant shall submit a site plan and roof plan showing the exact location of the satellite dish antenna and how its location and/or architectural enhancements will provide a 50 percent screen of the structure from all street views for dish antennas located in nonresidential districts and a 75 percent screen from all street views in residential districts.
   b. The applicant shall certify that radio or television or similar reception for adjoining properties will not be disturbed or diminished by a satellite dish.
   c. Advertising copy or logos which meets the definition of a sign shall not be permitted on any tower and antenna or satellite dish antenna in any zoning district.
   d. A roof mounted satellite dish antenna in a residential district that exceeds four feet in diameter shall be constructed of black mesh material.
2. The Board of Adjustment may grant an exception to these requirements regarding the location, height and setback requirements provided the Board concludes the following conditions have been satisfied.
   a. The applicant provides acceptable evidence that literal compliance with the required locational or dimensional standards will result in the obstruction of the antenna or satellite dish's reception and will not permit the normal use of the antenna or satellite dish.
   b. The applicant provides acceptable evidence to the Board of Adjustment that the granting of the exception is the minimum necessary to operate the antenna or satellite dish in a normal manner according to the manufacturer's specifications.
   c. In addition to the above required findings, in order to grant an exception the Board of Adjustment must find the following:
      (1) That the request will be in general harmony with adjoining properties;
      (2) That the request will not endanger the public safety or welfare; and
      (3) That the request does not violate any other local, state or federal laws or regulations.

(Ord. No. 3396, § 11, 4-3-06; Ord. No. 3418, §§ 1—5, 7-5-06)

5.5. Temporary uses.

A. **Permit required.** A temporary use or structure for one or more of the following described uses in paragraph C., below, shall be permitted in any district. All temporary uses and structures shall obtain a temporary use permit pursuant to the procedures set forth in Section 3.4.

B. **General regulations.** The general regulations of this section shall apply to all allowed temporary uses unless otherwise expressly stated.

1. Permanent changes prohibited. Permanent changes to the site of a temporary use are prohibited.

2. Accessory signage.

   a. Permanent signs accessory to temporary uses are prohibited;

   b. Signs accessory to temporary uses shall be limited to the premises of the temporary use except as specifically permitted under [Section] 7.5.D.;

   c. Not more than one double-faced, non-illuminated sign shall be permitted;

   d. Said sign shall not exceed 32 square feet in area nor eight feet in height and shall be set back not less than five feet from the front and/or side property line;

   e. Signs accessory to temporary uses require a permit; and

   f. All signs accessory to temporary uses shall be removed when the activity ends.

3. Temporary uses shall not violate any applicable conditions of approval that apply to the principal use on the site.

4. The operator must obtain all other required permits applicable to the activity, such as health department permits.

5. All temporary structures shall be erected in a safe manner in accordance with any applicable Town codes, ordinances or standards.

   a. No temporary use shall be placed on any public sidewalk, public street, or other public property except as provided in the Town of Garner Code of Ordinances; and

   b. Electrical and utility connections, if applicable, shall be approved by the Town.

C. **Temporary uses allowed.** Temporary uses shall be allowed in accordance with the standards of this section.

1. **Table of temporary uses permitted by district:**

Allowable Temporary Use	R-40	R-20, R-15, R-12, R-9, RMH, MF-1, MF-2	NO, NC, CBD	OI, CR, SB	I-1, I-2
Carnivals, Fairs, Circuses, Concerts and Similar Uses	Permit Required	Not Allowed; except rodeos in the R-20 district, subject to all activities being located a minimum of 100 feet from any lot line zoned residential or used as a residence with Permit Required	Permit Required	Permit Required	Permit Required
Natural Disasters and Emergencies Offices	Allowed	Allowed	Allowed	Allowed	Allowed
Parking Lot Sales	Not Allowed	Not Allowed	Not Allowed	Permit Required	Permit Required
Seasonal Outdoor Sales	Not Allowed	Not Allowed	Permit Required	Permit Required	Permit Required
Temporary Construction, Security, Real Estate Sales Offices	Permit Required	Permit Required	Permit Required	Permit Required	Permit Required
Yard or Garage Sales	Allowed	Allowed	Not Allowed	Not Allowed	Not Allowed

2. **Carnivals, fairs, circuses, concerts and other public entertainment.** Such temporary, outdoor events shall be governed by the provisions of the Town of Garner Code of Ordinances. No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated assembly of 500 or more people which continues or can reasonably be expected to continue for 18 or more consecutive hours, whether on public or private property, unless the standards of this section are met.

a. **Exemptions.**

(1) This section shall not apply to any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place

of assembly for assemblies that do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held.

(2) This section shall not apply to government-sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other ordinances and regulations of the Town.

b. **Required facilities.** Prior to commencement of the assembly, the organizer shall provide the following facilities to ensure the assembly causes as little disruption and inconvenience as possible to adjacent properties, neighborhoods and traffic patterns.

(1) A fence completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four gates, at least one at or near four opposite points of the compass. If the applicant provides acceptable alternative security measures this requirement may be waived by the Planning Director.

(2) Potable water meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day.

(3) Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet for every 200 females and at least one toilet for every 300 males, together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations.

(4) A sanitary method of disposing of solid waste in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half pounds of solid waste per person per day, together with a plan for holding and a plan for collecting al such waste at least once each day of the assembly and sufficient trash cans with V-lids and personnel to perform the task.

(5) EMS personnel and at least one emergency ambulance must be available for use at all times.

(6) If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five footcandles, but not to shine unreasonably beyond the boundary enclosed location of the assembly.

(7) Security guards, either regularly employed, duly sworn, off-duty North Carolina peace officers or private guards licensed in

North Carolina, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one security guard for every 750 people.

(8) Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the North Carolina Administrative Code and ordinances of the Town, and sufficient emergency personnel to efficiently operate the required equipment.

(9) All reasonably necessary precautions to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.

(10) Traffic control plan that is acceptable to the Planning, Engineering and Police Departments.

3. **Natural disasters and emergencies.** Temporary uses and structures needed as the result of a natural disaster or other health and safety emergencies are allowed for the duration of the emergency, but shall coordinated with the Town Manager's office.

4. **Parking lot sales.** Temporary outdoor retail sales on private property are permitted subject to the following:

a. Temporary outdoor retail sales are only allowed on property with an already operating permitted, and licensed if applicable, commercial or industrial principal use. Locating on vacant property or on property with a vacant or abandoned use is not permitted.

b. Temporary outdoor retail sales refers to the sale of goods or merchandise that are not generally sold as part of the principal use's inventory. Sales for the temporary outdoor retail operation shall be separate and apart from sales for the principal use.

c. The proposed temporary outdoor use shall not conflict with principal activities conducted on the site.

d. The sales and display area of the temporary outdoor retail use shall not exceed ten percent of the gross floor area of the principal building on the premises.

e. Only one temporary outdoor retail use is allowed per site at a time. The use shall last no longer than three consecutive days. Permits for no more than three such temporary outdoor retail sales shall be issued for a given location within a single calendar year.

f. A temporary retail use operator shall operate not more than three such uses anywhere in the Town within a single calendar year.

g. The temporary retail use shall operate only when the principal use is operating.

h. No sales shall be conducted from a truck or other vehicle.

i. It shall be unlawful to conduct business within 500 feet of the entrance of any place of business that sells the same commodity.

j. Items allowed for sale may include food, but may not include potentially hazardous food (such as uncooked and unprepared fish and seafood products).

k. Second-hand goods may not be sold under this paragraph.

5. **Seasonal outdoor sales.** Seasonal outdoor sales for Christmas trees or Halloween pumpkins are allowed at a religious institution or school regardless of zoning classification. Each seasonal sales activity is limited to a maximum of 45 consecutive days. Not more than three events are allowed per calendar year subject to the following provisions:

a. Permits for Christmas tree sales shall expire on December 26th. The lot, and any abutting private or public property, shall be cleaned and any remaining trees shall be disposed of by an approved method on or before December 31st of the year of issue of said permit.

b. The Planning Director shall require the applicant to deposit such sum as specified in the schedule of fees to guarantee the proper cleaning of the site and proper disposal of any remaining materials.

c. Any temporary outdoor storage shall be subject to the requirements of Section 7.3, Outdoor storage and display.

d. A temporary use permit shall not be required for seasonal outdoor sales when such sales are part of the inventory of an established business holding a valid building permit.

6. **Temporary construction, security, real estate sales offices.** The applicant for a temporary use permit for such temporary office shall comply with all conditions imposed by the Planning Director, which conditions may include fencing, surfacing, setbacks, etc., as deemed necessary to ensure no undue interference with the use and enjoyment of neighboring property. Such office shall be located within a reasonable distance, as determined by the Planning Director, of the primary development or improvement.

a. The owner of a construction project may place on the construction site and utilize a trailer coach as a temporary office for use by construction, security, and real estate sales personnel.

b. The temporary office shall be located on the lot on which construction or development is occurring and shall not be located within 25 feet of any abutting residential use.

c. The office shall be removed within ten days after final inspection of the permanent structure or expiration of the corresponding building permit, whichever event occurs first. In the case of residential development projects, the office must be removed within ten days of sale or lease of all dwelling units.

d. The owner of a permitted business who requires security protection during hours of closure may maintain a travel trailer for that purpose until a permanent facility can be constructed. In no case shall the use of such security trailer be for longer than a six month period.

7. **Yard or garage sales accessory to a dwelling.** No temporary use permit is required for a yard or garage sale accessory to a residential dwelling, religious institution or school, subject to the following conditions.

   a. All yard and garage sales shall be conducted so that no goods offered for sale are located on any public street or sidewalk, and so that vehicle and pedestrian traffic on public streets and sidewalks is not obstructed.

   b. No sign advertising a yard or garage sale may be posted on any public property.

   c. Only goods of the property owner or tenant shall be sold.

8. **Other uses.** The Planning Director may approve other temporary uses and activities or special events including specific time limits, if it is determined that such uses would not jeopardize the health, safety or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

D. **Prohibited temporary uses.**

1. Sales of firearms.

2. Sales of any materials characterized by an emphasis on specified anatomical areas or specified sexual activities.